

BRADLEY/GROMBACHER, LLP
Marcus J. Bradley, Esq. (SBN 174156)
Kiley Lynn Grombacher, Esq. (SBN 245960)
Lirit Ariella King, Esq. (SBN 252521)
31365 Oak Crest Drive, Suite 240
Westlake Village, California 91361
Telephone: (805) 270-7100
Facsimile: (805) 270-7589
E-Mail: mbradley@bradleygrombacher.com
kgrombacher@bradleygrombacher.com
lking@bradleygrombacher.com

Attorneys for Plaintiff COLIN NELSON

[ADDITIONAL ATTORNEYS LISTED ON NEXT PAGE]

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

COLIN NELSON individually and on behalf of
other individuals similarly situated,

Plaintiff,

vs.

SWISSPORT USA, INC., a Delaware corporation
and DOES 1-100 inclusive,

Defendants.

Case No. 20-CIV-01692

[Assigned to Hon. Robert D. Foiles, Dept. 21]

**JOINT STIPULATION OF PAGA
SETTLEMENT AND RELEASE
BETWEEN PLAINTIFFS COLIN
NELSON AND RAJDEEP SANDHU AND
DEFENDANT SWISSPORT USA, INC.**

1 KENNETH SULZER (SBN 120253)

2 ksulzer@constangy.com

3 JEFFREY E. FIELDS (295276)

4 jfields@constangy.com

5 CONSTANGY, BROOKS, SMITH & PROPHETE, LLP

6 2029 Century Park East, Suite 1100

7 Los Angeles, CA 90067

8 Telephone: (310) 909-7775

9 SARAH K. HAMILTON (SBN 238819)

10 shamilton@constangy.com

11 CHRISTIN A. LAWLER (SBN 272607)

12 clawler@constangy.com

13 CONSTANGY, BROOKS, SMITH & PROPHETE, LLP

14 601 Montgomery Street, Suite 350

15 San Francisco, CA 94111

16 Telephone: (415) 918-3000

17 Facsimile: (415) 918-3001

18 Attorneys for Defendant

19 SWISSPORT USA, INC.

1 This Joint Stipulation and Settlement Agreement (herein after “Stipulation,” “Settlement,” or
2 “Settlement Agreement”) is entered into by and between Plaintiffs Colin Nelson (“Nelson”) and
3 Rajdeep Sandhu (“Sandhu”) (collectively “Plaintiffs”) on the one hand, and Defendant Swissport
4 USA, Inc. (“Defendant” or “Swissport”), on the other hand, subject to the terms and conditions hereof
5 and the approval of the Court. Plaintiffs and Defendant together are referenced herein as “the Parties.”

6 **SETTLEMENT BACKGROUND AND RECITALS**

7 On April 8, 2020, Plaintiff Colin Nelson filed a putative class action lawsuit in San Mateo
8 County Superior Court, Case No. 20CIV01692. On February 3, 2021, Nelson filed the operative First
9 Amended Complaint (the “*Nelson Action*”), which raises the following causes of action: (1) Failure
10 to Pay All Wages (Lab. Code §§ 204, 1194, 1194.2, 1197, 1197.1); (2) Meal Break Violations (Lab.
11 Code §§ 200, 226.7, 512); (3) Rest Break Violations (Lab. Code §§ 200, 226.7, 512); (4) Failure to
12 Pay Minimum Wage and Overtime Compensation (Welfare Commission Orders and Lab. Code §§
13 510, 1194); (5) Failure to Furnish Accurate, Itemized Wage Statements (Lab. Code § 226); (6) Failure
14 to Pay All Wages Owed at Termination (Lab. Code § 203); (7) Record Keeping Violations; (8) Failure
15 to Reimburse Expenses (Lab. Code § 2802); (9) Unfair Competition (Bus. & Prof. Code §§ 17200, *et*
16 *seq.*); and (10) Penalties Pursuant to the Private Attorneys’ General Act (Lab. Code §§ 2698, *et seq.*).
17 During his employment with Swissport, Nelson signed a binding arbitration agreement that included
18 a class action waiver.

19 On May 29, 2020, Plaintiff Rajdeep Sandhu filed a putative class action lawsuit in San Mateo
20 County Superior Court, Case No. 20CIV02273. On February 3, 2021, Sandhu filed the operative First
21 Amended Complaint (the “*Sandhu Action*”), which raises the following causes of action: (1) Failure
22 to Pay All Wages (Lab. Code §§ 204, 1194, 1194.2, 1197, 1197.1); (2) Meal Break Violations (Lab.
23 Code §§ 200, 226.7, 512); (3) Rest Break Violations (Lab. Code §§ 200, 226.7, 512); (4) Failure to
24 Pay Minimum Wage and Overtime Compensation (Welfare Commission Orders and Lab. Code §§
25 510, 1194); (5) Failure to Furnish Accurate, Itemized Wage Statements (Lab. Code § 226); (6) Failure
26 to Pay All Wages Owed at Termination (Lab. Code § 203); (7) Record Keeping Violations; (8) Failure
27 to Reimburse Expenses (Lab. Code § 2802); (9) Unfair Competition (Bus. & Prof. Code §§ 17200, *et*
28 *seq.*); and (10) Penalties Pursuant to the Private Attorneys’ General Act (Lab. Code §§ 2698, *et seq.*).

1 During his employment with Swissport, Sandhu signed a binding arbitration agreement that included
2 a class action waiver. Collectively, the *Nelson* Action and the *Sandhu* Action are referenced herein as
3 “the Action.”

4 The Parties informally exchanged discovery related to the Action, including discovery related
5 to Swissport’s policies and practices, the number of Aggrieved Employees, the number of pay periods
6 at issue in the PAGA Period, and potential exposure. On February 24, 2022, the Parties participated
7 in a full day mediation with Jeffrey A. Ross, Esq., a distinguished and highly regarded mediator, and
8 reached a settlement.

