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Attorneys for Plaintiff KASHU XOLA, Individually, and on behalf of other members of the general public similarly situated

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

KASHU XOLA, Individually, and on behalf
of other members of the general public
similarly situated,

Plaintiff,

v.

FULL PACKAGE DELIVERY, LLC, a
California Limited Liability Company;
AMAZON LOGISTICS, INC., a Delaware
Corporation; and DOES 1-10, inclusive

Defendants

CASE NO. 37-2022-00006720-CU-OE-CTL

**DECLARATION OF ERIC K. YAECKEL
IN SUPPORT OF PLAINTIFF'S
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF CLASS
ACTION SETTLEMENT**

Date: February 24, 2023
Time: 9:00 a.m.
Dept.: C-60
Judge: Hon. Matthew C. Braner

1 I, Eric K. Yaeckel, declare as follows:

- 2 1. I am an attorney licensed to practice law before all the courts of the State of California, and am
3 employed with the law firm of SULLIVAN & YAECKEL LAW GROUP, APC, attorneys of
4 record for Plaintiff KASHU XOLA, Individually, and on behalf of other members of the
5 general public similarly situated, in this matter.
- 6 2. I make this declaration in support of Plaintiff's Unopposed Motion for Preliminary Approval
7 of Class Action Settlement. I am personally familiar with the facts set forth in this declaration,
8 and if called to testify could and would do so.

9 **Background and Investigation**

- 10 3. On February 22, 2022, Plaintiff Xola filed the Complaint in this matter. The original
11 Complaint alleged putative class action claims and PAGA representative action claims, under
12 the California Labor code involving, *inter alia*, (1) failure to pay minimum wages; (2) failure
13 to pay off-the-clock wages; (3) failure to pay proper overtime compensation; (4) failure to
14 provide meal breaks and pay premiums for the same; (5) failure to provide rest breaks and pay
15 premiums for the same; (6) failure to reimburse employees for necessary business expenses;
16 (7) failure to provide accurate itemized wage statements; and (8) failure to pay all wages to
17 upon termination
- 18 4. On March 7, 2022, Plaintiff propounded discovery requests on Defendants, including requests
19 for admission, special interrogatories, requests for production of documents, and general and
20 employment form interrogatories. Through these requests, Plaintiff sought, among other
21 information and documents, the identities of putative class members, Defendants'
22 compensation policies, meal and rest period policies, employee handbooks, wage statements,
23 payroll records, time records, job descriptions, and reimbursement policies.
- 24 5. FPD provided discovery responses, documents, and objections to Plaintiff's requests. After a
25 lengthy meet and confer processes, FPD produced, *inter alia*, Plaintiff's time and wage records,
26 copies of the relevant employee handbooks, copies of all other relevant employee policies, the
27 contents of Plaintiff's employee file, Plaintiff's time records, and itemized wage statements.
28

- 1 In total it appears there were at least 2 sets of written discovery exchanged between the parties.
- 2 6. FPD through its counsel, reached out early during the course of the litigation to attempt to
- 3 explore early resolution of this matter. As part of the settlement discussions, FPD agreed to
- 4 voluntarily produce and verify hundreds of pages of documents. The production included all
- 5 relevant policies and procedures. It also included large electronic sampling of other class
- 6 members' time and wage data.
- 7 7. Plaintiff also requested FPD provide additional informal discovery so that the parties could
- 8 experience a meaningful mediation. FPD provided informal discovery which consisted of, *inter*
- 9 *alia*, the number of current and former employees who worked for FPD during the limitations
- 10 period, meal and rest period premiums paid, pay periods at issue, a redacted sampling of
- 11 employee time records and wage statements, as well as confirmation that various policies and
- 12 agreements were standard as to the class.
- 13 8. On October 26, 2022, the Parties attended a full day mediation before the experienced "wage
- 14 and hour" mediator, Scott Markus. Prior to, and during, the mediation, counsel for both parties
- 15 agreed to the informal exchange of information pertinent to a class-wide settlement. Prior to
- 16 mediation both parties prepared and exchanged detailed mediation briefs. Plaintiffs brief
- 17 contained a breakdown of potential damages based on all of the information obtained. At the
- 18 conclusion of mediation, the parties agreed on the key terms of a settlement that would globally
- 19 resolve all class and representative wage and hour claims asserted in the operative Complaint
- 20 and forthcoming First Amended Complaint and executed a Memorandum of Understanding.
- 21 A true and correct copy of the Joint Stipulation of Settlement (the "Agreement") that ultimately
- 22 resulted is attached as **Exhibit A**.

23 **Terms of the Agreement**

- 24 9. The parties agreed to use CAC Services, LLC, as the "Settlement Administrator" for purposes
- 25 of providing the Notice to Settlement Class Members, issuing payments pursuant to the
- 26 Agreement, and to administer the claims. CAC's sole business has been the administration of
- 27 class action settlements and class action notices, an area in which it has extensive experience.
- 28

1 10. Class Members will be entitled to an average share of approximately **\$453.22**. I calculated this
2 number by taking the total settlement amount, subtracting all contingent costs as proposed on
3 page one of the memorandum, and dividing by the estimate of 288 Class Members. This is an
4 estimate only as the actual share will depend on the amount of pay periods they were employed
5 during the limitations period.

6 11. A true and correct copy of the parties agreed upon Class Notice is attached as **Exhibit B**.

7 12. The class representative enhancement awards were decided pursuant to good faith negotiations
8 and is intended to recognize that it was the class representatives who initiated the lawsuit,
9 initiated the PAGA claims, provided critical documents and witnesses to her attorneys, and
10 worked with her attorney to propound and prepare written discovery, all in an effort to obtain
11 moneys allegedly owed not only to herself, but to hundreds of other employees

12 **Claims Analysis and Potential Recovery**

13 13. Our office submits this settlement provides class members with a guaranteed recovery of a
14 large portion of their “potential” damages as set forth below. As set forth above, the “average”
15 recovery (before taxes) will be approximately **\$453.22** per class member.

16 14. Based on the damage calculations and relevant case law below, my office submits the likely
17 “best case” recovery for an average class member would have been approximately \$1,327.54.
18 A “worst case” scenario (in the event of a denial of class certification or a defense verdict)
19 would have been a **zero dollar** recovery.

20 15. As part of our analysis I also have to consider the fact that Defendants were willing to stipulate
21 to class certification on all claims as a result of the settlement, ensuring a monetary recovery
22 to all participating class members. Accordingly, I believe that warrants a further reduction from
23 any potential maximum recovery.

24 **Damage Calculations**

25 16. The following estimated damage calculations were completed after review of the sampling of
26 class member time and wage records, and after interviews with Plaintiff, and other class
27 members. The breakdown of the damage and penalties calculation is as follows:
28

Unpaid Compensation Violations: \$15.00 (average hourly rate) x 105 (number of employee positions) x 3.1 (years at issue in limitations period) x 2.4 (approximate unpaid hours per year) = \$11,718.

Meal Period Policy Violations: \$15.00 (average hourly rate) x 105 (number of employee positions) x 3.1 (years at issue in limitations period) x 18 (approximate meal period violations per employee in a year) = \$87,885.

Rest Period Policy Violations: \$15.00 (average hourly rate) x 105 (number of employee positions) x 3.1 (years at issue in limitations period) x 12 (approximate rest period violations per employee in a year) = \$58,590

Labor Code § 226 Penalties: \$50.00 (per pay period statutory penalty) x 105 (number of employee positions) x 14 (pay periods at issue in limitations period) x .65 (approximate rate of violations per pay period) = \$47,775

Labor Code §2802 Violations: 288 (total number of employees) x \$10 (estimated average amount of reimbursement due per employee) = \$2,880.

Labor Code § 203 Penalties: \$15.00 (average hourly rate) x 8.0 (hours, per day) x 30 (days, per Labor Code section 203) x 288 (number of former employees) = \$1,036,800

“PAGA” Violations: 6 (separate Labor Code violations based on the above claims) x 105 (number of employee positions) x \$50 (per violation) x 14 (pay periods in one year limitations period) = \$441,000. The aggrieved employees are only entitled to a 25% share of this amount, which is \$110,250.

17. Based on the above, a best case recovery (which would be admittedly highly unlikely, given the factors set forth below) would be a total judgment of \$1,689,748.

Relevant Case Law Supports a Further Reduction on any Recovery

18. It is my opinion that it would be *highly* unlikely to ever be awarded any amount approaching the maximum damages set forth above. To wit, the majority of the damages above are “derivative” penalties under PAGA, Labor Code § 203 and Labor Code § 226.
19. Please see the analysis of the relevant case law cited in the memorandum (pp. 12-13) which

allows significant mitigation of PAGA penalties, which prohibits stacking of multiple penalties for the same underlying conduct and declines to automatically award §§ 203 and 226 penalties for meal and rest break violations without a further evidentiary showing.

20. Our office believes a mitigation of the damages and potential PAGA penalties would be warranted here. Defendants immediately stepped up to discuss early resolution. Also, as in the *Carrington* case (which was handled by this office), there is evidence that Defendant attempted to provide meal and rest periods *in practice*, even where the breaks were missed. Given this, it is likely that any violations by Defendant were not “willful.” Finally, given the defenses raised by Defendant to maintaining this matter as a class or representative action, there was a significant risk that many of the claims would not have even been able to survive to a trial.

21. As to the ex-employee claim pursuant to Labor Code § 203, the parties agree the failure to pay “ex-employees” claim is derivative of the other claims. As Defendants are able to assert a “good faith dispute” for withholding any unpaid wages, it would be difficult to establish any liability for a “willful” failure to pay wages owed.

22. Given my experience, I believe it would be likely that PAGA penalties would be reduced to approximately \$5 a violation, and it is unlikely for the Court to impose Labor Code § 203 and Labor Code § 226 penalties. For purposes of this analysis, those claims will be discounted 75%.

23. If this happened, the realistic anticipated “best case” judgment following trial would be approximately \$382,332. The average class member’s share of this recovery would be **\$1,327.54** (total divided by 288 class members). Given our office’s analysis, I submit this number is the most likely “best case” recovery per class member. Given all the risks on each claim the estimated \$453.22 average recovery secured via this settlement, is a reasonable compromise and is in the best interests of the class given all the risks of continued litigation.

Analysis of Risk on Each Potential Claim

24. Each of the primary claims also had risks to obtaining both class certification and liability. If Defendant’s asserted defenses were successful, the class would not receive anything.

1 25. Plaintiffs' unpaid wages (and unpaid overtime) claims were based on the allegation that
2 employees were performing unpaid work (1) due to FULL PACKAGE DELIVERY's standard
3 timekeeping system which took "minutes worked" and transferred that amount to a decimal
4 and (2) caused other losses due to certain alleged "transitional math errors" caused by the
5 payroll system. Plaintiffs alleged this resulted in regular time and overtime pay being owed
6 where Defendants were on notice of work being performed without pay. Defendants also
7 denied that any unpaid work occurred, and even if some did occur, Full Package Delivery
8 claimed it was not on notice of these alleged Labor Code violations and had a strict written
9 prohibition against off-the-clock work and a mandate that all time worked must be accurately
10 recorded. FULL PACKAGE DELIVERY asserted proof of these alleged violations would
11 require individualized inquiries, which could preclude class certification and make any PAGA
12 claims unmanageable.

13 26. As to meal and rest period claims, Plaintiffs were able to identify hundreds of examples of
14 missing or late meal periods without the provision of a meal period penalty payment.
15 However, Defendants argued that these records do not conclusively show whether (1) Full
16 Package Delivery actually failed to provide the meal period, (2) there was a voluntary waiver,
17 (3) employees forgot to clock out, or (4) employees voluntarily chose to skip or take them late
18 even though they were provided. Additionally, in light of FULL PACKAGE DELIVERY's
19 meal period policy and the wide variations in alleged violations and departments at the
20 hospital, Defendants contended there was no uniform policy or practice, requiring
21 individualized inquiries that would preclude class certification and make any PAGA claims
22 unmanageable.

23 27. Plaintiffs also alleged the FULL PACKAGE DELIVERY's written policies improperly
24 restricted class members from leaving the premises during their rest breaks. Defendants
25 pointed out that the policy contained no such restriction and argued that witness testimony
26 would demonstrate that in practice, no such "leave the premises" restriction was ever enforced.
27 Defendants also contended individualized inquiries will abound as to why individual
28

employees may have failed to take appropriate meal periods or rest breaks.

