

**IN THE UNITED STATE DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

TIMOTHY COLEMAN,

Plaintiff,

v.

AMAZON.COM, INC.; AMAZON
LOGISTICS, INC.; AMAZON.COM
SERVICES, INC.; JARS TD, INC.,

Defendants.

Case No. 2:21-cv-02200-JPM-atc

AMENDED SETTLEMENT AND RELEASE AGREEMENT¹

This Amended Settlement and Release Agreement (“Agreement”) is entered into between Plaintiff Timothy Coleman (“Plaintiff”), individually and on behalf of themselves and all similarly situated Opt-In Plaintiffs (defined below); and Defendants Amazon.com, Inc., Amazon.com Services, Inc., and Amazon Logistics, Inc. (collectively “Amazon”); and JARS TD, INC., (“JARS” or “DSP Defendant”) (all Defendants collectively, “Defendants”), subject to the approval of the Court.

RECITALS

1. Plaintiff Timothy Coleman who worked as a Delivery Associate (“DA”) in Tennessee filed a lawsuit titled *Timothy Coleman v. Amazon.com, Inc., Amazon Logistics, Inc., Amazon.com Services, Inc., and JARS TD, Inc.*, Case No. 2:21-cv-022000-MSN-atc, currently pending before the United States District Court for the Western District of Tennessee, alleging Amazon and JARS violated the Fair Labor Standards Act, 29 U.S.C. § 201, et seq. (“FLSA”) by not paying him overtime for all work performed over forty hours in a workweek (ECF No. 33) (the “Litigation”);

2. On August 19, 2021, Plaintiff filed a First Amended Collective Action Complaint against Defendants (ECF No. 33), alleging that Defendants collectively

¹ This document amends and supersedes in its entirety the FLSA Collective Action Settlement Agreement filed October 7, 2022 (ECF 56.001).

violated the FLSA as joint employers in failing to pay Plaintiff and similarly situated DAs overtime compensation when they worked more than 40 hours in a workweek.

3. The Parties engaged in numerous efforts to resolve the Litigation. Plaintiff's Counsel engaged in pre-litigation discussions with Defendants and entered into a tolling agreement for the benefit of the collective of workers for the claims at issue. The Parties participated in an in-person full-day mediation in which Plaintiff's Counsel and Defendants participated with mediator Michael Russell in Brentwood, Tennessee on April 28, 2022.

4. The Parties engaged in substantial discovery and exchange of information in connection with the litigation of the case and settlement efforts. Prior to the mediation, JARS provided Plaintiff's Counsel with payroll data and timekeeping data, and Amazon provided delivery data for DAs who were paid by JARS and delivered packages to customers of Amazon, which Plaintiff's Counsel reviewed and analyzed extensively.

5. As a result of these discussions and mediation and continued arm's length negotiations, the Parties agreed to settle Plaintiff's and the putative collective's claims according to the terms of this Agreement.

6. Plaintiff's Counsel has made a thorough and independent investigation of the facts and law relating to the allegations in the Litigation. In agreeing to this Agreement, Plaintiff has considered: (i) the facts developed during the mediation process and the law applicable thereto; (ii) the risks of continued litigation; and (iii) the desirability of consummating this settlement according to the terms of this Agreement. Plaintiff has concluded the terms of this Agreement are fair and reasonable, and that it is in the best interests of Plaintiff and the Settlement Collective Members to settle their claims against Defendants as set forth herein.

7. Defendants deny the allegations in this Litigation, and further deny any liability for any wage and hour violations or failure to pay overtime compensation. Amazon further denies they are joint employers of the DAs. Defendants are entering this Agreement to eliminate the burden, risk, and expense of further litigation. This Agreement and all related documents are not and shall not be construed as an admission by Defendants or any of the Released Parties (as defined below) of any fault, liability, or wrongdoing, which Defendants expressly deny.

8. The Parties recognize that Court approval of this Settlement is required to effectuate the Settlement, and the Settlement will not become operative until the Court enters its Final Approval Order.