9 Plaintiffs’ Counsel has thoroughly investigated the facts relating to the claims alleged in the
10 Action and analyzed the applicable legal principles to the claims asserted against Defendant. Based
11 upon Plaintiffs’ Counsel’s discovery, investigation, and legal evaluation, and taking into account the
12 sharply contested legal and factual issues involved and assessment of the uncertainties of complex
13 litigation and the relative benefits conferred upon the Aggrieved Employees pursuant to this
14 Settlement Agreement, Plaintiffs’ Counsel has concluded that a settlement with Defendant, on the
15 terms set forth in this Settlement Agreement, is fair, reasonable, adequate and in the best interests of
16 Plaintiffs and the Aggrieved Employees. In particular, Plaintiffs’ Counsel and Plaintiffs understand
17 the risk of the merits of defenses that Defendant has asserted.

18 Defendant denied, and continues to deny, the allegations set forth in the Action in their entirety
19 and any and all liability arising out of the conduct alleged. Both Plaintiffs voluntarily signed binding
20 arbitration agreements during their employment with Swissport that contain class action waivers.
21 Defendant also denies that any class could be certified and denies that the Action is suited for
22 representative action treatment under PAGA. Defendant has asserted defenses to the claims alleged in
23 the Action. Moreover, Defendant has always maintained that it complied at all times with the
24 California Labor Code, applicable Wage Orders of the Industrial Welfare Commission (“IWC”), the
25 California Business and Professions Code, and that Plaintiffs and the Aggrieved Employees have been
26 properly paid all wages and any other payments owing to them under applicable federal and state law.
27 Defendant has concluded that further defense of this Action would be protracted and expensive.
28 Substantial amounts of Defendant’s time, energy and resources have been expended, and unless this

1 Settlement is made, will continue to be expended in defense of the claims asserted in this Action.
2 Therefore, Defendant has agreed to settle in the manner and upon the terms set forth in this Settlement
3 Agreement to put to rest the claims as set forth in the Action.

4 In addition, the Parties agree that the novel virus known as COVID-19 has impacted the
5 worldwide economy in such a substantial way that further litigation would impose further risks to the
6 Parties and weighs heavily in favor of approval of this Settlement as a fair and reasonable compromise
7 of the risks caused by this exceedingly unusual occurrence. In particular to this case, Defendant is a
8 service provider in the airline industry and continues to be deeply affected by the ongoing COVID-19
9 pandemic and its detrimental impact on the air travel industry.

10 The Parties agree that Defendant's decision to settle the Action is not, and shall not be
11 construed as, an admission of any wrongdoing whatsoever by Defendant against Plaintiffs and/or any
12 other Aggrieved Employees.

13 NOW THEREFORE, IT IS HEREBY AGREED, by and between the undersigned, that the
14 Action shall be settled, subject to the approval of the Court, pursuant to the following terms and
15 conditions:

16 DEFINITIONS

17 As used in this Settlement Agreement, the following terms shall have the following meanings:

18 1. "Action" collectively means the putative class and representative actions titled *Colin*
19 *Nelson v. Swissport USA, Inc.*, San Mateo County Court, Case No. 20CIV01692 (the "*Nelson*
20 *Action*"), and *Rajdeep Sandhu v. Swissport USA, Inc.*, San Mateo County Court, Case No.
21 20CIV02273 (the "*Sandhu Action*").

22 2. "Aggrieved Employees" means all Passenger Services Agents and Ramp Agents who
23 worked for Defendant at the San Francisco International Airport ("SFO") during the PAGA Period,
24 which Defendant represents consists of approximately 691 individuals previously disclosed to
25 Plaintiffs, along with all individuals who meet the definition of Aggrieved Employee who were hired
26 after disclosure and through the PAGA Period. The Aggrieved Employees exclude individuals who
27 would otherwise meet the definition of an Aggrieved Employee, but have released all claims through
28 a separate settlement agreement.

1 3. “Aggrieved Employee Released Claims” means all PAGA claims for civil penalties for
2 Aggrieved Employees that were or could have been recovered based on the facts alleged in the PAGA
3 Notices, the Complaints and/or First Amended Complaints in the Action during the PAGA Period,
4 including penalties for unpaid overtime, meal period violations, rest break violations, unpaid wages,
5 off the clock work, wage statement violations, failure to reimburse necessary expenses, failure to keep
6 required records, waiting time penalties and failure to pay all wages due upon termination, California
7 Labor Code section 2698 *et seq.*, Labor Code sections 200-204, 210, 212, 218.5, 218.6, 221, 223,
8 225.5, 226, 226(a), 226.2, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5,
9 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2810.5, IWC Wage Order 9-2001, and any other applicable
10 wage orders for work performed at the San Francisco International Airport, as well as claims or
11 potential claims for attorneys’ fees and costs and interest, and any other wage and hour claims related
12 to Aggrieved Employees’ employment with Defendant or the separation thereof. The Aggrieved
13 Employee Released Claims do not include underlying wage and hour claims of the Aggrieved
14 Employees, claims for wrongful termination in violation of public policy, claims under Title VII of
15 the Civil Rights Act or the Fair Employment and Housing Act, claims for unemployment insurance or
16 workers’ compensation benefits, and claims outside of the PAGA Period. The Released Claims do
17 not include any claims that cannot be released as a matter of law.

18 4. “Aggrieved Employee Information” means information regarding the Aggrieved
19 Employees that Defendant shall in good faith compile from its records and shall be authorized by the
20 Court to transmit in a secured manner in electronic format to the Settlement Administrator. Aggrieved
21 Employee Information shall include each Aggrieved Employee’s full name, last known address, Social
22 Security Number, and total number of Compensable Pay Periods.

23 5. “Compensable Pay Periods” means the total number of pay periods during which an
24 Aggrieved Employee worked for Defendant at any time during the PAGA Period as a Passenger
25 Services Agent or Ramp Agent, based on Defendant’s records, excluding pay periods during which
26 an Aggrieved Employee was paid but not actually working under the CARES Act or otherwise during
27 the COVID-19 pandemic. Each Aggrieved Employee’s number of Compensable Pay Periods will be
28 used to calculate the amount of his or her Individual Settlement Award.