28. As to the wage statement claims, Plaintiffs acknowledge that these claims are largely derivative, in that both the gross and net wages could be found to be inaccurate, due to the above-referenced claims. FULL PACKAGE DELIVERY argued that the failure to list gross and net wages are derivative of other claims that may ultimately fail and as a result there is no "knowing and intentional failure" to list information, which triggers liability under Labor Code §226(e). Defendants (as with the underlying meal and rest period claims) maintained individualized inquires would abound as to why breaks were missed and whether meal period premiums should have been paid in the first place, requiring individualized inquiries that would preclude class certification and make any PAGA claims unmanageable.

29. Plaintiffs contend that FULL PACKAGE DELIVERY violated Labor Code section 2802 by failing to reimburse its employees for certain costs, including use of personal cellular phone costs. FULL PACKAGE DELIVERY countered that it has a comprehensive written policy for expense reimbursements in its employee handbook. FULL PACKAGE DELIVERY further contended that XOLA's (and others') positions did not require the use of a cell phone.

30. Based on all of the above, my experience, and all the information within the moving papers, I submit that this proposed Settlement is fair, adequate and reasonable. I also submit it is well within the accepted range of recoveries for similar wage and hour class actions.

Certification of the Proposed Settlement Class is Appropriate

31. Here, Defendant's records show that approximately **288 class members** worked for the company during the limitations period.

32. Here, for purposes of the Settlement, the parties agree the claims of Class Members all involve the same questions of law and fact. Namely, all class members were subject to the same employment policies and practices of Defendant.

33. The proposed class representative have no adverse interests to the class. Plaintiffs are paid based on the same formula as other class members and have claims substantially the same as all the other Class Members.

- 1 34. Additionally, any Class Member who wishes to “opt out” of the Settlement may do so and
2 retain all of their individual rights. Therefore there is no conflict of interest between the Class
3 Representatives and the Class Members. Thus, at least for settlement purposes, our office
4 submits the adequacy prong is met.
- 5 35. Given that there are 288 individuals, it would be preferable to resolve all of the Class
6 Members’ claims by means of a class-wide settlement than to require each Class Member to
7 litigate his or her individual claims.
- 8 36. When negotiating the settlement, both sides took into account the strengths and weaknesses
9 of their opponent’s positions as pointed out by Scott Markus, the data available to evaluate
10 liability and damages, the lack of data or evidence on certain issues, and the substantial and
11 evolving law applicable to the merits of the claims. The Agreement was only agreed to after
12 extensive arms-length negotiations resulting in a unique compromise that permits all parties
13 to move forward and bring this action to close. In spite of a mutual desire to resolve this
14 action, the negotiations remained at all times adversarial.
- 15 37. I believe this settlement is in the best interest of the class as it provides **(1)** a guaranteed
16 favorable result; **(2)** guaranteed monetary recovery over a reasonably short period of time, as
17 opposed to possibly waiting additional years for a potentially worse result; and **(3)** significant
18 savings in attorneys’ fees and costs, which would have increased had the case progressed
19 through trial and possible appeals.
- 20 38. Without entering into the Agreement, there existed a significant chance that Defendant would
21 prevail on the merits of some or all claims and that Class Members would receive nothing.
22 Through the Agreement, participating Class Members receive guaranteed cash, and this action
23 has also been the catalyst for programmatic relief.
- 24 39. If the litigation were to proceed in lieu of settlement, additional and substantial attorneys fees
25 and costs, expert witnesses fees would quickly accumulate. Given the numerous claims being
26 litigated, the parties may be required to hire multiple experts each (as many as 8 total). This
27 would result in not only the production of eight expert reports, but eight depositions as well.
28

1 And, based on previous discussions between counsel regarding the remaining claims (including
2 the PAGA claims), the parties anticipated at least one motion to compel, a motion for class
3 certification and two dueling motions for summary judgment / adjudication (one from each
4 side).

5 40. Importantly, even after engaging in all of the potential continued and protracted litigation set
6 forth above, the putative class would continue to have no guarantee of success on any of the
7 claims advanced in this case. Thus, the parties and our office believes in good faith that the
8 proposed resolution is a fair, reasonable, and adequate compromise.

9 41. Our office had not filed a Motion for Class Certification at the time settlement was reached.
10 Defendants presented multiple different defenses to certification during mediation and
11 throughout litigation. Even assuming Plaintiffs did obtain class certification of the claims, each
12 claim is subject to substantial risk of a Defense verdict at trial.

13 42. Our office has interviewed several Class Members in the course of investigating and litigating
14 this matter. We have also reviewed hundreds of pages of documents produced by Defendants,
15 Plaintiffs, and Class Members. This information, along with documents and information
16 obtained through formal discovery and from Class Members, allowed Plaintiffs' counsel to
17 prepare a detailed Mediation Brief. The Brief was provided to opposing counsel and contained
18 a breakdown of potential damages based on all of the information. Full Package Delivery also
19 provided a detailed mediation brief, outlining its defenses to both class certification and
20 liability.

21 43. Our office has considerable experience in wage and hour and class action litigation. Trial
22 Attorney, William Sullivan has over 28 years of experience, 27 years of which has been
23 devoted to both prosecuting and defending class action litigation. I have over 11 years of
24 experience all of which have been dedicated primarily to class action and representative action
25 (PAGA) litigation. I am aware counsel for Defendant also has extensive experience handling
26 class action and representative action litigation.

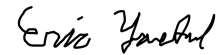
27 44. Based on this experience, and all other relevant factors addressed above, our firm believes the
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1 Agreement to represent a fair, adequate and reasonable settlement that is well within the
2 accepted range of recoveries for similar wage and hour class actions. We further believe the
3 Agreement is in the best interests of the Settlement Class Members.

4 45. Based on this experience, we also believe the \$25,000 allocation towards the PAGA claims is
5 a fair, reasonable, and adequate allocation, especially given the risks of mitigation identified
6 above.

7 46. Prior to preliminary approval, what can be said of the reaction the class members is limited.
8 However, our office has spoken to some Class Members since the parties reached a proposed
9 settlement agreement, and all were in favor of the settlement.
10

11
12 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
13 and correct. Executed this 18th day of January, 2022, at San Diego, California.

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15 _____
16 Eric K. Yaeckel
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EXHIBIT A

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[ADDITIONAL PARTIES ON NEXT PAGE]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

KASHU XOLA, Individually, and on behalf of
other members of the general public similarly
situated,

Plaintiffs,

vs.

FULL PACKAGE DELIVERY, LLC, a
California Limited Liability Company;
AMAZON LOGISTICS, INC., a Delaware
Corporation; and DOES 1-10, inclusive

Defendants.

Case No. 37-2022-00006720-CU-OE-CTL

**JOINT STIPULATION OF CLASS AND
PAGA ACTION SETTLEMENT AND
RELEASE**

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JOINT STIPULATION OF CLASS AND PAGA ACTION SETTLEMENT
AND RELEASE

This Joint Stipulation of Class and PAGA Action Settlement and Release (“Settlement Agreement” or “Settlement”) is made and entered into by and between KASHU XOLA, (“Plaintiff” or “Class Representative”), as an individual and on behalf of all others similarly situated, and FULL PACKAGE DELIVERY, LLC and AMAZON LOGISTICS, INC., (“Defendants”) (collectively, the “Parties”). In consideration of the promises and mutual covenants and agreements herein contained, the Parties hereby covenant and agree as follows:

RECITALS

1. On February 22, 2022, Plaintiff initiated this putative class action by filing a Complaint in the California Superior Court for the County of San Diego, Case No. 37-2022-00006720-CU-OE-CTL (the “Action”). The Action is currently proceeding on Plaintiff’s Complaint, which asserts claims on behalf of a putative class and a claim under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Lab. Code, § 2698, *et seq.*, based on allegations that Defendants violated certain requirements of California wage and hour law, including but not limited to: (1) failure to pay minimum wages; (2) failure to pay off-the-clock wages; (3) failure to pay proper overtime compensation; (4) failure to provide meal breaks and pay premiums for the same; (5) failure to provide rest breaks and pay premiums for the same; (6) failure to reimburse employees for necessary business expenses; (7) failure to provide accurate itemized wage statements; and (8) failure to pay all wages to upon termination. **Please Note:** As a part of the Settlement, Plaintiff has agreed to file a First Amended Complaint to provide further specificity as to the violations alleged in the original Complaint. The First Amended Complaint will be the “Operative Complaint” for purposes of the Settlement.

2. Defendants deny all material allegations set forth in the Operative Complaint and in this Action and have asserted numerous affirmative defenses.

3. The Parties have investigated the facts and analyzed the relevant legal issues with regard to the claims and defenses in the Action. Class Representative’s Counsel’s investigation included, *inter alia*, the exchange of information pursuant to informal discovery methods,

1 including: comprehensive review of timekeeping and payroll records of a sampling of Full
2 Package Delivery LLC's data regarding the putative class; the number of pay periods worked by
3 the putative class; and a review of Defendant Full Package Delivery LLC's corporate wage and
4 hour policies and practices. Based on his investigation and analysis, the Class Representative
5 believes the Action has merit, while Defendants believe the Action has no merit.

6 4. On October 26, 2022, the Parties participated in mediation before Scott Markus
7 Esq. (the "Mediator"), a respected mediator for California wage and hour class actions. The
8 settlement discussions were conducted at arm's-length, and the Settlement is the result of an
9 informed and detailed analysis of Defendants' potential liability of total exposure in relation to
10 the costs and risks associated with continued litigation. Based on the documents produced, as
11 well as Class Representative's Counsel's own independent investigation and evaluation, and the
12 Mediator's efforts, Class Representative's Counsel believes that the settlement with Defendants
13 for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable,
14 and adequate, and is in the best interest of the putative class in light of all known facts and
15 circumstances, including the risk of significant delay and uncertainty associated with litigation
16 and various defenses asserted by Defendants.

17 5. In the interest of avoiding further litigation, the Parties agree to fully and finally
18 and forever settle and dispose of all actual or potential claims by the putative class. This
19 Settlement Agreement is made and entered into by and between Plaintiff, individually and on
20 behalf of all others similarly situated, and Defendants, and is subject to the terms and conditions
21 hereof, and to the Court's approval. The Parties expressly acknowledge that this Settlement
22 Agreement is entered into solely for the purpose of compromising significantly disputed claims
23 and that nothing herein is an admission of liability or wrongdoing by Defendants. If for any
24 reason the Settlement Agreement is not approved by the Court, it will be of no force or effect,
25 and the Parties shall be returned to their original respective positions as if the Settlement had
26 never been agreed upon.

DEFINITIONS

6. The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

7. “Action” means the lawsuit titled *Kashu Xola v. Full Package Delivery, LLC, et al.*, filed on February 22, 2022, in San Diego County Superior Court, Case No. 37-2021-0006720-CU-OE-CTL.

8. “Aggrieved Employees” means all non-exempt employees who worked for Full Package Delivery, LLC in California from December 2, 2020 up to the date of entry of an order granting preliminary approval of this Settlement (“the PAGA Period”).

9. “Attorneys’ Fees and Costs” means such award of attorneys’ fees as may be approved by the Court for Class Counsel’s litigation and resolution of this Action, and all costs incurred and to be incurred by Class Counsel in the Action, including, but not limited to, costs associated with documenting the Settlement, securing the Court’s approval of the Settlement, administering the Settlement, and obtaining entry of the Final Approval Order and Judgment terminating this Action.

10. “Class Counsel” means Sullivan & Yaeckel Law Group, APC, which will seek to be appointed counsel for the Settlement Class.

11. “Class List” means a complete list of all putative Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator within fifteen (15) calendar days after the Court’s entry of Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include, to the extent information is available to Defendants, each putative Class Member’s full name; last known address; Social Security Number; and dates of employment by Full Package Delivery, LLC.

12. “Class Member(s)” or “Settlement Class” means all individuals who previously were employed by Defendant Full Package Delivery, LLC in California as non-exempt employees at any time during the period of February 22, 2018 to the date of entry of Preliminary Approval of this settlement and who have not previously released their claims against

1 Defendants. Defendant Full Package Delivery, LLC has identified from its available records that
2 there were 288 putative Class Members as of October 26, 2022.