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9. The Parties stipulate and agree that, for settlement purposes only, the requirements for establishing collective action certification under the FLSA pursuant to 29 U.S.C. § 216(b) are met with respect to the Settlement Collective Members as defined below. Should this Settlement not be approved, such stipulation to conditional certification shall become null and void and shall have no bearing on (or be admissible in connection with) the issue of whether conditional certification would be appropriate in a non-settlement context.

10. In consideration of the foregoing, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows.

1. DEFINITIONS

- 1.0 Amazon Defense Counsel.** “Amazon Defense Counsel” shall mean Kyle Petersen, Kevin Young, and Andrew McKinley of Seyfarth Shaw LLP.
- 1.1 Class Counsel.** “Class Counsel” shall mean Plaintiff’s Counsel, Andrew Frisch and Paul Botros at Morgan & Morgan, PA.
- 1.2 Defense Counsel.** “Defense Counsel” shall mean Amazon Defense Counsel and JARS Defense Counsel, collectively.
- 1.3 Complaint.** “Complaint” shall mean the First Amended Collective Action Complaint against Defendants in the Litigation (ECF No. 33).
- 1.4 Consent to Join Form.** “Consent to Join Form” shall mean the form provided to FLSA Collective Members to submit in order to obtain their Final Individual Settlement Amount pursuant to this Agreement. The Consent to Join Form shall be in the form attached hereto as Exhibit C.
- 1.5 Court.** “Court” shall mean the U.S. District Court for the Western District of Tennessee.
- 1.6 Covered Period.** “Covered Period” shall mean October 29, 2018 – April 30, 2022.
- 1.7 Defendants.** “Defendants” shall mean JARS and Amazon, the Defendants in the Litigation.
- 1.8 Effective Date.** The “Effective Date” of this Agreement is conditioned upon the Court’s grant of conditional certification of the Collective, and will be the

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day the Court enters the Preliminary Approval Order in the form of Exhibit A or as may be modified by the Court.²

- 1.9 Estimated Individual Settlement Amount.** “Estimated Individual Settlement Amount” shall mean the amount offered to each FLSA Collective Member pursuant to Section 5 of this Agreement.
- 1.10 Final Approval Order.** “Final Approval Order” shall mean the Order finally approving the terms and conditions of this Agreement, in the form of Exhibit D or as may be modified by the Court.
- 1.11 Final Individual Settlement Amount.** “Final Individual Settlement Amount” shall mean the final gross amount (not including any Individual General Release Payment amount) sent to Plaintiff or any Opt-In Plaintiff under this Agreement.
- 1.12 JARS Defense Counsel.** “JARS Defense Counsel” shall mean Russ Bryant of Jackson, Shields, Yeiser & Holt.
- 1.13 Litigation.** “Litigation” shall mean the case titled *Coleman v. Amazon.com, Inc., et al.*, 2:21-cv-02200-MSN-atc, pending in the U.S. District Court for the Western District of Tennessee.
- 1.14 Opt-In Deadline.** “Opt-In Deadline” shall mean the period of time in between the Administrator’s mailing of the Consent to Join Forms and the Consent to Join Deadline.
- 1.15 Opt-In Plaintiff.** “Opt-In Plaintiff” shall mean any FLSA Collective Member who timely submits a valid and complete Consent to Join Form on or before the Opt-In Deadline in accordance with Section 4.1 of this Agreement, or a Settlement Collective Member whose Consent to Join Form is accepted in accordance with Section 4.5 below.
- 1.16 Order of Dismissal.** “Order of Dismissal” shall mean the Order entered by the Court dismissing the case with prejudice. A proposed version of the Order of Dismissal shall be submitted to the Court in the form attached hereto as Exhibit E.
- 1.17 Parties.** “Parties” shall refer to the Plaintiff and Defendants.

² After granting of conditional certification and entry of the Preliminary Approval Order, the Settlement Collective shall no longer be putative and is referred to herein as the “Collective.”