6. "Court" means the Superior Court for the County of San Mateo, California, in which the Action is currently pending, the Honorable Robert D. Fioles presiding, which is located at the Southern Branch, Department 21, 400 County Center, Redwood City, CA 94063. "Court" shall also mean any other Court with proper jurisdiction of this Action.

7. "Defendant" means Defendant Swissport USA, Inc.

8. "Defendant's Counsel" or "Counsel for Defendant" means Kenneth D. Sulzer, Esq. and Matthew Scholl, Esq. of Constangy, Brooks, Smith & Prophete, LLP, 2029 Century Park East, Suite 1100, Los Angeles, California 90067, Telephone: 310-909-7775; Facsimile: 424-465-6630; and Christin Lawler, Esq. of Constangy, Brooks, Smith & Prophete, LLP, 601 Montgomery Street, Suite 350, San Francisco, California 94111, Telephone: 415-918-3000; Facsimile: 415-918-3009.

9. "Effective Date" refers to the latest date of the following:

a. Sixty-five (65) days after the date that the Court signs the Order Granting Approval of Settlement under Labor Code Section 2699 and Judgment in the *Nelson* Action;

b. If an objection to the Settlement is filed, the date on which the period for filing any appeal, writ or other appellate proceeding opposing the Court's Final Order has elapsed without any appeal, writ or other appellate proceeding having been filed;

b. The date on which the Court signs an Order Granting Plaintiff's Request for Dismissal of the *Sandhu* Action.

10. "Gross Settlement Amount" means the total amount of Three Hundred and Twenty-Five Thousand Dollars and Zero Cents (\$325,000.00) to be paid by Defendant pursuant to the terms of this Settlement Agreement in full satisfaction of all claims released through this Settlement Agreement. The Gross Settlement Amount includes all Individual Settlement Awards to Aggrieved Employees, the Settlement Administration Costs, the Plaintiffs' Counsel Award, the PAGA Representative Service Awards, and the LWDA Payment.

11. "Individual Settlement Award" means the amount payable from the Net Settlement Amount to each Aggrieved Employee.

12. "LWDA Payment" means the amount that the Parties have agreed to pay to the California Labor and Workforce Development Agency ("LWDA") in connection with the Labor Code

1 Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, *et seq.*, "PAGA"). Pursuant to the
2 PAGA, the Parties have agreed that seventy-five percent (75%) of the PAGA Penalties shall be payable
3 to the LWDA.

4 13. "Nelson Action" means the putative class and representative action titled *Colin Nelson*
5 *v. Swissport USA, Inc.*, San Mateo County Court, Case No. 20CIV01692.

6 14. "Net Settlement Amount" means the Gross Settlement Amount less the following
7 amounts, subject to approval by the Court: the Plaintiffs' Counsel Award, Settlement Administration
8 Costs, the LWDA Payment, and the PAGA Representative Service Awards. The Net Settlement
9 Amount shall be distributed to the Aggrieved Employees on a *pro rata* basis, based upon their
10 respective number of Compensable Pay Periods as defined herein.

11 15. "Notice" means the Notice of PAGA Settlement, substantially in the form attached
12 hereto as "**Exhibit 1**," which shall be mailed to Aggrieved Employees along with their settlement
13 checks.

14 16. "Order and Judgment" means the order and judgment to be entered by the Court upon
15 granting approval of the Settlement and this Stipulation as binding upon the Parties and the Aggrieved
16 Employees.

17 17. "PAGA" means the Labor Code Private Attorneys' General Act of 2004, California
18 Labor Code §§ 2698, *et seq.*

19 18. "PAGA Period" means the period from April 6, 2019 through the date of the Court's
20 Order Granting Approval of the PAGA Settlement or ninety (90) days from the full execution of this
21 Settlement Agreement.

22 19. "PAGA Representative Service Award" means the amount that the Court authorizes to
23 be paid to Plaintiffs in an amount not to exceed Five Thousand Dollars and Zero Cents (\$5,000.00)
24 each, for a total amount of Ten Thousand Dollars and Zero Cents (\$10,000.00), which shall be paid to
25 Plaintiffs in addition to their respective Individual Settlement Award, in recognition of Plaintiffs'
26 efforts and the risks in assisting with the prosecution of the Action.

27 20. "PAGA Penalties" means the total sum available for PAGA penalties to be paid to the
28 State of California and the Aggrieved Employees. The PAGA Penalties shall be calculated by

1 subtracting the following payments from the Gross Settlement Amount (\$325,000.00): the Plaintiffs'
2 Counsel Award, Settlement Administration Costs, and the PAGA Representative Service Awards.
3 The PAGA Penalties shall be paid, pursuant to PAGA, as follows: Seventy-five percent (75%) shall
4 be paid to the California Labor and Workforce Development Agency ("LWDA Payment"), and
5 twenty-five percent (25%) shall be paid distributed to the Aggrieved Employees, based upon their
6 respective number of Compensable Pay Periods defined herein.

7 21. "Parties" means Plaintiffs and Defendant.

8 22. "Plaintiffs" means Plaintiffs Colin Nelson and Rajdeep Sandhu.

9 23. "Plaintiffs' Counsel" means Marcus J. Bradley, Esq. and Kiley L. Grombacher, Esq. of
10 Bradley/Grombachar, LLP, 31365 Oak Crest Dr., Suite 240, Westlake Village, California 91361.

11 24. "Plaintiffs' Counsel Award" means reasonable attorneys' fees for Plaintiffs' Counsel's
12 litigation and resolution of this Action in an amount not to exceed 33 1/3% of the Gross Settlement
13 Amount, plus Plaintiffs' Counsel's expenses and costs reasonably incurred in connection with the
14 Action in an amount not to exceed Fifteen Thousand Dollars and Zero Cents (\$15,000.00).