3 13. "Class Period" means the period from February 22, 2018 through the date of entry
4 of Preliminary Approval.

5 14. "Plaintiff" means KASHU XOLA who may also be referred to herein as a Class
6 Representative.

7 15. "Class Representative Enhancement Payment" means the amount to be paid to
8 Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of the putative
9 class and negotiating the Settlement and in exchange for a general release of claims as set forth
10 below, at no additional cost to Defendants and subject to Court approval.

11 16. "Defendants" mean Full Package Delivery, LLC and Amazon Logistics, Inc.

12 17. "Effective Date" means the date on which the last of the following events has
13 occurred: (1) The Settlement Agreement has been executed by all Parties, Class Counsel, and each
14 of Defendants' counsel; (2) The Court has given Preliminary Approval to the Settlement; (3) The
15 Court has held a final settlement Approval hearing and has entered the Final Approval Order and
16 Judgment, approving the Settlement; and (4) that Final Approval Order and Judgment has become
17 final. The Final Approval Order and Judgment shall be final: (a) if no Notice of Objection has
18 been received by the Settlement Administrator, on the date of entry of the Final Approval Order
19 and Judgment; or (b) if a Notice of Objection has been received by the Settlement Administrator,
20 (i) the date of final affirmance on any appeal, motion for reconsideration or disposition of any other
21 effort to obtain review of the Final Approval Order and Judgment; the expiration of the time for a
22 petition to review the Final Approval Order and Judgment; and, if review is granted, the date of
23 final affirmance of the Final Approval Order and Judgment following review; or (ii) the date of
24 final dismissal of any appeal from the Final Approval Order and Judgment or the final dismissal of
25 any proceeding to review the Final Approval Order and Judgment; or (iii) if no appeal, motion for
26 reconsideration, or other effort to obtain review is filed or made, the day after the deadline for filing
27 any Notice of Appeal from the Final Approval Order and Judgment.

1 18. “Final Approval Order and Judgment” means the order signed and entered by the
2 Court granting final approval of the Settlement Agreement and entering judgment thereon on
3 substantially the same terms as provided here or as may be modified by subsequent written
4 agreement of the Parties and approved by the Court.

5 19. “Individual Settlement Payment” means each Participating Class Member’s share
6 of the Net Settlement Amount, to be distributed to the Participating Class Members.

7 20. “Maximum Settlement Amount” means the amount of Two Hundred Eighty Seven
8 Thousand Two Hundred Ninety Dollars (\$287,290.00) to be paid by Defendants in exchange for
9 the release of and in full satisfaction of all claims arising from the Action, which includes the
10 Attorneys’ Fees and Costs, the Class Representative Enhancement Payment, the LWDA
11 Payment, and Settlement Administration Costs. In no event will Defendants be liable for more
12 than the Maximum Settlement Amount, unless the Escalator Clause, described in Paragraph 47, is
13 triggered. No portion of the Maximum Settlement Amount shall revert to Defendants. Any
14 employer payroll taxes to be paid in connection with the Settlement (e.g. FICA, FUTA, payroll
15 taxes, and/or any similar tax or charge – collectively “Employer Taxes”) shall be paid in addition
16 to the Maximum Settlement Amount, as calculated by the Settlement Administrator. The
17 Settlement Administrator will then be responsible for making appropriate deductions, reporting
18 obligations, and issuing the Individual Settlement Payments.

19 21. “LWDA Payment” means \$25,000 of the Maximum Settlement Amount which the
20 Parties have agreed will be allocated to resolve Plaintiff’s claim for civil penalties for alleged
21 Labor Code violations under PAGA, seventy-five percent (75%) of which will be paid to the
22 California Labor and Workforce Development Agency (“LWDA”) in satisfaction of the claim for
23 civil penalties pursuant to PAGA, and which is included in the Released Claims. The remaining
24 twenty-five percent (25%) will be distributed to the Aggrieved Employees, as set forth in
25 Paragraph 45.

26 22. “Net Settlement Amount” means the portion of the Maximum Settlement Amount
27 remaining after deduction of the Attorneys’ Fees and Costs, Class Representative Enhancement
28

1 Payment, the LWDA Payment, and Settlement Administration Costs. The Net Settlement
2 Amount will be distributed to Participating Class Members.

3 23. “Notice of Objection” means a Participating Class Member’s valid and timely
4 written objection to the Settlement Agreement. For the Notice of Objection to be valid, it must
5 include: (a) the case name and number; (b) the objector’s full name, signature, address, telephone
6 number and the last four digits of their Social Security number; (c) a written statement of all
7 grounds for the objection accompanied by any legal support for such objection; (d) copies of any
8 papers, briefs, or other documents upon which the objection is based; (e) the identity of the
9 objector’s counsel, if the objector is represented by counsel; and (f) whether the objector wishes
10 to be heard at the final approval hearing.

11 24. “Notice Packet” means the Notice of Class Action Settlement and mailing
12 envelope, attached hereto at Exhibit A, and to be approved by the Court.

13 25. “Parties” means Plaintiff and Defendants, collectively, and “Party” means either
14 Plaintiff or either of the Defendants.

15 26. “Participating Class Members” means all Class Members who do not submit a
16 Request for Exclusion.

17 27. “Preliminary Approval” means the Court order granting preliminary approval of
18 the Settlement Agreement.

19 28. “Released Claims” include all claims, debts, liabilities, demands, obligations,
20 damages, and actions or causes of action of any kind, arising under state, federal or local law,
21 whether statutory, common law, or administrative law, and including the Fair Labor Standards Act,
22 at any time during the Class Period, that were or could have been asserted based on the factual
23 allegations in the Operative Complaint or based on any facts discovered in the course of the Action,
24 including (without limitation), claims for failure to pay minimum or overtime wages, failure to
25 provide meal and rest periods or to pay meal and rest period premiums, failure to pay all wages due
26 to discharged or quitting employees, failure to reimburse for necessary business expenses, failure to
27 provide accurate itemized wage statements; claims under California Labor Code sections 201 to
28 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197,

1 1197.1, 1198, 2698 et seq., 2802, and the Wage Orders promulgated thereunder, California
2 Business and Professions Code section 17200, et seq.; and claims for injunctive relief, punitive
3 damages, penalties of any nature (including PAGA civil penalties and statutory penalties), interest,
4 fees, and costs.

5 29. “Released Claims Period” means the period from February 22, 2018 through the
6 date of entry of Preliminary Approval.

7 30. “Released Parties” means Defendants Full Package Delivery, LLC and Amazon
8 Logistics, Inc., and their past, present, and future parents, subsidiaries, divisions, affiliates,
9 predecessors, successors, and assigns, and each of their past, present, and future shareholders,
10 owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators,
11 fiduciaries, beneficiaries, subrogees, executors, partners, privies, and any other individual or
12 entity which could be liable for any of the Released Claims.

13 31. “Request for Exclusion” means a timely letter submitted by a Class Member
14 indicating a request to be excluded from the Settlement. The Request for Exclusion must:
15 (a) include the case name and number; (b) contain the full name, address, telephone number, and
16 the last four digits of the Social Security Number of the Class Member requesting exclusion;
17 (c) clearly state that the Class Member does not wish to be included in the Settlement; (d) be
18 signed by the Class Member; (e) be returned by mail to the Settlement Administrator at the
19 specified address; and (f) be postmarked on or before the Response Deadline. The date of the
20 postmark on the return mailing envelope will be the exclusive means to determine whether a
21 Request for Exclusion has been timely submitted. A Class Member who does not request
22 exclusion from the Settlement will be deemed a Participating Class Member and will be bound
23 by all terms of the Settlement, if the Settlement is granted final approval by the Court.

24 32. “Response Deadline” means the deadline by which Class Members must mail to
25 the Settlement Administrator a valid Request for Exclusion or Notice of Objection. The
26 Response Deadline will be thirty (30) calendar days from the initial mailing of the Notice Packet
27 by the Settlement Administrator, unless the 30th day falls on a Sunday or Federal holiday, in
28 which case the Response Deadline will be extended to the next day on which the U.S. Postal

1 Service is open. Under no circumstances, other than circumstances described in Paragraph 56,
2 will the Settlement Administrator have the authority to extend the deadline for Class Members to
3 submit a Request for Exclusion or Notice of Objection to the Settlement.

4 33. "Settlement Administrator" means CAC Services Group, LLC or any other third-
5 party class action settlement administrator agreed to by the Parties and approved by the Court for
6 purposes of administering this Settlement pursuant to the terms of this Settlement Agreement,
7 the Preliminary Approval, and the Final Approval Order and Judgment, including, without
8 limitation, printing, distributing, and tracking documents for this Settlement, calculating estimated
9 amounts to be paid to each Participating Class Member and Aggrieved Employee, tax reporting,
10 distributing the appropriate settlement amounts, and providing necessary reports and declarations,
11 and other duties and responsibilities set forth herein to process this Settlement, and as requested by
12 the Parties. The Settlement Administrator shall agree to confidentiality terms as may be required
13 by Defendants regarding personnel and payroll data provided to the Settlement Administrator and
14 shall work with Class Counsel and counsel for Defendants to implement and administer appropriate
15 fraud-prevention policies. The Parties each represent that they do not have any financial interest
16 in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator
17 that could create a conflict of interest.

18 34. "Settlement Administration Costs" means the costs approved by the Court to be
19 paid to the Settlement Administrator for administering this Settlement. The Settlement
20 Administration Costs will be paid from the Maximum Settlement Amount, including, if necessary,
21 any such costs in excess of the amount estimated by the Settlement Administrator as being
22 necessary to administer the Settlement. The Settlement Administration Costs are currently
23 estimated not to exceed \$7,000.00.

24 35. "Pay Periods" or "Work Weeks" means the number of weekly payroll periods
25 worked by Class Members in California during the Class Period and by Aggrieved Employees in
26 the PAGA Period, which shall be calculated by the Settlement Administrator based on the start
27 and end dates of each individual's employment during the Class Period and PAGA Period as
28 maintained by Defendants.

1 36. “Pay Period Value” means the value of each weekly Pay Period, as determined by
2 the formula set forth herein.

3 **STIPULATION OF CLASS CERTIFICATION**

4 37. The Parties stipulate to the certification of this Settlement Class for settlement
5 purposes only.

6 38. This Agreement is contingent upon preliminary and final approval by the Court,
7 and certification of the Settlement Class is only for purposes of Settlement. If, for any reason, the
8 Settlement does not become final, any certification of any Settlement Class will be vacated, and the
9 Parties will be returned to their positions with respect to the Action as if the Agreement had not
10 been entered into. Should the Settlement not become final, for whatever reason, the fact that the
11 Parties were willing to stipulate provisionally to class certification as part of the Settlement shall
12 have no bearing on, and shall not be admissible in connection with, the issue of whether a class
13 should be certified in a non-settlement context. Defendants expressly reserve the right to oppose
14 class certification and/or proactively move to deny certification should this Settlement not be
15 approved by the Court, the Final Approval Order and Judgment be reversed on appeal, or the
16 Settlement otherwise not become final. Defendants do not consent to certification of the
17 Settlement Class or any class for any purpose other than to effectuate the Settlement of this
18 Action.