- 1.18 Plaintiff.** “Plaintiff” shall mean Timothy Coleman, and shall also include any and all of his representatives, heirs, administrators, executors, beneficiaries, agents, and assigns of such individuals, as applicable and without limitation.
- 1.19 Settlement.** The “Settlement” shall mean the settlement embodied in this Agreement, and all exhibits.
- 1.20 Settlement Administration Expenses.** “Settlement Administration Expenses” means the amount to be paid to the Settlement Administrator for any fees and costs incurred with administering the Settlement pursuant to the terms and conditions herein. Up to \$40,000.00 in Settlement Administration Expenses is included in the Attorney’s Fees and Expenses. Defendants will be solely responsible for paying any additional Settlement Administration Expenses separate and apart from the Total Maximum Settlement Amount.
- 1.21 Settlement Collective; Settlement Collective Member.** “Settlement Collective” shall mean Plaintiff and all current and former Delivery Associates who were paid by JARS to deliver packages to customers of Amazon in the United States between October 29, 2018 and April 30, 2022.³ There are approximately 3,202 Settlement Collective Members, and Plaintiff has relied on the records produced by Defendants in negotiating this Settlement.
- 1.22 Total Maximum Settlement Amount.** The Total Maximum Settlement Amount available for Potential Opt-In Plaintiffs is \$560,000.00 (the “Total Maximum Settlement Amount”), which figure does not include Fees and Costs Settlement Amount, Settlement Administration Expenses, the Individual Release Payment, or the employer’s share of payroll taxes. The Total Maximum Settlement Amount will be allocated and ultimately distributed as set forth in Sections 5 and 6.
- 1.23 Unclaimed Funds.** “Unclaimed Funds” shall mean the aggregate amount of Estimated Individual Settlement Amounts not claimed by FLSA Collective Members in a timely and valid manner pursuant to Section 4.1 or 4.5.

³ It is important to note that of the 3,202 Settlement Collective Members, 903 have zero (0) Qualifying Workweeks, 360 have one (1) Qualifying Workweek, and 530 have two (2) Qualifying Workweeks.

2. TWO-STAGE COURT APPROVAL PROCESS

- 2.0 Preliminary Approval.** The Parties will seek judicial approval of their Settlement pursuant to the requirements of the FLSA, as set forth in this Agreement. Specifically, Plaintiff shall prepare and, subject to Defendants' approval which shall not be unreasonably withheld, file an unopposed motion for preliminary approval (the "Motion for Preliminary Approval") with the Court within 14 days after the Agreement is fully executed.
- 2.1 Stipulation to Certification.** The Parties stipulate, for settlement purposes only, to the certification by the Court of a collective action as to all claims encompassed by this Settlement pursuant to the FLSA. If for any reason the Court does not approve this stipulation or does not grant final approval of this Agreement, or if this Settlement is lawfully terminated for any other reason, the preliminary and conditional certification of the Collective shall become null and void. The fact of certification shall not be cited to, used, or admissible in any other judicial, administrative, or arbitral proceeding for any purpose or with respect to any issue, substantive or procedural. If this Agreement is revoked at any time, pursuant to Section 12.3 of this Agreement, or otherwise, Defendants agree that they will cooperate with Plaintiff to move the Court for an order resetting any remaining deadlines, including the deadline for Plaintiff's motion for conditional certification.
- 2.2 Final Approval by the Court.** Within sixty (60) days of the Opt-In Deadline, Plaintiff shall (a) file with the Court the Consent to Join Forms for each Opt-In Plaintiff who has consented to opt into the Collective; and (b) prepare and, subject to Defendants' approval which shall not be unreasonably withheld, file an unopposed motion for final approval of the Settlement ("Motion for Final Approval"), Proposed Final Approval Order, and Proposed Order of Dismissal.
- 2.3 Effective Date of Release.** Upon the Court's entry of a final approval order granting the Motion for Final Approval ("Final Approval Order") and the entry of the Order of Dismissal, the releases set forth in Section 9 will become effective.
- ## **3. CREATION OF SETTLEMENT FUND AND APPOINTMENT OF SETTLEMENT ADMINISTRATOR**
- 3.0 Retention of Settlement Administrator.** The Parties will retain, and as part of the Motion for Preliminary Approval will request the Court to appoint a