15 25. "Plaintiffs' Released Claims" means any and all claims, demands, rights, liabilities,
16 and/or causes, of any form whatsoever, whether known or unknown, unforeseen, unanticipated,
17 unsuspected or latent, that have been or could have been asserted by Plaintiffs in the Action, or the
18 heirs, successors and/or assigns of Plaintiffs, whether directly, indirectly, representatively,
19 derivatively or in any other capacity, against Defendant or any of the other Released Parties, arising
20 at any time prior to execution of the instant Agreement, including all claims arising from and relating
21 to Plaintiffs' employment with Swissport or the separation thereof. Plaintiffs' Released Claims
22 include, but are not limited to, all claims for breach of contract, breach of the covenant of good faith
23 and fair dealing, wrongful termination in violation of public policy, infliction of emotional distress,
24 negligent infliction of emotional distress, misrepresentation, fraud, negligent retention/supervision,
25 assault, battery, claims under the Fair Credit Reporting Act, Title VII of the Civil Rights Act, the
26 California Fair Employment and Housing Act, the Family and Medical Leave Act, the California
27 Family Rights Act, the Fair Labor Standards Act, the California Labor Code, California Wage Orders,
28 the Age Discrimination and Employment Act, the Employee Retirement Income Security Act of 1974,

the California Business and Professions Code, the United States Constitution or the California Constitution. This also includes, but is not limited to, all claims for unpaid wages, civil or statutory penalties, waiting time penalties, liquidated damages, and all other associated penalties, including but not limited to claims under California Labor Code section 2698 *et seq.*, Labor Code sections 200-204, 210, 212, 218.5, 218.6, 221, 223, 225.5, 226, 226(a), 226.2, 226.3, 226.7, 246, 510, 512, 558, 558.1, 1102.5, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802, 2810.5, IWC Wage Order 9-2001 and any other applicable wage orders, Business and Professions Code section 17200 *et seq.*, as well as claims or potential claims for attorneys' fees and costs and interest, and any other claims relating to Plaintiffs' employment with Swissport or the separation thereof. Nothing in this release will impact the Plaintiffs' standing to serve as PAGA representatives in the Action. Plaintiffs' Released Claims do not include any claims that cannot be released as a matter of law.

In addition to Plaintiffs' Released Claims, Plaintiffs also expressly waive all rights and benefits under the terms of section 1542 of the California Civil Code. Section 1542 reads as follows:

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

Notwithstanding the provisions of section 1542, and for the purpose of implementing a complete release and discharge of Plaintiffs' Released Claims, Plaintiffs expressly acknowledge that this Agreement is intended to include in its effect all claims which they do not know of or suspect to exist in their favor at the time of execution hereof and that this Agreement contemplates the extinguishment of all such claims. Nothing contained herein shall be construed to exclude the filing of an administrative charge or complaint with any federal, state or local administrative agency, including but not limited to the Equal Employment Opportunity Commission or National Labor Relations Board, or participation in an administrative investigation or proceeding, although Plaintiffs waive any right to monetary relief related to such a charge or complaint, to the maximum extent permitted by law.

1 26. “Released Parties” means Defendant Swissport USA, Inc. (“Swissport”), all Swissport
2 affiliated entities, and all officers, directors, representatives, owners, partners, subsidiaries, parent
3 companies, joint venturers, clients, joint employers, predecessors, managers, servants, successors-in-
4 interest, assigns, current and former employees of Swissport, including but not limited to agents,
5 insurers, attorneys and all persons or entities acting in concert with or affiliated with any of them.

6 27. “*Sandhu* Action” means the putative class and representative action titled *Rajdeep*
7 *Sandhu v. Swissport USA, Inc.*, San Mateo County Court, Case No. 20CIV02273.

8 28. “Settlement” means the final and complete disposition of the Actions pursuant to this
9 Stipulation.

10 29. “Settlement Administration Costs” means the reasonable costs and fees of
11 administration of the Settlement (not to exceed \$9,000.00) to be paid from the Gross Settlement
12 Amount, including but not limited to: (i) printing, mailing, and re-mailing (if necessary) of the Notice
13 to Aggrieved Employees; (ii) preparing and submitting to Aggrieved Employees, the Parties, and
14 government entities all appropriate tax filings and forms; (iii) computing the amount of and
15 distributing Individual Settlement Awards, the PAGA Representative Service Awards, the Plaintiffs’
16 Counsel Award, and the LWDA Payment; (iv) receiving and processing inquiries, objections, and/or
17 disputes from Aggrieved Employees regarding their Compensable Pay Periods; (v) establishing a
18 Qualified Settlement Fund, as defined by the Internal Revenue Code; (vi) calculating and remitting to
19 the appropriate government agencies all employer and employee payroll tax obligations arising from
20 the Settlement; and (vii) and preparing and submitting filings required by law in connection with the
21 payments required by the Settlement.

22 30. “Settlement Administrator” means ILYM Group, Inc., the entity that Plaintiffs’
23 Counsel and Counsel for Defendant selected to administer this settlement and to act as the third-party
24 administrator to process the settlement under the terms of this Settlement Agreement, after a bid
25 solicitation process.

26 31. “Settlement Approval Hearing” means the hearing to be conducted by the Court after
27 Plaintiffs file an appropriate motion at which time Plaintiffs will request that the Court approve the
28

1 Notice to the Aggrieved Employees, the fairness, reasonableness and adequacy of the terms and
2 conditions of Settlement, enter the Order and Judgment, and take other appropriate action.

3 **TERMS OF SETTLEMENT**

4 NOW THEREFORE, in consideration of the mutual covenants, promises, and agreements set
5 forth herein, the Parties agree, subject to the Court's approval, as follows:

6 **Basis for Settlement**

7 32. The Basis for Settlement. The Gross Settlement Amount is based on the release of
8 approximately 19,800 pay periods from April 6, 2019 to December 2, 2021, assuming a 10% margin
9 of error. The pay period calculations exclude weeks where employees were paid but not actually
10 working under the CARES Act or otherwise during the COVID-19 pandemic, which will not be
11 deemed Compensable Pay Periods under the Settlement distribution formula. The Parties also expect
12 the total number of pay periods to increase pro rata through the date of the Court's Order Approving
13 the PAGA Settlement, based on the average number of pay periods worked from April 6, 2019 through
14 January 31, 2020 prior to the COVID-19 pandemic. If the total pay periods in the PAGA Period
15 exceed 21,780 through December 2, 2021, plus the pro rata increase through the end of the PAGA
16 Period based on the average number of pay periods worked from April 6, 2019 through January 31,
17 2020, then the Parties will work together to shorten the PAGA Period by eliminating pay periods at
18 the end of the PAGA Period.