19 **TERMS OF AGREEMENT**

20 39. NOW, THEREFORE, in consideration of the mutual covenants, promises and
21 agreements set forth herein, the Parties agree, subject to the Court’s approval, that the Action
22 shall be completely settled and concluded by agreement of Defendants to pay the Maximum
23 Settlement Amount in consideration for the Releases set forth below and other terms herein as
24 follows:

25 40. Funding of the Settlement Amount. Within seven (7) calendar days after the
26 Effective Date, the Settlement Administrator will provide the Parties with an accounting of the
27 amounts to be paid by Defendants pursuant to the terms of the Settlement. Within fifteen (15)
28 calendar days of receiving the accounting of the final amounts to be paid from the Settlement

1 Administrator, Defendants will make a one-time payment of Two Hundred Eighty Seven Thousand
2 Two Hundred Ninety Dollars (\$287,290.00), plus applicable payroll taxes, for payment of all
3 Court-approved and claimed amounts from the Maximum Settlement Amount into a Qualified
4 Settlement Fund Account to be established by the Settlement Administrator. Within five (5)
5 business days of the funding of Maximum Settlement Amount, the Settlement Administrator will
6 issue payments to (a) Participating Class Members and Aggrieved Employees; (b) the Labor and
7 Workforce Development Agency (“LWDA”); (c) Plaintiff; and (d) Class Counsel. The
8 Settlement Administrator will also issue a payment to itself for Court-approved services
9 performed in connection with the Settlement. The Parties agree that the Maximum Settlement
10 Amount will qualify and be characterized as a Qualified Settlement Fund (“QSF”) under the
11 provisions of the U.S. Treasury Regulations 1.468B-1 and 1.468B-5, and the QSF will be taxed
12 as a separate entity for purposes of all federal, state and local taxes, and further agree to treat the
13 QSF consistent therewith, that the QSF will be considered the employer of the Settlement
14 Class/Aggrieved Employees for purposes of determining all tax obligations associated with the
15 QSF and payments under this Agreement. All taxes (including any interest or penalties) arising
16 with respect to income earned by the QSF. All expenses and costs incurred in connection with
17 the operation and implementation of this provision shall be paid from the QSF by the Settlement
18 Administrator.

19 41. Attorneys’ Fees and Costs. Defendants agree not to oppose or impede any
20 application or motion by Class Counsel for Attorneys’ Fees up to 33 and 1/3% of the Maximum
21 Settlement Amount, or Ninety Five Thousand Six Hundred Sixty Seven Dollars and Zero cents
22 (\$95,763.33), in addition to reasonable costs and expenses of litigation not to exceed \$12,000.00,
23 subject to Court approval. The amount of Attorneys’ Fees and Costs awarded by the Court shall
24 represent payment for all claims for Class Counsel’s attorneys’ fees and costs, past and future,
25 incurred in the Action. The Attorneys’ Fees and Costs shall be paid from the Maximum Settlement
26 Amount, and Defendants shall not otherwise be required to pay any portion of Plaintiff’s or the
27 Class Members’ attorneys’ fees, costs, or expenses. The Attorneys’ Fees and Costs Award shall be
28 paid to Class Counsel following the Effective Date as provided herein. Any amounts of attorneys’

1 fees and costs applied for but not awarded by the Court to Class Counsel shall become part of the
2 Net Settlement Amount. An award by the Court of attorneys' fees or costs that is less than the
3 amounts applied for will not be grounds for Plaintiff or Class Counsel to challenge or withdraw
4 from the Settlement.

5 42. Class Representative Enhancement Payment. In exchange for a general release of
6 all claims, and in recognition of his effort and work in prosecuting the Action on behalf of Class
7 Members and negotiating the Settlement, Defendants agree not to oppose or impede any
8 application or motion by Plaintiff for a Class Representative Enhancement Payment up to Twenty
9 Thousand Dollars (\$20,000), subject to Court approval. The Class Representative Enhancement
10 Payment will be in addition to Plaintiff's Individual Settlement Payment as a Participating Class
11 Member paid pursuant to the Settlement.

12 43. Release Provisions

13 a. **Participating Class Members' Release.** Upon the Effective Date,
14 Plaintiff, on behalf of himself and all Participating Class Members,
15 including their heirs, agents, representatives, successors, assigns and
16 estates, shall be deemed to have fully, finally and forever released and
17 discharged Released Parties from any and all causes of action, claims,
18 demands, rights, and liability, alleged or that could have been alleged in the
19 Operative Complaint based on the facts and allegations alleged therein
20 including claims for violations of the California Labor Code and any other
21 local, state, or federal law, statute, regulation or ordinance, including the
22 Fair Labor Standards Act, through the Class Period. This Release
23 specifically includes claims for any wages, statutory penalties, civil
24 penalties, liquidated damages, interest, restitution, attorneys' fees or costs
25 for the claims alleged in the Operative Complaint including but not limited
26 to claims for failure to pay minimum or overtime wages, failure to provide
27 meal and rest periods or to pay meal and rest period premiums, failure to pay
28 all wages due to discharged or quitting employees, failure to reimburse for

1 necessary business expenses, failure to provide accurate itemized wage
2 statements; claims under California Labor Code sections 201 to 204, 210,
3 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2,
4 1197, 1197.1, 1198, 2698 et seq., 2802, and the Wage Orders promulgated
5 thereunder, California Business and Professions Code section 17200, et seq.;
6 and claims for injunctive relief, punitive damages, penalties of any nature
7 (including PAGA civil penalties and statutory penalties), interest, fees, and
8 costs.

9 **b. Plaintiff's General Release.** In addition, upon the Effective Date, Plaintiff
10 on behalf of himself and his heirs, agents, representatives, successors,
11 assigns and estates will also be deemed to have fully and forever
12 discharged the Released Parties from any and all charges, complaints,
13 claims, liabilities, obligations, promises, agreements, controversies,
14 damages, actions, causes of action, suits, rights, demands, costs, losses,
15 debts, and expenses (including back wages, penalties, liquidated damages,
16 and attorneys' fees and costs actually incurred) of any nature whatsoever,
17 from the beginning of time through the date of his signature on this
18 Settlement Agreement, known or unknown, suspected or unsuspected,
19 including but not limited to all claims arising out of, based upon, or
20 relating to his employment with Defendants, or either of them, or the
21 remuneration for such employment.

22 It is the intent of the Parties that this Agreement satisfy the requirements of
23 the Age Discrimination in Employment Act and Older Workers Benefits
24 Protection Act, 29 U.S.C. sections 623 and 626, and accordingly, Plaintiff
25 acknowledges and agrees that he has read and understood the terms of this
26 Settlement Agreement. Plaintiff further acknowledges that he has been
27 given a full opportunity to consult with counsel with respect to this
28 Settlement Agreement and has obtained and considered such legal counsel

1 as he deems necessary and is entering into this Settlement Agreement
2 freely, knowingly, and voluntarily. Plaintiff further acknowledges that he
3 has been given at least 21 days in which to consider whether or not to enter
4 into this Settlement Agreement and, if entering into this Settlement
5 Agreement before the expiration of that period, is doing so at his option,
6 knowingly and voluntarily. The Parties agree that if the Parties change any
7 terms of the Settlement Agreement, the 21-day period will not be restarted
8 but will continue without interruption. Plaintiff understands that he has
9 seven days from date he signs this Agreement to revoke the Settlement
10 Agreement. Any revocation must be received by counsel for Defendants
11 before the expiration of the revocation period. This Settlement Agreement
12 shall become effective and enforceable as to Plaintiff upon expiration of
13 the revocation period.

14 Plaintiff, in his individual capacity, also expressly waives any and all
15 provisions, rights and benefits conferred by any law or principle of
16 common law or equity that is similar, comparable or equivalent, in whole
17 or in part, to California Civil Code section 1542. For the purpose of
18 implementing a full and complete release, Plaintiff expressly acknowledges
19 that this release is intended to include in its effect (without limitation)
20 claims that he did not know or suspect to exist in his favor at the time of
21 execution of this Settlement Agreement, regardless of whether the
22 knowledge of such claims, or the facts upon which they might be based,
23 would materially have affected the Settlement of this matter, and that the
24 consideration given under the Settlement Agreement was also for the
25 release of those claims and contemplates the extinguishment of any such
26 unknown claims. Plaintiff expressly waives the provisions of section 1542
27 of the Civil Code of California, which provides:
28

1 A general release does not extend to claims that the creditor or releasing
2 party does not know or suspect to exist in his or her favor at the time of
3 executing the release and that, if known by him or her, would have
4 materially affected his or her settlement with the debtor or released party.

5 Thus, subject to and in accordance with this Settlement Agreement, even if
6 Plaintiff may hereafter discover facts in addition to or different from those he
7 now knows or believes to be true, Plaintiff, upon the Effective Date, shall be
8 deemed to have fully, finally, and forever settled and released any and all
9 claims against the Released Parties that were alleged or could have been
10 alleged in the Action, as well as any other claims, whether known or
11 unknown, suspected or unsuspected, contingent or non-contingent, that now
12 exist, upon any theory of law or equity, including without limitation, conduct
13 which is negligent, intentional, with or without malice, or a breach of any
14 duty, law, or rule, without regard to the subsequent discovery or existence of
15 such different or additional facts.

16 **c. Plaintiff, State of California, and Aggrieved Employee Release.** Upon the
17 Effective Date, Plaintiff, on behalf of himself and the State of California,
18 and all Aggrieved Employees, including their heirs, agents, representatives,
19 successors, assigns and estates, shall be deemed to have fully, finally and
20 forever released and discharged the Released Parties from any and all
21 causes of action, claims, demands, rights, and liability arising from, based
22 on, or for any claim for civil penalties under PAGA, Labor Code section
23 2698 *et seq.*, alleged or that could have been alleged in the original
24 Complaint or the Operative Complaint as well as any alleged violations
25 asserted in the notices submitted to the LWDA by Class Counsel on
26 December 2 and 15, 2021 and November 23, 2022. Plaintiff, the State of
27 California and Aggrieved Employees release all claims for civil penalties for
28 Labor Code violations under PAGA through the PAGA Period

1
2 44. Settlement Administration Costs. The Settlement Administrator will be paid for
3 the reasonable costs of administration of the Settlement and distribution of payments from the
4 Maximum Settlement Amount, which is currently estimated to be \$7,000.00. These costs, which
5 will be paid from the Maximum Settlement Amount, will include, *inter alia*, the required tax
6 reporting on the Individual Settlement Payments, the issuing of 1099 and W-2 IRS Forms,
7 distributing the Notice Packet, calculating and distributing the Maximum Settlement Amount and
8 Attorneys' Fees and Costs, and providing necessary reports and declarations.

9 45. Labor and Workforce Development Agency ("LWDA") Payment. Subject to
10 Court approval, the Parties agree that the amount of Twenty-Five Thousand Dollars (\$25,000.00)
11 of the Maximum Settlement Amount will be designated for satisfaction of Plaintiff's and
12 Aggrieved Employees' PAGA claim and that such amount is a fair and reasonable settlement of
13 that claim and this Settlement fully and finally resolves such claim. Pursuant to PAGA, 75%,
14 *i.e.*, Eighteen Thousand Seven Hundred Fifty Dollars (\$18,750.00) of this sum will be paid to the
15 LWDA and 25%, *i.e.*, Six Thousand Two Hundred and Fifty Dollars (\$6,250.00), will be
16 distributed to the Aggrieved Employees. Each Aggrieved Employee's share of the 25% portion
17 of the LWDA Payment will be determined by dividing their total Pay Periods worked within the
18 PAGA Period by the total Pay Periods worked by all Aggrieved Employees within the PAGA
19 Period. That fraction will then be multiplied by the 25% portion of the LWDA Payment to arrive
20 at the Aggrieved Employee's individual share. These payments to Aggrieved Employees shall be
21 characterized as 100% penalties and will be added to any Individual Settlement Payment
22 provided herein.

23 The Parties agree that, as to the PAGA claim, no Class Member or Aggrieved Employee
24 may request exclusion from that portion of the Settlement and, absent an order granting leave to
25 intervene in the Action, no individual has standing to object to this Settlement with respect to the
26 PAGA claim. Any Class Member who is also an Aggrieved Employee and requests exclusion
27 from the Settlement Class will still receive their portion of the LWDA Payment as set forth above
28 and will be bound by the Aggrieved Employee Release set forth above.

1 Class Counsel will submit a copy of this Settlement Agreement to the LWDA, and the motions
2 for preliminary and final approval, as required by Labor Code section 2699(1)(2). Class Counsel
3 will attach a copy of the confirmation of submission of the Settlement Agreement to the LWDA
4 as an exhibit to their motion for preliminary approval and will submit a copy of the Final
5 Approval Order and Judgment to the LWDA within 10 days of entry, as required by Labor Code
6 section 2699(1)(3).

7 46. Net Settlement Amount. The Net Settlement Amount will be used to make the
8 Individual Settlement Payments to Participating Class Members from the Settlement Class in
9 accordance with the terms of this Agreement.

10 47. Escalator Clause. If it is later determined that the number of Class Members is
11 more than 5% greater than the 288 estimated by Defendant Full Package Delivery, LLC as of
12 October 26, 2022, then Defendants shall increase the Maximum Settlement Amount
13 proportionally, (i.e. for an increase of six percent in employees, Defendants shall add an extra 1%
14 to the Settlement Amount, for a ten percent increase in employees Defendants shall add an extra
15 5% to the Settlement Amount).