Settlement Administrator to administer the Settlement. The Settlement Administrator shall be responsible for the claims administration process, including providing notice to the Settlement Collective, making any other mailings to members of the Settlement Collective, distributing payments, and performing other services as required under this Agreement. The Settlement Administrator will provide equal access and reporting regarding the settlement to all Parties. The Parties agree to cooperate with the Settlement Administrator and assist it in administering the Settlement. The Parties have preliminarily identified Analytics LLC to act as the Settlement Administrator.

- 3.1 Establishing a Qualified Settlement Fund.** Upon entry of the Preliminary Approval Order, the Settlement Administrator will establish a “Qualified Settlement Fund” or “QSF” to be funded by or on behalf of Defendants for the purpose of holding the Total Maximum Settlement Amount, the Fees and Costs Settlement Amount, Plaintiff’s Individual Release Payment, as well as funds paid by or on behalf of Defendants sufficient to enable the Settlement Administrator to pay the employer’s share of the payroll taxes and the Settlement Administrator’s Fees. The QSF will be controlled by the Settlement Administrator subject to the terms of this Agreement and the Court’s orders regarding approval. Interest, if any, earned on the QSF will become part of the settlement fund.

4. NOTICE AND OPT-IN PROCESS

a. Within fourteen (14) days after the Court enters an order granting the Motion for Preliminary Approval (“Preliminary Approval Order”), or as soon thereafter as practicable: JARS’ counsel shall provide to the Settlement Administrator an electronic list, in Microsoft Excel format, containing the names, last known addresses, last known telephone numbers (if any), last known email addresses (if any), locations worked, total number of Qualifying Workweeks, and JARS ID number, along with social security numbers or tax ID numbers of each Settlement Collective Member (“Collective List”), which will be used by the Settlement Administrator solely for purposes of preparing the issuance of the Notice Packet, locating individuals if a notice or payment is returned as undeliverable, and for tax purposes. There is a rebuttable presumption that JARS’ personnel and payroll records are correct, but eligible Settlement Collective Members may, should they disagree with JARS’ records, provide documentation to show contrary employment dates as a Delivery Associate paid by JARS to deliver packages to Amazon customers in the United States during the Covered Period and/or records of time worked no later than the close of the 45 Days after the Notice Packets have been sent

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by the Claims Administrator. Such a dispute shall be directed to the Settlement Administrator, who will notify all Counsel of the individual's dispute and provide Counsel with a copy of the records provided by the individual and any other pertinent and available records. The Settlement Administrator shall independently attempt to resolve disputes arising under this Section and relating to a Settlement Collective Member's work tenure and relevant work weeks and inform all Counsel of the determination of any such disputes. All disputes arising under this Section must be resolved and reported no later than 60 Days after the Notice Packets have been sent by the Claims Administrator and any disputes not resolved to the satisfaction of all Counsel may be presented to the mediator Michael Russell for a final and binding resolution. Amazon shall be responsible for any mediator fees incurred resolving such disputes.