19 33. Fair, Reasonable and Adequate Settlement. Plaintiffs' Counsel submits that this
20 Settlement is a fair, adequate, and reasonable settlement of the Actions, and that the Parties have
21 arrived at this Settlement after extensive arm's-length negotiations, taking into account all relevant
22 factors, present and potential.

23 **Settlement Approval Process**

24 34. Binding Nature of Settlement. This Settlement shall bind the Parties and all Aggrieved
25 Employees, subject to the terms and conditions herein and the Court's approval.

26 35. Approval of Settlement. The Parties agree to work diligently and cooperatively to have
27 this Settlement presented to the Court for approval, pursuant to the procedures set forth below.
28

1 a. Amendment of the Nelson Action. The Parties will file a Stipulation for
2 Plaintiff to file a Second Amended Complaint in the *Nelson* Action to effectuate the terms of this
3 Settlement. The Second Amended Complaint shall add Rajdeep Sandhu as a named plaintiff and
4 allege all claims raised in the *Sandhu* Action and the “Aggrieved Employee Released Claims,” as
5 defined above.

6 b. Motion for Approval of PAGA Settlement. Following the filing of the Second
7 Amended Complaint in the *Nelson* Action, Plaintiffs shall file a Motion for Approval of PAGA
8 Settlement and request that a Settlement Approval Hearing be conducted to determine whether to grant
9 approval of the Settlement, including determining the amounts properly payable for: (i) the Plaintiffs’
10 Counsel Award; (ii) the PAGA Representative Service Awards; (iii) Settlement Administration Costs;
11 and (iv) the LWDA Payment. If the Court grants approval of the Settlement, the Settlement
12 Administrator shall post notice of the Order and Judgment on its website within seven (7) calendar
13 days of entry of the Order and Judgment.

14 c. Request for Dismissal. Following the Court’s Order Granting Approval of the
15 PAGA Settlement in the *Nelson* Action, Plaintiff Sandhu shall file a Request to Dismiss the *Sandhu*
16 Action in its entirety without prejudice.

17 36. Release by Plaintiffs and Other Aggrieved Employees. Upon the payment of the Gross
18 Settlement Amount to the Settlement Administrator by Defendant, Plaintiffs and the Aggrieved
19 Employees shall be deemed to have released their respective Released Claims against the Released
20 Parties, as defined herein.

21 37. Plaintiffs’ Covenant Not to Sue. In exchange for the consideration set forth in this
22 Settlement Agreement, which Plaintiffs acknowledge and agree is being paid in addition to any
23 Individual Settlement Award or other compensation to which Plaintiffs are otherwise entitled,
24 Plaintiffs covenant and agree not to ever assert any claim released by Plaintiffs’ Released Claims, or
25 to commence, join in, or voluntarily assist in a lawsuit or adversary proceeding against the Released
26 Parties, or any of them, arising out of or regarding the claims released by the Plaintiffs’ Released
27 Claims set forth above.

1 **Taxation**

2 38. Tax Liability. The Parties make no representations as to the tax treatment or legal effect
3 of the payments specified herein, and Aggrieved Employees are not relying on any statement or
4 representation by the Parties, Plaintiffs' Counsel or Defendant's Counsel in this regard. Aggrieved
5 Employees will be responsible for the payment of all taxes and penalties assessed on the payments
6 specified herein, and shall hold the Parties, Plaintiffs' Counsel and Defendant's Counsel free and
7 harmless from and against any claims resulting from treatment of such payments as non-taxable,
8 including the treatment of such payments as not subject to withholding or deduction for payroll and
9 employment taxes.

10 39. Circular 230 Disclaimer. The Parties acknowledge and agree that (1) no provision of
11 this Stipulation, and no written communication or disclosure between or among the Parties, Plaintiffs'
12 Counsel or Defendant's Counsel and other advisers, is or was intended to be, nor shall any such
13 communication or disclosure constitute or be construed or be relied upon as, tax advice within the
14 meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended); (2) the
15 acknowledging party (a) has relied exclusively upon his, her, or its own, independent legal and tax
16 counsel for advice (including tax advice) in connection with this Stipulation, (b) has not entered into
17 this Stipulation based upon the recommendation of any other party or any attorney or advisor to any
18 other party, and (c) is not entitled to rely upon any communication or disclosure by any attorney or
19 adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging party;
20 and (3) no attorney or adviser to any other party has imposed any limitation that protects the
21 confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such limitation
22 is legally binding) upon disclosure by the acknowledging party of the tax treatment or tax structure of
23 any transaction, including any transaction contemplated by this Stipulation.

24 **Settlement Administration**

25 40. Settlement Administration. Within twenty-one (21) days of the Effective Date,
26 Defendant will compile and provide to the Settlement Administrator information concerning the list
27 of Aggrieved Employees containing the following information for each Aggrieved Employee: (1) full
28 name; (2) last known home address and telephone number; (3) number of Compensable Pay Periods

as an Aggrieved Employee during the PAGA Period; and (4) Social Security Number. The Settlement Administrator shall run all the addresses of Aggrieved Employees through the United States Postal Service National Change of Address database (which provides updated addresses for any individual who has moved in the previous four years who has notified the U.S. Postal Service of a forwarding address) to obtain current address information. Within twenty-one (21) days after receipt of the list of Aggrieved Employees, the Settlement Administrator will mail a settlement Notice (in the form attached as **Exhibit 1**) and check to each Aggrieved Employee by first class mail. The Settlement Administrator will perform an address follow-up on returned mail, and will re-mail the Notice and check to an updated address (if any) within three (3) business days of receipt of the returned mail. The Parties intend that reasonable, but not extraordinary, means are to be used to locate Aggrieved Employees. If no other address is found, no further action is required.