16 48. Non-reversionary Settlement. No portion of the Maximum Settlement Amount
17 will revert to Defendants.

18 49. Individual Settlement Payment Calculations. Individual Settlement Payments to
19 Participating Class Members will be calculated and apportioned from the Net Settlement Amount
20 based on the number of Pay Periods a Participating Class Member worked during the Class
21 Period. Specific calculations of Individual Settlement Payments will be made as follows:

22 a. The Settlement Administrator will calculate the number of Pay Periods
23 worked by each Participating Class Member during the Class Period, the amount to be paid per
24 Pay Period, and the Individual Settlement Payments to eligible Participating Class Members.

25 b. Defendant Full Package Delivery LLC's employee data will be presumed
26 to be correct, unless a particular Participating Class Member proves otherwise to the Settlement
27 Administrator by credible evidence.

28 c. The Individual Settlement Payments will be determined by dividing the Net

1 Settlement Amount by the total number of Pay Periods for all Participating Class Members,
2 resulting in the Pay Period Value, and then multiplying the Pay Period Value by the number of
3 Pay Periods worked by each Participating Class Member. Individual Settlement Payments will
4 be characterized fifty percent (50%) as wages and fifty percent (50%) as penalties and interest.

5 50. Individual Settlement Payments Do Not Trigger Additional Benefits. Defendants
6 shall have fully discharged their obligations to Plaintiff and the Participating Class Members
7 through the remittance of the Maximum Settlement Amount to the Settlement Administrator,
8 regardless of whether the checks for Individual Settlement Payments are actually received and/or
9 negotiated by Participating Class Members. Once Defendants have remitted the Maximum
10 Settlement Amount in accordance with this Settlement Agreement, they will be deemed to have
11 satisfied all terms and conditions under this Settlement Agreement, shall be entitled to all
12 protections afforded under this Settlement Agreement, and shall have no further obligations
13 under the terms of the Settlement Agreement, regardless of what occurs with respect to the
14 further administration of the Settlement. It is expressly understood and agreed that the receipt of
15 such Individual Settlement Payments will not entitle any Participating Class Member to
16 additional compensation or benefits under any company bonus, contest or other compensation or
17 benefit plan or agreement in place during the period covered by the Settlement, nor will it entitle
18 any Participating Class Member to any increased retirement, 401(k) benefits or matching
19 benefits, or deferred compensation benefits. It is the Parties' intent that the Individual Settlement
20 Payments provided for in this Settlement are the sole payments to be made by Defendants to the
21 Participating Class Members, and that the Participating Class Members are not entitled to any
22 new or additional compensation or benefits as a result of having received the Individual
23 Settlement Payment (notwithstanding any contrary language or agreement in any benefit or
24 compensation plan document that might have been in effect during the period covered by this
25 Settlement).

26 51. Settlement Administration Process. The Parties agree to cooperate in the
27 administration of the Settlement and to make all reasonable efforts to control and minimize the
28 costs and expenses incurred in administration of the Settlement. Without prejudice to any other

1 remedies, the Settlement Administrator shall hold Defendants harmless from and against all
2 liabilities, claims, causes of action, costs, and expenses (including legal fees and expenses)
3 arising out of any failure to timely or properly compensate Participating Class Members as
4 provided for in this Agreement. No person shall have any claim against any of the Released
5 Parties, counsel for Defendants, Plaintiff, the Class Members, Class Counsel, or the Settlement
6 Administrator based on mailings, distributions, and payments made in accordance with or
7 pursuant to this Agreement.

8 52. Delivery of the Class List. Within fifteen (15) calendar days of entry of
9 Preliminary Approval, Defendant Full Package Delivery LLC will provide the Class List to the
10 Settlement Administrator. The information Defendant Full Package Delivery LLC provides to
11 the Settlement Administrator shall be used solely to administer the terms of the Settlement
12 Agreement as described herein, shall remain confidential, and shall not be disclosed to anyone,
13 except pursuant to the express written authorization of Defendants, by order of the Court, or to
14 the extent necessary to fulfill the Settlement Administrator's reporting obligations hereunder.

15 53. Notice by First-Class U.S. Mail. Within ten (10) calendar days of receiving the
16 Class List, the Settlement Administrator will perform a National Change of Address database
17 check and shall mail a Notice Packet to all Class Members via regular First-Class U.S. Mail,
18 using the mailing addresses identified in the Class List. There will not be a claim process
19 requirement and, as such, Class Members will not receive, nor will they be required to submit a
20 claim form to receive their Individual Settlement Payments.

21 54. Confirmation of Contact Information in the Class List. Prior to mailing, the
22 Settlement Administrator will perform a search based on the National Change of Address
23 database or any other similar services available, such as provided by Experian, for information to
24 update and correct for any known or identifiable address changes.

25 55. Time for Objections and Requests for Exclusion. Any Class Member that wants to
26 submit a Notice of Objection to the Settlement or Request for Exclusion must do so by the
27 Response Deadline.
28

1 56. Notice Packets. All Class Members will be mailed a Notice Packet by the
2 Settlement Administrator. Each Notice Packet will provide: (a) information regarding the nature
3 of the Action; (b) a summary of the Settlement’s principal terms; (c) the Settlement Class
4 definition; (d) the total number of Pay Periods each respective Class Member worked for
5 Defendant Full Package Delivery, LLC during the Class Period; (e) each Class Member’s
6 estimated Individual Settlement Payment and the formula for calculating Individual Settlement
7 Payments; (f) the dates which comprise the Class Period; (g) information regarding disputing Pay
8 Periods or making Requests for Exclusion or submitting Notices of Objections; (h) the deadlines
9 by which the Class Member must mail any dispute of Pay Periods, Request for Exclusion, or
10 Notice of Objections to the Settlement; (i) the claims to be released, as set forth herein; and (j)
11 the date for the final approval hearing. For every Class Member where the Notice Packet is
12 returned after mailing with a forwarding address, the Settlement Administrator shall re-mail the
13 Notice Packet to the forwarding address. For every Class Member where the Notice Packet is
14 returned after mailing without a forwarding address, the Settlement Administrator shall perform
15 one “skip trace” search in a consumer information database comparable to Accurant in an effort
16 to locate a current address. It shall be presumed that each Class Member whose Notice Packet is
17 not returned to the Settlement Administrator as undeliverable within the 30-day notice period has
18 actually received the Notice Packet. The Response Deadline for any Settlement Class Member
19 who is re-mailed a Notice Packet shall be fifteen (15) calendar days from the date of the re-mailing
20 or the original thirty (30) calendar day deadline, whichever is later. If the Response Deadline for
21 any Class Member is later than the original 30-day notice period, the Settlement Administrator
22 shall include a letter with the Notice Packet advising the Class Member of the adjustment to the
23 Response Deadline.

24 57. Disputed Information In Notice Packets. Participating Class Members may
25 dispute the number of Pay Periods they worked during the Class Period by submitting a written
26 Pay Period dispute to the Settlement Administrator, which should include the Participating Class
27 Member’s (a) full name, signature, address, telephone number, and the last four digits of the Class
28 Member’s Social Security number; (b) the number of Pay Periods the Participating Class Member

1 contends is correct; and (c) any evidence supporting the Participating Class Member's contention.
2 Absent evidence rebutting Defendant Full Package Delivery LLC's records, Defendant Full
3 Package Delivery LLC's records will be presumed determinative. However, if a Participating
4 Class Member produces evidence to the contrary, the Parties will evaluate the evidence submitted
5 by the Participating Class Member and the Settlement Administrator will make the final decision
6 as to the number of eligible Pay Periods that should be applied and/or the Individual Settlement
7 Payment to which the Participating Class Member may be entitled. Participating Class Members
8 shall have until the Response Deadline to provide evidence to the Settlement Administrator
9 demonstrating that the number of Pay Periods to which they have been credited is incorrect.

10 58. Settlement Checks. The expiration date on the Individual Settlement Payment
11 checks and LWDA Payment checks to Aggrieved Employees will be one hundred and eighty
12 (180) calendar days from the date the checks are issued. If a Participating Class Member or
13 Aggrieved Employee does not cash his or her check within 180 days, the check will be cancelled.
14 Pursuant to California Code of Civil Procedure Section 384, all funds associated with such
15 cancelled checks will be transmitted to the State Controller's fund in the name of the applicable
16 Participating Class Member and/or Aggrieved Employee. Participating Class Members and
17 Aggrieved Employees whose checks are cancelled shall, nevertheless, be bound by this Settlement
18 Agreement.

19 59. Request for Exclusion Procedures. Any Class Member wishing to be excluded
20 from the Settlement Agreement must mail a written Request for Exclusion to the Settlement
21 Administrator containing the information specified in paragraph 31 and within the Response
22 Deadline. The date of the postmark on the return mailing envelope will be the exclusive means
23 to determine whether a Request for Exclusion has been timely submitted. The Settlement
24 Administrator will provide Class Counsel and counsel for Defendants with a list of those
25 individuals who have submitted Requests for Exclusion within five (5) days after the Response
26 Deadline, and indicate whether such requests are valid and were timely, to be supplemented as
27 needed. Any Class Member who submits a Request for Exclusion is prohibited from making any
28

objection to the Settlement Agreement. In the event a Class Member submits both a Notice of Objection and a Request for Exclusion, the Request for Exclusion will govern.

60. Settlement Terms Bind All Class Members Who Do Not Request Exclusion. Any Class Member who does not affirmatively Request Exclusion from the Settlement Agreement by submitting a timely and valid Request for Exclusion shall be considered a Participating Class Member and will be bound by all of the terms of the Settlement, including those pertaining to the Released Claims and the above Releases, as well as any Final Approval Order and Judgment that may be entered by the Court if it grants final approval to the Settlement. The entry of the Final Approval Order and Judgment approving this Settlement and which discharges Defendants and Released Parties from liability as set forth in the Releases above, including for any and all of the Released Claims, shall have *res judicata* effect and bar Plaintiff and Participating Class Members and Aggrieved Employees from bringing any actions or claims asserting the Released Claims or any claim under PAGA.

61. Written Objection Procedures. Plaintiff may not object to the Settlement. To object to the Settlement Agreement in writing, a Participating Class Member must mail a valid Notice of Objection to the Settlement Administrator on or before the Response Deadline. The Notice of Objection must be signed by the Participating Class Member and contain all information required by paragraph 23 of this Settlement Agreement. The postmark date will be the exclusive means for determining that the Notice of Objection is timely. Absent good cause found by the Court, Participating Class Members who fail to object in writing will be deemed to have waived all written objections, and will be foreclosed from making written objections and seeking any adjudication or review of such written objections, whether by appeal or otherwise, to the Settlement Agreement. Aside from these procedures governing written objections, the Court will otherwise control the acceptance of any objections prior to, or made at the final approval hearing. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage Participating Class Members to submit Notices of Objection to the Settlement Agreement or appeal from the Final Approval Order and Judgment. Class Counsel will not represent any Participating Class Members with respect to any such objections to this Settlement.

1 62. Certification Reports Regarding Individual Settlement Payment Calculations. The
2 Settlement Administrator will provide Defendants' counsel and Class Counsel with a weekly
3 report which certifies: (a) the number of Notice Packets mailed and the number remailed and any
4 revised Response Deadlines due to remailing; (b) the number of Participating Class Members
5 from the Settlement Class who have submitted a dispute of Pay Periods; (c) the number of Class
6 Members who have submitted Requests for Exclusion or Notices of Objection and whether they
7 are timely and valid; and (d) whether any Class Member has submitted a challenge to any other
8 information contained in their Notice Packet. Additionally, the Settlement Administrator will
9 provide to counsel for both Parties any updated reports regarding the administration of the
10 Settlement Agreement as needed or requested.

11 63. Payroll Taxes. In accordance with this Settlement, the payment of the Maximum
12 Settlement Amount approved by the Court shall, to the fullest extent possible, resolve, satisfy and
13 completely extinguish all of Defendants' liability with respect to the Settlement Class except that
14 Defendants shall solely be responsible for the employer portion of the payroll taxes, to be
15 calculated by the Settlement Administrator.