- 4.0** Within twenty (20) calendar days after receiving the Collective List, or as soon thereafter as practicable, the Settlement Administrator shall mail, via First Class United States mail, postage prepaid, using each member's last known address as provided by JARS and email using the last-known personal email addresses (if available) as provided by JARS: (i) the Notice of Settlement of Collective Action Lawsuit to all FLSA Collective Members, in the Form attached as Exhibit B ("Notice"); (ii) a Consent to Join Form; and (iii) instructions to request a Consent to Join Form which may be completed electronically (the "Notice Packet") (in the forms attached as Exhibits B and C or in a similar form if modified by the Court). The Settlement Administrator shall give the Parties two (2) business days' notice before the Notice Packets are sent out. The Notice and Consent to Join Forms shall inform all Settlement Collective Members of their rights under this Agreement, of the formulas used to calculate their Estimated Individual Settlement Amounts, and of the amounts of their Estimated Individual Settlement Amounts. The Settlement Administrator shall attempt to obtain the correct address of any Settlement Collective Members for whom the Notice Packet is returned by the post office as undeliverable and shall attempt one re-mailing as described below. Defense Counsel and Class Counsel have the right to make inquiries and receive any information from the Settlement Administrator as is necessary to the administration of this Settlement.
- 4.1** Each Settlement Collective Member will have ninety (90) days following the mailing of the Notice Packet to complete and submit the Consent Form, electronically or by mail (the "Opt-In Deadline"). If any Settlement Collective Member disputes their allocation or attempts to qualify, condition, or limit

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their acceptance of the terms of this Settlement, the Settlement Administrator will promptly notify Class Counsel and Defense Counsel. If the Opt-In Deadline falls on a Sunday or holiday, the deadline to return the Consent to Join Form will be the next day that is not a Sunday or a holiday.

- 4.2 If any Notice Packet is returned to the Settlement Administrator with a forwarding address, it shall be re-mailed within three (3) business days following receipt of the returned mail. If any Notice Packet is returned to the Settlement Administrator without a forwarding address, the Settlement Administrator shall undertake reasonable efforts to search for the correct address and shall promptly re-mail the Notice Packet to any newly found addresses. If the Settlement Administrator re-mails the Notice Packet because the first was returned as undeliverable, the Opt-In Deadline for such individuals shall be the later of (a) ninety (90) days after the original mailing to all Settlement Collective Members, or (b) thirty (35) days after the re-mailing.
- 4.3 The Settlement Administrator shall, within ten (10) calendar days after the first mailing of the Notice Packets, notify Class Counsel and Defense Counsel of the precise end date of the Consent to Join Period.
- 4.4 The Settlement Administrator shall, sixty (60) calendar days after the first mailing of Notice, send a reminder notice via postcard and email to Settlement Collective Members.
- 4.5 Within sixty (60) days of the Opt-In Deadline, all Consent Forms shall be filed with the Court. Upon filing of the Consent Forms, each Settlement Collective Member will become an "Opt-In Plaintiff" under the terms of this Agreement, a member of the Collective, and thus subject to all terms applicable to Plaintiff; provided, however that Opt-In Plaintiffs shall not be subject to Plaintiff Coleman's Individual Release in Section 9.3. The postmark date or email date of the Consent to Join Form mailed by the Settlement Administrator to the Settlement Collective Member and the postmark date or date of signing through Docusign or another similar application of the Consent to Join Form mailed by the Settlement Collective Member to the Claims Administrator shall be deemed the exclusive means for determining whether an Settlement Collective Member timely submitted their Consent to Join Form. Any Settlement Collective Member who seeks to challenge a denial of payment under this Settlement based on the untimeliness of their Consent to Join Form must provide the Settlement Administrator with the postmark date

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on their Consent to Join Form. Defendants may agree to accept late Consent Forms.

5. CALCULATION OF INDIVIDUAL SETTLEMENT AMOUNTS AND DISTRIBUTION OF TOTAL MAXIMUM SETTLEMENT AMOUNT

5.0 The Settlement Administrator shall calculate estimated settlement share allocations for each Settlement Collective Member, using the Qualifying Workweeks in the Notice List and according to the formula set forth below in Sections 5.1 and 5.2 (“Estimated Individual Share”). After the Opt-In Deadline, and in connection with seeking entry of the Final Approval Order, the Parties agree that they may seek to modify allocation and calculation procedures set forth in this Section 5 to the extent they deem it necessary to fairly distribute the Claimed Settlement Amount to the Opt-In Plaintiffs.