a. Determination of Individual Settlement Awards. Defendant shall pay the Gross Settlement Amount to the Settlement Administrator within twenty-one (21) days of the Effective Date. The Net Settlement Amount will be divided among Aggrieved Employees on a *pro rata* basis, based on each Aggrieved Employee's respective number of Compensable Pay Periods. The Individual Settlement Awards will be determined by dividing the Net Settlement Amount by the total number of Compensable Pay Periods for all Aggrieved Employees, resulting in the Pay Period Value (i.e., $\text{Net Settlement Amount} \div \text{Total Compensable Pay Periods} = \text{Pay Period Value}$). The Pay Period Value will then be multiplied by each Aggrieved Employee's respective number of Compensable Pay Periods in order to yield the Aggrieved Employee's Individual Settlement Award. In determining each Aggrieved Employee's number of Compensable Pay Periods, Defendant's pay period data will be presumed to be correct, unless an Aggrieved Employee proves otherwise by providing credible documentary evidence. All disputes concerning Compensable Pay Periods will be resolved and decided by the Settlement Administrator. The Settlement Administrator shall determine the eligibility for, and the amounts of, each Individual Settlement Award under the terms of this Stipulation. The Settlement Administrator's determination of the eligibility for and amount of each Individual Settlement Award shall be binding upon the Aggrieved Employee and the Parties, yet subject to review by Plaintiffs' Counsel, Defendant's Counsel and the Court.

1 b. Disputes Regarding Administration of Settlement. Any dispute not resolved by
2 the Settlement Administrator concerning the administration of the Settlement shall be resolved by the
3 Court. Prior to any such involvement of the Court, counsel for the Parties shall confer in good faith
4 and make use of the services of mediator Jeffrey A. Ross, if necessary, to resolve the dispute without
5 the necessity of involving the Court.

6 c. Monitoring and Reviewing Settlement Administration. The Parties have the
7 right to monitor and review the administration of the Settlement to verify that the monies allocated
8 under the Settlement are distributed in the correct amounts, as provided for in this Stipulation.

9 d. Best Efforts. The Parties agree to use their best efforts to carry out the terms of
10 this Settlement.

11 41. Funding and Allocation of Gross Settlement Amount. Aggrieved Employees will not
12 be required to submit a claim in order to receive a share of the Net Settlement Amount, and no portion
13 of the Gross Settlement Amount shall revert to Defendant or result in an unpaid residue. If the
14 Settlement is not approved by the Court in full, or is terminated, rescinded, canceled or fails to become
15 effective for any reason, then no portion of the Gross Settlement Amount shall be paid.

16 a. Individual Settlement Awards. Individual Settlement Awards shall be paid
17 from the Net Settlement Amount pursuant to the formula set forth above. The Individual Settlement
18 Awards shall be mailed by the Settlement Administrator as set forth above.

19 i. Individual Settlement Award payments shall be made by check and shall
20 be made payable to each Aggrieved Employee as set forth in this Stipulation.

21 ii. For tax purposes, one hundred percent (100%) of each Individual
22 Settlement Award shall be allocated as penalties, and shall not be subject to payroll tax withholdings.
23 The Settlement Administrator shall issue an IRS Form 1099 to each participating Aggrieved Employee
24 for the Individual Settlement Award.

25 iii. If any Individual Settlement Award check remains uncashed after one
26 hundred and eighty (180) calendar days from the date the check is issued, such check(s) will be voided
27 by the Settlement Administrator. Thereafter, the funds represented by any uncashed or undeliverable
28

1 checks shall be distributed to the California State Controllers' Office Unclaimed Property Fund,
2 subject to approval by the Court.

3 b. PAGA Representative Service Awards. Subject to Court approval, Plaintiffs
4 shall each be paid a PAGA Representative Service Award not to exceed Five Thousand Dollars and
5 Zero Cents (\$5,000.00), for a total amount of Ten Thousand Dollars and Zero Cents (\$10,000.00), for
6 their time and effort in bringing the Action and for releasing Plaintiffs' Released Claims. The PAGA
7 Representative Service Awards shall be paid to Plaintiffs from the Gross Settlement Amount within
8 thirty (30) days after the Effective Date. The Settlement Administrator shall issue an IRS Form 1099
9 to Plaintiffs for their PAGA Representative Service Awards. Plaintiffs will be solely and legally
10 responsible to pay any and all applicable taxes on their PAGA Representative Service Award and will
11 hold harmless Defendant, Plaintiffs' Counsel and Defendant's Counsel from any claim or liability for
12 taxes, penalties, or interest arising as a result of payment of the PAGA Representative Service Awards.
13 The PAGA Representative Service Awards will be paid to Plaintiffs in addition to any Individual
14 Settlement Award to which Plaintiffs are otherwise entitled under this Stipulation. Any amount
15 requested by Plaintiffs for the PAGA Representative Service Award and not awarded by the Court
16 shall become part of the Net Settlement Amount and will be distributed to Aggrieved Employees as
17 part of their Individual Settlement Awards; however, Plaintiffs and Plaintiffs' Counsel reserve their
18 right to appeal any reduction by the Court of such amounts.

19 c. Plaintiffs' Counsel Award. Subject to Court approval, Plaintiffs' Counsel will
20 seek an award of reasonable attorneys' fees in an amount not to exceed one-third (1/3) of the Gross
21 Settlement Amount. In addition, Plaintiffs' Counsel will issue an award of litigation costs and
22 expenses associated with Plaintiffs' Counsel's litigation of the Action in an amount not to exceed
23 Fifteen Thousand Dollars and Zero Cents (\$15,000.00). Plaintiffs' Counsel shall be paid any Court-
24 awarded attorneys' fees and costs within thirty (30) days after the Effective Date. Plaintiffs' Counsel
25 will be solely and legally responsible to pay all applicable taxes on the Plaintiffs' Counsel Award.
26 The Settlement Administrator will issue an IRS Form 1099 to Plaintiffs' Counsel for the Plaintiffs'
27 Counsel Award. Plaintiffs' Counsel will provide the Settlement Administrator with a completed IRS
28 Form W-9 in order for the Settlement Administrator to process the Plaintiffs' Counsel Award. In the

1 event that the Court reduces or does not approve the requested Plaintiffs' Counsel's attorneys' fees or
2 litigation costs, the Settlement will remain binding, and such unapproved amounts shall revert to the
3 Net Settlement Amount and shall be distributed to Aggrieved Employees as part of their Individual
4 Settlement Awards; however, Plaintiffs and Plaintiffs' Counsel reserve their right to appeal any
5 reduction by the Court of such amounts.