16 64. Certification of Completion. Upon completion of administration of the Settlement,
17 the Settlement Administrator will provide a written declaration under oath to certify such
18 completion to the Court and counsel for all Parties.

19 65. Treatment of Individual Settlement Payments. All Individual Settlement Payments
20 will be characterized as follows: 50% of each Individual Settlement Payment will be considered
21 wages, and 50% will be considered unpaid interest and penalties. The portion allocated to wages
22 will be reported on an IRS Form W-2 and the portions allocated to interest and penalties will be
23 reported on an IRS Form-1099 by the Settlement Administrator.

24 66. Administration of Taxes by the Settlement Administrator. The Settlement
25 Administrator will be responsible for issuing to Plaintiff, Participating Class Members,
26 Aggrieved Employees, and Class Counsel any W-2, 1099, or other tax forms as may be required
27 by law for all amounts paid pursuant to this Agreement. The Settlement Administrator will also
28

1 be responsible for forwarding all payroll taxes and penalties to the appropriate government
2 authorities.

3 67. Tax Liability. Defendants make no representation as to the tax treatment or legal
4 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are
5 not relying on any statement, representation, or calculation by Defendants, counsel for
6 Defendants, or by the Administrator in this regard. Plaintiff and Participating Class Members
7 understand and agree that except for Defendants' payment of the employer's portion of any
8 payroll taxes, they will be solely responsible for the payment of any taxes and penalties assessed
9 on the payments described herein.

10 68. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
11 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
12 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
13 PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
14 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
15 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
16 INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
17 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE
18 MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR
19 PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
20 EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND TAX
21 COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
22 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
23 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
24 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
25 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
26 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
27 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
28 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF

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

6
7 69. No Prior Assignments. The Parties and their counsel represent, covenant, and
8 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported
9 to assign, transfer, or encumber to any person or entity any portion of any liability, claim,
10 demand, action, cause of action or right herein released and discharged.

11 70. Duties of the Parties Prior to Court Approval. Class Counsel shall prepare and
12 provide counsel for Defendants with a draft of Plaintiff’s Motion for Preliminary Approval no
13 later than January 24, 2023 and shall provide at least five (5) court days for counsel for
14 Defendants to review and comment. The motion shall seek a determination by the Court as to the
15 Settlement’s fairness, adequacy, and reasonableness and shall apply to the Court for the entry of
16 an order:

17 a. Scheduling a final approval hearing on the question of whether the
18 Settlement, including payment of the Attorneys’ Fees and Costs and Class Representative
19 Enhancement Payment, should be finally approved as fair, reasonable and adequate as to the
20 members of the Settlement Class;

21 b. Conditionally certifying the Settlement Class for settlement purposes only;
22 c. Approving, as to form and content, the proposed Notice of Class Action
23 Settlement;

24 d. Approving the manner and method for Class Members to request exclusion
25 from the Settlement as contained herein;

26 e. Directing the mailing of the Notice of Class Action Settlement, by first
27 class mail to the Class Members; and
28

1 f. Preliminarily approving the Settlement subject only to the objections of
2 Participating Class Members and final review by the Court.

3 71. Duties of the Parties Following Final Approval. Following final approval by the
4 Court of this Settlement Agreement, Class Counsel will prepare a proposed Final Approval Order
5 and Judgment for review by counsel for Defendants and submission to the Court:

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

8 b. Approving Class Counsel's application for an award of Attorneys' Fees
9 and Costs;

10 c. Approving the Class Representative Enhancement Payment to the Class
11 Representative; and

12 d. Entering judgment in this Action, with a reservation of continuing
13 jurisdiction by the Court over the Settlement Agreement and its implementation.

14 72. Non-Cooperation with Third Party Claims. Unless compelled by a validly issued
15 subpoena or court order, Plaintiff agrees not to invite, solicit, initiate, participate, or otherwise
16 cooperate in any way in any legal or adversary proceedings, potential legal or adversary
17 proceedings, or in any other public or private activity, taken against Released Parties, which may
18 be contemplated or initiated by any persons or entities not a party to this Settlement Agreement,
19 regarding any of the claims released by this Settlement Agreement. Nothing within this
20 Settlement Agreement is intended to prevent or interfere with Plaintiff's participation in any
21 investigation, hearing, or proceeding conducted by any governmental agency, in accordance with
22 applicable law.

23 Plaintiff and Class Counsel also agree that they will not Solicit ("Solicit" as used here is
24 as defined in Rule 1-400, of the California Rules of Professional Conduct), directly or indirectly,
25 any current or former employees of the Released Parties to pursue a claim against the Released
26 Parties, and Plaintiff will not otherwise voluntarily assist other claimants adverse to Released
27 Parties.

1 Plaintiff and Class Counsel represent and warrant that neither they nor anyone acting on
2 their behalf are aware of any individual or entity who has considered or intends to file claims of
3 any nature against the Released Parties. Nothing in this paragraph shall be construed as
4 precluding Class Counsel from representing any person adverse to the Released Parties in the
5 future.

6 73. Nullification of Settlement Agreement. In the event that the Settlement is barred
7 by operation of law, or any material portion is invalidated, or ordered not to be carried out by a
8 court of competent jurisdiction, this Settlement Agreement, and any documents generated to
9 bring it into effect, will be null and void. Any order of judgment entered by the Court in
10 furtherance of this Settlement Agreement will likewise be treated as void from the beginning, and
11 all Parties to this Settlement Agreement shall stand in the same position, without prejudice, as if
12 the Settlement Agreement had been neither entered into nor filed with the Court. Defendants will
13 cease to have any obligation to pay any portion of the Maximum Settlement Amount to the
14 Settlement Administrator, or any other party under the terms of this Agreement and all previous
15 disbursements made by Defendants to the Settlement Administrator will be returned to to
16 Defendants. Any Settlement Administration Costs incurred will be split equally between the
17 Parties.

18 74. Rescission of Settlement Agreement (by Defendants). If more than fifteen (15) of
19 the Class Members request exclusion from the Settlement, Defendants may, at their election,
20 rescind or void the Settlement and all actions taken in furtherance of it will thereby be null and
21 void. Defendants must exercise this right of rescission or to void the Settlement Agreement, in
22 writing, to Class Counsel and with a copy to the Settlement Administrator within ten (10) business
23 days after the Settlement Administrator notifies the Parties of receipt of more than fifteen Requests
24 for Exclusion. If the option to rescind or void is exercised, then Defendants shall be solely
25 responsible for all costs of the settlement administration accrued to that point, not to exceed the
26 amount approved by the Court in Preliminary Approval. If Defendants exercise this option, the
27 Parties shall return to their respective positions that existed before the execution of this Settlement
28 Agreement, and no term of this Settlement Agreement or any draft thereof, or the negotiation,

1 documentation, or other part or aspect of the Parties' settlement discussions, shall have any effect
2 or be admissible as evidence for any purpose in the Action, or in any other proceeding.

3 75. Termination of Settlement. Either Party may terminate this Settlement only if the
4 Court declines to enter Preliminary Approval or the Final Approval Order and Judgment in
5 substantially the form submitted by the Parties, or the Settlement Agreement as agreed does not
6 become final because of appellate court action. However, before terminating the Settlement, the
7 Parties agree to meet and confer in good faith to bring the Settlement into compliance with any
8 Court Order. Should a Party thereafter still wish to terminate the Settlement, the terminating
9 Party shall give to the other Parties (through their counsel) written notice of its decision to
10 terminate no later than ten (10) calendar days after receiving notice that one of the above
11 enumerated events has occurred. Termination shall have the following effects:

- 12 a. The Settlement Agreement shall be terminated and shall have no force or
13 effect, and no Party shall be bound by any of its terms;
- 14 b. In the event the Settlement is terminated, Defendants shall have no
15 obligation to make any payments to any party, Class Member or attorney,
16 except that the terminating Party shall pay the Settlement Administrator for
17 services rendered up to the date the Settlement Administrator is notified that
18 the Settlement has been terminated;
- 19 c. The Preliminary Approval Order and Final Approval Order and Judgment,
20 including any order of class certification, shall be vacated;
- 21 d. The Settlement Agreement and all negotiations, statements and proceedings
22 relating thereto shall be without prejudice to the rights of any of the Parties,
23 all of whom shall be restored to their respective positions in the Action prior
24 to the Settlement;
- 25 e. Neither this Settlement, nor any ancillary documents, actions, statements or
26 filings in furtherance of settlement (including all matters associated with the
27 mediation) shall be admissible or offered into evidence in the Action or any
28 other action for any purpose whatsoever.

1 76. Public Statements. Plaintiff and Class Counsel shall not hold any press
2 conferences or issue any press releases with respect to this Settlement at any time. Until Plaintiff
3 submits the motion for preliminary approval to the Court, Plaintiff and Class Counsel will keep
4 the terms of this Settlement Agreement confidential. Prior to final approval of this Settlement,
5 Plaintiff and Class Counsel will not discuss this Action or the Settlement or otherwise disclose
6 the terms of this Settlement Agreement with third parties other than Class Members and the
7 Settlement Administrator, except (1) as required by law, (2) as necessary to effectuate this
8 Settlement Agreement, and (3) to the Parties' tax advisors. After final approval of this
9 Settlement, Plaintiff, Defendants, and their respective counsel shall not issue any public
10 statements with respect to the Action or Settlement, except as required by law. The Parties and
11 their counsel shall not engage in any publicity, including website or social media postings, of any
12 type related to the Action, Settlement, or litigation against Defendants. Notwithstanding the
13 specific limitations to public disclosure identified herein, Class Counsel shall not be precluded
14 from disclosing the Parties to the lawsuit and the fact that the matter settled to a Court or other
15 tribunal. Furthermore, nothing herein limits Plaintiff's or any Class Member's ability to
16 communicate with any government agency or otherwise cooperate in any investigation or
17 proceeding that may be conducted by any government agency.

18 77. Continued Jurisdiction. Upon entry of, and to be included in the Final Approval
19 Order and Judgment, the Court will retain and have continuing jurisdiction under California Code
20 of Civil Procedure section 664.6 to enforce the terms of this Settlement.

21 78. Entire Agreement. This Settlement Agreement and any attached Exhibits
22 constitutes the entirety of the Parties' Settlement. No other prior or contemporaneous written or
23 oral agreements may be deemed binding on the Parties. The Parties expressly recognize
24 California Civil Code section 1625 and California Code of Civil Procedure section 1856(a),
25 which provide that a written agreement is to be construed according to its terms and may not be
26 varied or contradicted by extrinsic evidence, and the Parties agree that no such extrinsic oral or
27 written representations or terms will modify, vary or contradict the terms of this Settlement
28 Agreement.

1 79. Amendment or Modification. This Settlement Agreement may be amended or
2 modified only by a written instrument signed by the Parties and counsel for all Parties or their
3 successors-in-interest.

4 80. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
5 and represent they are expressly authorized by the Parties whom they represent to negotiate this
6 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
7 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
8 documents required to effectuate the terms of this Settlement Agreement. The Parties and their
9 counsel will cooperate with each other and use their best efforts to effect the implementation of
10 the Settlement. If the Parties are unable to reach agreement on the form or content of any
11 document needed to implement the Settlement, or on any supplemental provisions that may
12 become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance
13 of the Court to resolve such disagreement.

14 81. Signatories. It is agreed that because the members of the Settlement Class are so
15 numerous, it is impossible or impractical to have each member of the Settlement Class execute
16 this Settlement Agreement. The Notice of Class Action Settlement, attached hereto as Exhibit A,
17 will advise all Class Members and Aggrieved Employees of the binding nature of the Releases
18 contained herein, and the Releases shall have the same force and effect as if this Settlement
19 Agreement were executed by each Participating Class Member and Aggrieved Employee.

20 82. Binding on Successors and Assigns. This Settlement Agreement will be binding
21 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
22 defined.

23 83. California Law Governs. All terms of this Settlement Agreement hereto will be
24 governed by and interpreted according to the laws of the State of California.

25 84. Execution and Counterparts. This Settlement Agreement is subject only to the
26 execution of all Parties. However, the Settlement Agreement may be executed in one or more
27 counterparts. All executed counterparts and each of them, including facsimile and scanned
28

1 copies of the signature page, will be deemed to be one and the same instrument provided that
2 counsel for the Parties will exchange among themselves original signed counterparts.