5.1 The minimum amount of \$25.00 (the “Minimum Payment”) per Settlement Collective Member will be deducted from the Total Maximum Settlement Amount prior to the determination of estimated *pro rata* individual settlement shares and allocated to each to each Settlement Collective Member so that each Opt-in Plaintiff receives at least \$25.00 in exchange for their release in this Settlement Agreement.

5.2 In addition to Minimum Payment set out in Section 5.1 above, Settlement Collective Members shall receive a *pro rata* share of the Net Settlement Amount (the Total Maximum Settlement Amount less the Minimum Payments) as follows:

(A) For each workweek during the Covered Period, each eligible Settlement Collective Member shall be assigned one (1) point for each workweek worked as a Delivery Associate during which they recorded more than 35 hours of work during that week (“Qualifying Workweeks”), except that any eligible Settlement Collective Members who worked two or fewer Qualifying Workweeks shall be assigned zero settlement shares and shall only receive the Minimum Payment.

(B) To calculate each eligible Settlement Collective Member’s proportionate share of the Net Settlement Amount:

(1) Add all points for all eligible Settlement Collective Members together to obtain the “Denominator”;

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- (2) Divide the number of points for each eligible Settlement Collective Member by the Denominator to obtain each eligible Settlement Collective Member's "Pro Rata Portion of the Net Settlement Amount";
 - (3) Multiply each eligible Settlement Collective Member's Pro Rata Portion of the Net Settlement Amount by the Net Settlement Amount to determine each eligible Settlement Collective Member's "Individual Share of the Net Settlement Amount."
 - (C) Add the Individual Share of the Net Settlement Amount to the Minimum Payment to determine each Settlement Collective Member's "Estimated Individual Payment."
- 5.3 Any funds in the Net Settlement Fund that are not claimed because a Settlement Collective Member did not opt-in (the "Unclaimed Funds") shall first be redistributed to the Opt-In Plaintiffs based on the allocation formula in Section 5.2 above, but under no circumstances shall any Individual Class Member receive more than 150% of their original estimated Individual Share of the Net Settlement Amount. Any remaining Unclaimed Funds after the second distribution shall be donated to the Cy Pres Recipient (defined hereinbelow) (except as used to pay the Final Individual Settlement Amount of any FLSA Collective Member whose Consent to Join Form is submitted after the Opt-In Deadline but accepted or whose allocation is permitted to be increased, in accordance with Section ## of the Agreement). If Defendants have paid such amounts to the Claims Administrator, such amounts shall be donated to a nonprofit charitable organization to be identified by the Parties in the Motion for Final Approval ("Cy Pres Recipient").
- 5.4 An Opt-In Plaintiff's "Final Individual Settlement Amount" shall be their estimated Individual Settlement Amount subject to any adjustments under Section 5.0 or 5.3. The total amount of all Final Individual Settlement Amounts is the "Claimed Settlement Amount."

6. DISTRIBUTION OF SETTLEMENT CHECKS

- 6.0 Within forty-five (45) days after the later of the following: (a) the Court enters the Final Approval Order; (b) the Court approves an award of Attorney's Fees and Expenses; and (c) the Claims Administrator provides Defendants with the estimated share of employer's payroll taxes, the Total Maximum Settlement Amount, Individual Release Payment, and Attorney's Fees and Expenses shall

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be deposited into the QSF by or on Defendants' behalf. The Settlement Administrator shall have full responsibility for preparing, issuing, and distributing settlement checks to each Opt-In Plaintiff in the amount of their respective Final Individual Settlement Amount ("Individual Settlement Payments"). Apart from the obligations in this Agreement, the Parties and/or Parties' Counsel shall not have any independent obligation or liability concerning any payment to any Opt-In Plaintiff.