6 d. Settlement Administration Costs. The settlement administration fees and
7 expenses, which are estimated not to exceed Nine Thousand Dollars (\$9,000.00), shall be paid from
8 the Gross Settlement Amount. The Parties agree to cooperate in the Settlement Administration process
9 and to make all reasonable efforts to control and minimize Settlement Administration Costs. The
10 Settlement Administrator shall keep the Parties timely apprised of the performance of all settlement
11 administrator responsibilities required by the Settlement. The Settlement Administrator shall be
12 authorized to establish a Qualified Settlement Fund ("QSF") pursuant to IRS rules and regulations in
13 which the Gross Settlement Amount shall be placed and from which payments required by the
14 Settlement shall be made.

15 e. Payment to the LWDA. Seventy-five percent (75%) of the PAGA Penalties
16 shall be paid to the LWDA, and the remaining twenty-five percent (25%) of the PAGA Penalties will
17 be distributed to Aggrieved Employees as part of their Individual Settlement Awards. The LWDA
18 Payment shall be made within thirty (30) days after the Effective Date.

19 **Failure of Settlement; Impact of Appellate Review**

20 39. Invalid without Court Approval. In the event that the Court does not grant approval
21 the Settlement in the *Nelson* Action, or the Court does not grant the Request for Dismissal of the
22 *Sandhu* Action, this Stipulation shall be rendered null and void, and any order or judgment entered by
23 the Court in furtherance of this Settlement shall be treated as void, of no force and effect, and of no
24 probative or evidentiary value, and the Parties hereto represent, warrant, and covenant that it will not
25 be used or referred to for any purpose whatsoever.

26 40. Effect of Revocation or Failure of Settlement. In the event that the Settlement does not
27 become final for any reason, this Settlement Agreement shall be null and void and any order entered
28 by the Court in furtherance of this Settlement shall be treated as void *ab initio*. In such a case, the

Parties shall return to the status quo as if the Parties had not entered into this Settlement Agreement. The Claims Administrator will be paid by Defendant for their costs through the date it is notified that the Settlement will not proceed.

41. Impact of Appellate Review. In the event an appeal is filed from any of the Court's Orders, or any other appellate review is sought prior to the Effective Date, administration of the Settlement Agreement shall be stayed pending final resolution of the appeal or other appellate review.

Parties' Authority

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

43. No Signature Required by Aggrieved Employees. It is agreed that because the Aggrieved Employees are so numerous, it is impossible or impractical to have each Aggrieved Employee execute the Stipulation. The Notice shall advise all Aggrieved Employees of the binding nature of the Settlement, and the release of the Aggrieved Employee Released Claims and shall have the same force and effect as if this Stipulation were executed by each Aggrieved Employee.

Limitations on Use of this Settlement

44. No Admission of Liability or Wrongdoing. Defendant denies all claims alleged in the Action and denies all wrongdoing and liability whatsoever. Defendant avers that it has complied at all times with the California Labor Code, IWC Wage Order, and all applicable state and federal law. This Settlement Agreement is not a concession or admission, and shall not be used against Defendant as an admission or indication with respect to any claim of any fault, concession or omission by Defendant. Whether or not the Settlement Agreement is approved, neither the Settlement Agreement, nor any document, statement, proceeding or conduct related to this Settlement Agreement, nor any reports or accounts thereof, shall in any event be: (i) construed, offered or admitted in evidence as, received as, or deemed to be, evidence for any purpose, including, but not limited to, evidence of a presumption, concession, indication or admission by Defendant of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed or referred to for any purpose, or offered or received in evidence, in any further proceeding in this lawsuit, or any other civil, criminal or administrative

1 action or proceeding against Defendant except for purposes of settling this lawsuit pursuant to this
2 Settlement Agreement.

3 45. No Impact on Employee Benefit Plan, Policy or Bonus Program. The Parties agree that
4 the amounts paid under this Settlement Agreement will not affect any previously credited hours of
5 service under any employee benefit plan, policy, or bonus program sponsored by Defendant. It is the
6 intent of the Parties that Individual Settlement Awards provided for in this Stipulation are the sole
7 payments to be made by Defendant to Aggrieved Employees in connection with this Settlement, with
8 the exception of Plaintiffs, and that Aggrieved Employees are not entitled to any new or additional
9 compensation or benefits as a result of having received the Individual Settlement Awards.
10 Furthermore, the receipt of Individual Settlement Awards by Aggrieved Employees shall not, and does
11 not, by itself establish any general, special, or joint employment relationship between and among the
12 participating Aggrieved Employee(s) and Defendant.

13 46. No Publicity. Neither the Parties nor their counsel, without the prior written approval
14 of counsel for the other Party (which approval may be withheld in a Party's sole discretion), shall
15 issue, authorize, or contribute to the preparation or dissemination of any press release or any other
16 public statement, social media posting, or advertisement concerning this Settlement Agreement or any
17 of its terms, or sponsor or participate in any press conference, interview, media appearance, or other
18 public discussion concerning this Settlement Agreement or any of its terms. If the Parties or their
19 counsel are contacted by the press, media or any industry association, they will respond only that the
20 case has been amicably resolved to the parties' mutual satisfaction. Any violation of this provision by
21 Plaintiffs or Plaintiff's Counsel shall entitle Defendant to nullify the Settlement Agreement at any time
22 before the Final Order and Judgment. The Parties agree that, in the event of a breach of this provision,
23 the non-breaching party shall be entitled to reasonable attorneys' fees and costs incurred as a result of
24 that breach. The foregoing does not limit Defendant's right to enforce this provision through an action
25 for injunctive relief.