3 85. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
4 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have
5 arrived at this Settlement after arm's-length negotiations and in the context of adversarial
6 litigation, taking into account all relevant factors, present and potential. The Parties further
7 acknowledge that they are each represented by competent counsel and that they have had an
8 opportunity to consult with their counsel regarding the fairness and reasonableness of this
9 Settlement Agreement. In addition, the Mediator may execute a declaration supporting the
10 Settlement and the reasonableness of the Settlement and the Court may, in its discretion, contact
11 the Mediator to discuss the Settlement and whether or not the Settlement is objectively fair and
12 reasonable.

13 86. Invalidity of Any Provision. Before declaring any provision of this Settlement
14 Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest
15 extent possible consistent with applicable precedents so as to define all provisions of this
16 Settlement Agreement valid and enforceable.

17 87. Plaintiff's Waiver of Right to Be Excluded and Object. Plaintiff agrees to sign this
18 Settlement Agreement and, by signing this Settlement Agreement, is hereby bound by the terms
19 herein and further waives any right to submit a Request for Exclusion or Notice of Objection.

20 88. Appeals. Except for the Court's award for Attorneys' Fees and Costs, any Party
21 may appeal any court order that materially alters the Settlement Agreement's terms.

22 89. Non-Admission of Liability. The Parties enter into this Settlement Agreement to
23 resolve the dispute that has arisen between them and to avoid the burden, expense and risk of
24 continued litigation. In entering into this Settlement Agreement, Defendants do not admit, and
25 specifically deny, they have violated any state, federal, or local law; violated any regulations or
26 guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal
27 requirements; breached any contract; violated or breached any duty; engaged in any
28 misrepresentation or deception; or engaged in any other unlawful conduct with respect to Full

1 Package Delivery, LLC's employees. Neither this Settlement Agreement, nor any of its terms or
2 provisions, nor any of the negotiations connected with it, shall be construed as an admission or
3 concession by Defendants of any such violations or failures to comply with any applicable law.
4 Except as necessary in a proceeding to enforce the terms of this Settlement Agreement, this
5 Settlement Agreement and its terms and provisions shall not be offered or received as evidence in
6 any action or proceeding to establish any liability or admission on the part of Defendants or to
7 establish the existence of any condition constituting a violation of, or a non-compliance with
8 state, federal, local or other applicable law.

9 90. Captions. The captions and section numbers in this Settlement Agreement are
10 inserted for the reader's convenience, and in no way define, limit, construe or describe the scope
11 or intent of the provisions of this Settlement Agreement.

12 91. Waiver. No waiver of any condition or covenant contained in this Settlement
13 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered
14 to imply or constitute a further waiver by such party of the same or any other condition,
15 covenant, right or remedy.

16 92. Enforcement Actions. In the event of a dispute concerning the enforcement of any
17 provision of this Settlement Agreement or breach of a term of this Settlement Agreement, notice
18 must be mailed to counsel for all Parties. Upon receipt, counsel for the Parties shall meet and
19 confer in a good faith attempt to resolve the dispute for period not to exceed ten (10) days. In the
20 event those efforts are unsuccessful, the dispute shall be submitted to the Mediator. If he
21 mediation is not successful and one or more of the Parties institutes any legal action or other
22 proceeding against any other Party or Parties to enforce the provisions of this Settlement
23 Agreement or to declare rights and/or obligations under this Settlement Agreement, the
24 successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties
25 reasonable attorneys' fees and costs, including expert witness fees incurred in connection with
26 any enforcement actions.

27 93. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
28 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not

1 be construed more strictly against one party than another merely by virtue of the fact that it may
2 have been prepared by counsel for one of the Parties, it being recognized that, because of the
3 arm's-length negotiations between the Parties, all Parties have contributed equally to the
4 preparation of this Settlement Agreement.

5 94. Representation By Counsel. The Parties acknowledge that they have been
6 represented by counsel throughout all negotiations that preceded the execution of this Settlement
7 Agreement, and that this Settlement Agreement has been executed with the consent and advice of
8 counsel, and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that
9 there are no liens on the Settlement Agreement.

10 95. All Terms Subject to Final Court Approval. All amounts and procedures
11 described in this Settlement Agreement herein will be subject to final Court approval.

12 96. Cooperation and Execution of Necessary Documents. All Parties will cooperate in
13 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
14 this Settlement Agreement.

15 97. Integration Clause. This Settlement Agreement and the Memorandum of
16 Understanding executed by the Parties contains the entire agreement between the Parties relating
17 to the Settlement and transactions contemplated hereby, and all prior or contemporaneous
18 agreements, understandings, representations, and statements, whether oral or written and whether
19 by a party or such party's legal counsel, are merged herein. No rights hereunder may be waived
20 except in writing. If there are any discrepancies between this Settlement Agreement and the
21 Memorandum of Understanding, this Settlement Agreement will control.

22 98. Binding Agreement. The Parties warrant that they understand and have full
23 authority to enter into this Settlement Agreement, and further intend that this Settlement
24 Agreement will be fully enforceable and binding on all Parties, and agree that it will be
25 admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any
26 mediation confidentiality provisions that otherwise might apply under state or federal law.

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

4 **SIGNATURES - READ CAREFULLY BEFORE SIGNING**

5 **PLAINTIFF**

6
7 Dated: 12 30 22

8 
9
10 Plaintiff KASHU XOLA

11 **DEFENDANT**
12 **FULL PACKAGE DELIVERY LLC**

13 Dated: _____

14 _____
15 Willie Bryant
16 Owner

17 **DEFENDANT**
18 **AMAZON LOGISTICS, INC.**

19 Dated: _____

20 _____
21 Meredith Riccio
22 Corporate Counsel
23
24
25
26
27
28

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

4 **SIGNATURES - READ CAREFULLY BEFORE SIGNING**

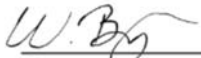
5 **PLAINTIFF**

6
7 Dated: _____

Plaintiff KASHU XOLA

8
9
10
11 **DEFENDANT**
12 **FULL PACKAGE DELIVERY LLC**

13 Dated: 12/28/2022 _____


Willie Bryant
Owner

14
15
16 **DEFENDANT**
17 **AMAZON LOGISTICS, INC.**

18
19 Dated: _____

Meredith Riccio
Corporate Counsel

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

4 **SIGNATURES - READ CAREFULLY BEFORE SIGNING**

5 **PLAINTIFF**

6
7 Dated: _____

Plaintiff KASHU XOLA

8
9
10
11 **DEFENDANT**
12 **FULL PACKAGE DELIVERY LLC**

13 Dated: _____

Willie Bryant
Owner

14
15
16
17 **DEFENDANT**
18 **AMAZON LOGISTICS, INC.**

19 Dated: December 25, 2022

DocuSigned by:
Zane Brown
DDF214FDD377494...

Zane Brown
Authorized Representative

1 **APPROVED AS TO FORM**

2

3 Dated: _____

4

SULLIVAN & YAECKEL LAW GROUP, APC

5

BY: _____

6

Eric K. Yaeckel, Esq.

7

Ryan T. Kuhn, Esq.

8

Attorneys for Plaintiff

9

KASHU XOLA, Individually and on behalf of
the Class

10 Dated: _____

11

SOLOMON WARD SEIDENWURM & SMITH

12

BY: _____

13

Daniel Gardenswartz, Esq.

14

Jing Y. Li, Esq.

15

Attorneys for Defendant

16

FULL PACKAGE DELIVERY, LLC

17 Dated: December 28, 2022

18

WILSON TURNER KOSMO LLP

19

BY: Meryl C. Maneker

20

Meryl C. Maneker, Esq.

21

Attorneys for Defendant

22

AMAZON LOGISTICS, INC.

23

24

25

26

27

28

1 **APPROVED AS TO FORM**

2
3 Dated: _____

SULLIVAN & YAECKEL LAW GROUP, APC

4
5 BY: _____

Eric K. Yaeckel, Esq.

Ryan T. Kuhn, Esq.

Attorneys for Plaintiff

6 KASHU XOLA, Individually and on behalf of
7 the Class
8
9

10 Dated: 12/28/22

SOLOMON WARD SEIDENWURM & SMITH

11
12 BY:  _____

~~Daniel Gardenswartz, Esq.~~

Jing Y. Li, Esq.

Attorneys for Defendant

13
14 FULL PACKAGE DELIVERY, LLC
15
16

17 Dated: _____

WILSON TURNER KOSMO LLP

18
19 BY: _____

Meryl C. Maneker, Esq.

Attorneys for Defendant

20 AMAZON LOGISTICS, INC.
21
22
23
24
25
26
27
28

1 **APPROVED AS TO FORM**

2
3 Dated: 12-30-22

SULLIVAN & YAECKEL LAW GROUP, APC

4
5 BY: 

Eric K. Yaeckel, Esq.

Ryan T. Kuhn, Esq.

Attorneys for Plaintiff

KASHU XOLA, Individually and on behalf of
the Class

6
7
8
9
10 Dated: _____

SOLOMON WARD SEIDENWURM & SMITH

11
12 BY: _____

Daniel Gardenswartz, Esq.

Jing Y. Li, Esq.

Attorneys for Defendant

FULL PACKAGE DELIVERY, LLC

13
14
15
16 Dated: _____

WILSON TURNER KOSMO LLP

17
18 BY: _____

Meryl C. Maneker, Esq.

Attorneys for Defendant

AMAZON LOGISTICS, INC.

EXHIBIT B

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO

NOTICE OF CLASS ACTION SETTLEMENT

PLEASE READ CAREFULLY AS
THIS NOTICE MAY AFFECT YOUR RIGHTS

KASHU XOLA, Individually, and on behalf of other members of the general public similarly situated, Plaintiff, vs. FULL PACKAGE DELIVERY, LLC, a California Limited Liability Company; AMAZON LOGISTICS, INC., a Delaware Corporation; and DOES 1-10, inclusive, Defendants.	CASE No. 37-2022-0006720-CU-OE-CTL JUDGE: Honorable Matthew C. Braner DEPARTMENT: C-60 NOTICE OF CLASS ACTION SETTLEMENT
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I. WHY DID I GET THIS NOTICE?

This notice explains that a settlement has been reached in the case entitled *Kashu Xola v. Full Package Delivery, LLC, et al.*, Case No. 37-2022-0006720-CU-OE-CTL (the “Action”) which has been preliminarily approved by the Court as fair, reasonable, and adequate (the “Settlement”).

This notice is to inform you of the proposed Settlement of the Action. The notice is also intended (i) to describe the Settlement, including how the Settlement monies 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.

You are receiving this notice by order of the Court because the records of Full Package Delivery, LLC (“FPD”), indicate that you were employed by FPD as a non-exempt employee in California during the time period of February 22, 2018 to [the date of entry of an order granting preliminary approval of the settlement] (the “Settlement Class”). As a result, **you are eligible to receive a portion of the Settlement amount.**

This is **not** a notice of a lawsuit against you. **You are not being sued.**

II. WHAT IS THE CLASS ACTION LAWSUIT ABOUT?

On February 22, 2022, a former FPD employee in California filed a lawsuit in which he alleged violations of California wage-and-hour laws on a class action and representative basis as to FPD’s former non-exempt employees in California. Allegations were also made against Defendant Amazon Logistics, Inc. (“Amazon”) based on Plaintiff’s theory that Amazon was also an employer of FPD’s nonexempt employees. Amazon and FPD are collectively referred to as Defendants.

The Action alleges that the Settlement Class was not paid regular, minimum, off the clock, or overtime wages or final wages upon separation from employment, as required by California law; was not provided meal and rest periods under the California Labor Code and Wage Orders and not paid premium pay for the same; was not reimbursed for necessary business-related expenses; and, was not provided accurate wage statements with the information specified in the California Labor Code. The Action also alleges violations under the California Business and Professions Code §§ 17200 et seq. based on the foregoing state law claims. The Action also seeks penalties under California’s Private Attorneys General Act (“PAGA”) set forth in California Labor Code §§ 2699 et seq.

The individual who is suing the Defendants is referred to in this document as “Plaintiff.” Plaintiff’s attorneys, Sullivan & Yaeckel Law Group, APC, have been litigating the Action in State Court prior to this Settlement. The Court has determined that Sullivan & Yaeckel Law Group may represent the Settlement Class (“Class Counsel”).

Defendants claim that the members of the Settlement Class have been paid all monies that were due to them, maintain that they complied with California’s wage-and-hour laws, and deny any wrongdoing.

The Court has not ruled on whether Plaintiffs’ allegations have any merit. However, in order to avoid the time, inconvenience, expense, and disruption of further litigation, the ultimate outcome of which is uncertain, and to provide a fair and reasonable resolution of this legal dispute, Plaintiff and Defendants have negotiated a Settlement whereby Defendants have agreed to pay up to **\$287,290.00** to resolve the matter. As a Class Member, you are eligible to receive a portion of this amount.

This settlement is **not** an admission by FPD or Amazon of any liability.

III. WHO IS INCLUDED IN THIS CLASS ACTION?

All persons who were employed by and worked for FPD as a non-exempt employee in California at any time during the time period of February 22, 2018 to [the date of entry of an order granting preliminary approval of the settlement] (the “Class Period”).

IV. WHAT DOES THE PROPOSED SETTLEMENT OFFER?

Under the terms of the parties’ proposed Settlement, the following will occur if the Settlement is given final approval by the Court and provides:

A. Defendants will pay up to **Two Hundred Eighty Seven Thousand Two Hundred Ninety Dollars** (\$287,290.00) in full satisfaction of the claims of all Class Members in the Action in exchange for a release of the same.

B. A Settlement Administrator has been appointed by the Court to administer the Settlement. The Settlement Administrator will pay from the \$287,290.00: (1) Class Counsel’s attorneys’ fees, up to thirty three and one-third of the Settlement amount (or \$95,763.33); (2) Plaintiff’s costs of litigation, up to the amount of \$12,000.00; (3) The expenses of administering the Settlement, which are estimated to be \$10,000.00; (4) A Class Representative Enhancement Payment to Plaintiff of up to \$20,000.00 for the Plaintiff’s role in pursuing the litigation (and for a separate and broader release of claims); and (5) A payment of \$18,750.00 to the California Labor & Workforce Development Agency, representing 75% of the \$25,000.00 allocated to the settlement of Plaintiff’s claim for civil penalties under PAGA (the “LWDA Payment”); the remaining \$6,250 of the LWDA Payment will be paid to those non-exempt employees who worked for FPD from December 2, 2020 to [the date of entry of order granting preliminary approval] (“Aggrieved Employees”). The remainder of the Settlement amount (the “Net Settlement Amount”) will be paid to the Class Members in settlement of their individual claims.

C. The Net Settlement Amount will be divided among all Class Members based on the number of weekly pay periods worked for FPD in California by each Class Member in the Class Period. That is, the Net Settlement Amount will be divided by the number of weekly pay periods worked by all Class Members during the Class Period to produce a “Pay Period Value.” If you do not opt out of, e.g. request exclusion from, the Settlement, you will be eligible to receive a payment in the amount of the total number of weekly pay periods you worked for FPD during the Class Period multiplied by the Pay Period Value, less applicable withholdings.

D. According to FPD’s records, you worked as a non-exempt employee for FPD in the State of California for approximately [INSERT NUMBER] OF pay periods] pay periods during the Class Period.

According to FPD's records, you worked as a non-exempt employee for FPD in the State of California for approximately [INSERT NUMBER OF pay periods] pay periods during the PAGA Period, which runs from December 2, 2020 through [the date of entry of an order granting preliminary approval of the settlement].

Your portion of the Net Settlement Amount will be based on the above information. If you believe the information above is incorrect, you may dispute this information by mailing a written dispute to the Settlement Administrator at [INSERT ADDRESS]. You dispute must include: (a) your full name, signature, address, telephone number, and the last four digits of your Social Security number; (b) the number of weekly pay periods you contend is correct; and (c) any evidence supporting your contention. Please be advised that the information listed above is presumed to be correct unless you prove otherwise.

The estimated value of each weekly pay period for purposes of calculating the portion of the Net Settlement Amount of each Class Member is approximately: <<AMOUNT>>. The estimated value of each weekly pay period for purposes of calculating the portion of the LWDA Payment of each Aggrieved Employee is approximately: <<AMOUNT>>. Your portion of the Net Settlement Amount and LWDA Payment will be calculated by multiplying these amounts by the weekly pay periods you worked for FPD during the Class Period and PAGA Period (if applicable). Your estimated Settlement amount is <<AMOUNT>>. This is only an estimate. Your actual share may change depending on the Court's final ruling and the final number of participating Class Members.

E. If the Court grants final approval of the Settlement and you do not opt out of, e.g. request exclusion from, the Settlement, then you and your heirs, agents, representatives, successors, assigns and estates, will fully, finally and forever release and discharge Defendants Full Package Delivery, LLC and Amazon Logistics, Inc., and their past, present, and future parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and each of their past, present, and future shareholders, owners, officers, directors, employees, agents, trustees, attorneys, representatives, administrators, fiduciaries, beneficiaries, subrogees, executors, partners, privies, and any other individual or entity which could be liable (the "Released Parties"), from any and all causes of action, claims, demands, rights, and liability, alleged or that could have been alleged in the operative complaint filed in the Action based on the facts and allegations alleged therein including claims for violations of the California Labor Code and any other local, state, or federal law, statute, regulation or ordinance, including the Fair Labor Standards Act, through the Class Period. This release specifically includes claims for any wages, statutory penalties, civil penalties, liquidated damages, interest, restitution, attorneys' fees or costs for the claims alleged in the operative complaint filed in the Action including but not limited to claims for failure to pay minimum or overtime wages, failure to provide meal and rest periods or to pay meal and rest period premiums, failure to pay all wages due to discharged or quitting employees, failure to reimburse for necessary business expenses, failure to provide accurate itemized wage statements; claims under California Labor Code sections 201 to 204, 210, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 et seq., 2802, and the Wage Orders promulgated thereunder, California Business and Professions Code section 17200, et seq.; and claims for injunctive relief, punitive damages, penalties of any nature (including PAGA civil penalties and statutory penalties), interest, fees, and costs

for the time period from February 22, 2018 up to and including the last date of the Class Period. You will be barred from prosecuting any of the above claims against any of the above Released Parties.

In addition, if you are an Aggrieved Employee, you and your heirs, agents, representatives, successors, assigns and estates, will fully, finally and forever release and discharge the Released Parties from any and all causes of action, claims, demands, rights, and liability arising from, based on, or for any claim for civil penalties under PAGA, Labor Code section 2698 et seq., alleged or that could have been alleged in the original complaint or the operative complaint filed in the Action as well as any alleged violations asserted in the notices submitted to the LWDA by Class Counsel on December 2 and 15, 2021 and November 23, 2022 for the PAGA Period of December 2, 2020 through [INSERT DATE OF ENTRY OF ORDER GRANTING

PRELIMINARY APPROVAL].

F. Please Note: Class Members may choose to request exclusion or "opt-out" of the Settlement Class under such procedures specified herein. Any Class Member who opt-outs of the Settlement Class will not receive a portion of the Net Settlement Amount. However, you may not opt-out of the portion of the Settlement relating to the Settlement and release of claims under PAGA. If you are an Aggrieved Employee, even if you opt-out of the Settlement Class, you will still receive your portion of the LWDA Payment. You will be bound by the Settlement and the above release of claims for civil penalties under PAGA, whether or not you cash the check for your portion of the LWDA Payment. Class Members who opt-out will only be bound by the release of the PAGA claims and will retain all other rights in their individual capacity.

V. WHAT ARE MY OPTIONS?

A. ***You may accept your share of the \$287,290.00 settlement and be bound by the release of all claims described above.*** You do not need to do anything to receive your portion of the Net Settlement Amount or LWDA Payment. Settlement payments will be paid by check and mailed only if, and after, the Settlement is given final approval by the Court. The check(s) will be mailed to you by the Settlement Administrator. Your check will remain valid and negotiable for one hundred eighty (180) days from the date on which it is issued. After those one hundred eighty (180) days expire, the check will become void; ***or***

B. ***You may "opt-out" of, i.e. request to exclude yourself from, the Settlement, in which case you will not receive your share of the Net Settlement Amount and you will not be bound by the Settlement, other than as described above.*** To be excluded, you must timely mail a written Request for Exclusion to the Settlement Administrator that includes (a) the Action's name and number; (b) your full name, address, telephone number, and the last four digits of your Social Security number; (c) a clear statement that you do not wish to be included in the Settlement; and (d) your signature. The Request for Exclusion must be returned by U.S. mail to the Settlement Administrator at [INSERT ADDRESS] and be postmarked on or before _____ **(30 calendar days after mailing of this Notice)**; ***or***

C. ***You may object to the settlement.*** The procedures for objecting to the Settlement are described below in Section VIII of this form. If a Class Member submits both a Request for Exclusion and a Notice of Objection, the Request for Exclusion will govern and the Notice of Objection will not be considered.

VI. WHAT ARE THE PROCEDURES FOR PAYMENT?

A. The Settlement Administrator will calculate your share of the Settlement and will issue you a check.

B. Fifty percent (50%) of your share of the Net Settlement Amount will be considered wages from which ordinary tax withholdings will be deducted. No tax deductions shall be made from the remaining fifty percent (50%). No tax deductions will be made from your share of the LWDA Payment, if applicable. You will be given IRS tax forms for these amounts. You are responsible for paying the correct amount of taxes on each portion of your share of the Settlement. Nothing in this Notice of Class Action Settlement is intended to be tax advice. You should consult your tax advisor regarding any tax issues related to this Settlement.

C. It is important for the Settlement Administrator to have your current address in order to be able to send you other mailings regarding the Action and Settlement. 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 share of the Settlement.

VII. HEARING ON PROPOSED SETTLEMENT

A final fairness hearing will be held before the Court on _____, 2023, at _____ a.m., in Department C-60 of the San Diego County Superior Court, located at the Hall of Justice, 330 West Broadway, San Diego, California 92101, to decide whether or not the proposed Settlement is fair, reasonable, and

adequate and should be granted final approval. The Court may adjourn or continue the hearing without further notice to you. You are not required to attend the hearing. Sullivan & Yaeckel Law Group, APC (contact information below), counsel for Plaintiff and the Settlement Class, will answer any questions the Court may have. However, you are welcome to attend the hearing at your own expense. Procedures for making remote appearances at the hearing are allowed, but are subject to change. However, those procedures are posted on the Court's website at: <https://www.sdcourt.ca.gov/virtualhearings>. You should check the Court website for up to date information before attempting to make a remote appearance.

VIII. PROCEDURES FOR OBJECTING TO SETTLEMENT

You have the option of objecting to the Settlement and telling the Court that you don't agree with the Settlement or some part of it. The Court will consider your views. To object, you must submit a written Notice of Objection that includes: (a) the Action's name and number; (b) your full name, signature, address, telephone number and the last four digits of your Social Security number; (c) a written statement of all grounds for your objection accompanied by any legal support for such objection; (d) copies of any papers, briefs, or other documents upon which the objection is based; (e) the identity of your counsel, if you are represented by counsel; and (f) whether the you wish to be heard at the final fairness hearing. To be considered, the Notice of Objection must be mailed to the Settlement Administrator at [REDACTED] and postmarked on or before [REDACTED], 2022 (30 calendar days after mailing of this Notice).

If you submit a Notice of Objection and the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as a Class Member who did not object.

IX. EXAMINATION OF COURT PAPERS AND QUESTIONS

This notice summarizes the Settlement. For more detailed information, you may view a complete copy of the Settlement Agreement, and any papers filed in the Action, which are on file with the Clerk of the Court, case number 37-2022-0006720-CU-OE-CTL. The pleadings and all other records in the Action may be examined by inspecting the Court file in the filing department of the San Diego County Superior Court, located at Hall of Justice, 330 West Broadway, San Diego, California 92101. You may also review the Settlement Agreement, along with other court records regarding this case, on the Court's website, <https://www.sdcourt.ca.gov/sdcourt/generalinformation/accesscourtrecords>, through the link to the "Register of Actions."

If you have any questions, you can call the Settlement Administrator at [REDACTED] or Class Counsel (see below for phone numbers.)

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PLEASE DO NOT CALL THE COURT REGARDING THIS SETTLEMENT.