26 47. Various Proceedings Stayed. The Parties agree to stay all proceedings in the Action,
27 except such proceedings as may be necessary to implement and complete the Settlement Agreement.
28

1 48. Use of Defendant's Data and Documents. Plaintiffs and Plaintiff's Counsel agree that
2 none of the documents provided to them by Defendant during the case or in connection with the
3 mediation or settlement shall be used for any purpose other than the settlement of this action.
4 Furthermore, should Plaintiffs or their counsel have any originals or copies of Defendant's documents,
5 Plaintiffs and their counsel agree to destroy or return such originals and copies of documents to
6 Defendant upon the Effective Date.

7 **Miscellaneous**

8 49. No Assignment of Rights. Plaintiffs warrant and represent that they have not assigned,
9 transferred, or hypothecated, or purported to assign, transfer, or hypothecate to any person or entity
10 any of the claims in the Plaintiffs' Released Claims or any rights, claims, or causes of action arising
11 out of those claims. This warranty and representation of non-assignment shall survive the execution
12 of this Settlement Agreement and entry of judgment in the Action. No Settlement Award shall be paid
13 to any person or entity with respect to whom Plaintiffs have assigned, transferred, or hypothecated, or
14 purported to assign, transfer, or hypothecate any of the claims in the Plaintiffs' Released Claims or
15 any rights, claims, or causes of action arising out of those claims. In addition, Plaintiffs shall defend,
16 hold harmless, and indemnify the Released Parties, or any of them, from and against any claims,
17 damages, litigation, causes of action, and expenses, including reasonable attorneys' fees, resulting
18 from any breach by Plaintiffs of this warranty and representation, or any breach by Plaintiffs of the
19 release of the claims in the Plaintiffs' Released Claims.

20 50. Construction. The Parties agree that the terms and conditions of this Settlement
21 Agreement are the result of lengthy, intensive arms-length negotiations between them, and that this
22 Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent
23 to which any party or his, her, or its counsel participated in the drafting of this Settlement Agreement.

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

1 52. Modification. This Settlement Agreement may not be changed, altered, or modified,
2 except in writing and signed by the Parties and approved by the Court. This Settlement Agreement
3 may not be discharged except by performance in accordance with its terms or by a writing signed by
4 the Parties hereto.

5 53. Integration Clause. This Settlement Agreement, along with any exhibits attached
6 hereto, constitutes the entire agreement between the Parties relating to the settlement and transaction
7 contemplated hereby, and the final, complete and exclusive express of the terms and conditions of
8 their agreement. Any and all prior or contemporaneous agreements, understandings, representations,
9 and statements, whether oral or written and whether by a party or such party's legal counsel, are hereby
10 superseded and merged herein. No rights hereunder may be waived except in writing.

11 54. Binding on Assigns. This Settlement Agreement shall be binding upon and inure to
12 the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators,
13 successors, and assigns.

14 55. Enforcement. The Parties agree that following entry of the Final Order and Judgment,
15 this Settlement Agreement shall be enforceable by the Court and the Court shall retain exclusive and
16 continuing jurisdiction of the Action and over all Parties and Aggrieved Employees to interpret and
17 enforce the terms, conditions, and obligations of the Settlement Agreement. This Settlement
18 Agreement may be pleaded or asserted by or on behalf of Defendant or the Released Parties as a
19 defense and complete bar to any action or claim that may be brought against or involve Defendant or
20 the Released Parties by anyone acting or purporting to act on behalf of Plaintiffs and/or the Aggrieved
21 Employees with respect to any matters within the scope of this Settlement Agreement and excepting
22 only the obligations of the Parties under this Settlement Agreement.

23 56. Counterparts. This Settlement Agreement may be executed in counterparts, and when
24 each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
25 original, and, when taken together with other signed counterparts, shall constitute one Stipulation and
26 Settlement Agreement, which shall be binding upon and effective as to all Parties.

1 57. Governing Law. All terms of this Settlement Agreement and the Exhibits hereto shall
2 be governed by and interpreted according to the laws of the State of California and the United States
3 of America, where applicable.

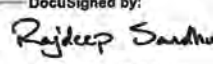
4 58. Invalidity of Any Provision. Before declaring any term or provision of this Stipulation
5 invalid, the Parties request that the Court first attempt to construe the terms or provisions valid to the
6 fullest extent possible consistent with applicable precedents so as to define all provisions of this
7 Stipulation as valid and enforceable.

8
9 Dated 6/22/2022, 2022

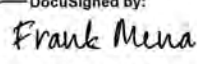
DocuSigned by:

0F29FD03095E0455
COLIN NELSON

10
11
12 Dated 6/29/2022, 2022

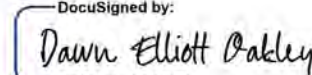
DocuSigned by:

00328E8004E74A8
RAJDEEP SANDHU

13
14
15 Dated 30 June 2022, 2022

DocuSigned by:

14923BBD7B7462
SWISSPORT USA, INC.

Title: Frank Mena, President

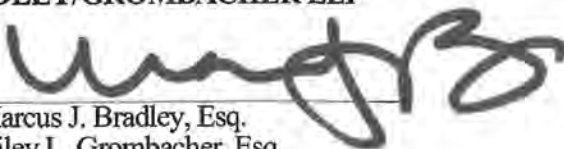
16
17
18
19 Dated 30 June 2022, 2022

DocuSigned by:

030254778B32483
SWISSPORT USA, INC.
Title: Dawn Elliott Oakley, General Counsel

20
21
22 **APPROVED AS TO FORM**

23
24 DATED: 6/30 2022

BRADLEY/GROMBACHER LLP

25
26 By: 
27 Marcus J. Bradley, Esq.
28 Kiley L. Grombacher, Esq.
Attorneys for Plaintiffs

1 DATED: 6/30/22, 2022

CONSTANGY, BROOKS, SMITH & PROPHETE, LLP

2
3 By:


Kenneth D. Sulzer
Christin Lawler
Matthew Scholl
Attorneys for Defendant
SWISSPORT USA, INC