- 6.1** Opt-In Plaintiffs will have one-hundred eighty (180) days after each check date to redeem their Individual Settlement Payments (the "Check Deposit Deadline").
- 6.2** In the event that any Opt-In Plaintiff does not cash the check distributed by the Settlement Administrator before the Check Deposit Deadline, their settlement checks (the "Unclaimed Checks") will be void and a stop-payment will be placed. However, if any Opt-In Plaintiff contacts Class Counsel or the Settlement Administrator requesting a new check within thirty (30) days following when their check becomes void, they will be reissued a check out of the Unclaimed Check funds. In the event the Opt-In Plaintiff does not redeem a reissued settlement check within sixty (60) days of the date of reissue, the check will be void and a stop-payment will be placed. Opt-In Plaintiffs who do not redeem their settlement checks shall remain bound by this Settlement and the Release in Sections 9.0, 9.1. and 9.2. After the void date for all Unclaimed Checks has passed, the amounts associated with the Unclaimed Checks shall be donated to the Cy Pres Recipient and shall not revert to Defendants.

7. TAXES

- 7.0** Fifty percent (50%) of the Individual Settlement Payments to Opt-In Plaintiffs shall be considered wages subject to the withholding of all applicable local, state, and federal taxes. The Settlement Administrator shall make the required withholdings and shall issue an IRS Form W-2 to each Opt-In Plaintiff for these payments. Defendants shall pay or have paid on their behalf the employers' side of taxes separate from the Total Maximum Settlement Amount, the Attorney's Fees and Costs, and any additional Administration Fees. The remaining fifty percent (50%) of the Individual Settlement Payments shall be considered liquidated damages. The Settlement Administrator shall issue an IRS Form 1099-MISC to each Opt-In Plaintiff for these payments.

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- 7.1 Each individual Opt-In Plaintiff will be solely responsible for all taxes, interest, penalties, or other amounts due with respect to any payment received pursuant to this Agreement (other than FICA and any federal and state unemployment taxes and the employer and employee's share of payroll taxes withhold pursuant to Section 7.0).
- 7.2 Plaintiff acknowledges and agrees that he has not relied upon any advice from Defendants as to the taxability of the payments received pursuant to this Agreement.

8. ATTORNEYS' FEES AND EXPENSES AND SETTLEMENT ADMINISTRATOR FEES

- 8.0 Plaintiff's counsel has estimated their fees and reasonable out-of-pocket expenses and intends to seek approval from the Court within thirty (30) days of the Opt-In Deadline for an amount not to exceed \$380,000 in fees and \$50,000 in costs, including up to \$40,000 in Settlement Administration Fees, for a total of \$430,000 ("Attorneys' Fees and Expenses").
- 8.1 The Parties acknowledge that the estimated Attorneys' Fees and Expenses were separately negotiated with the help of the third party Mediator, and only after the amounts to the Settlement Collective were agreed upon. The Attorneys' Fees and Expenses ultimately approved by the Court will be paid by or on behalf of Defendants separate and apart from and will not decrease the Total Maximum Settlement Amount.
- 8.2 The amount of Attorneys' Fees and Expenses that are approved by the Court shall be deposited into the QSF by or on behalf of Defendants within forty-five (45) days of the order approving such Attorneys' Fees and Expenses and shall be paid by the Settlement Administrator to Class Counsel within five (5) business days thereafter.
- 8.3 A Form 1099 shall be issued to Class Counsel by the Settlement Administrator, and Class Counsel shall be solely and legally responsible for paying any and all applicable taxes on the payment made to them.
- 8.4 The Settlement Administration Fees and Court-approved Attorneys' Fees and Expenses shall constitute full satisfaction of Defendants' obligations to pay amounts to any person, attorney, or law firm for any attorneys' fees and costs in this Litigation on behalf of any Settlement Collective Member, and shall relieve Defendants from any other claims or liability to any other attorney or

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law firm for any attorneys' fees or costs to which any of them may claim to be entitled on behalf of any Settlement Collective Member.

- 8.5** If any amount of the Attorneys' Fees and Expenses is not approved by the Court (the "Unapproved Fee Amount"), such Unapproved Fee Amount shall be redistributed to the Settlement Collective in accordance with Section 5.0 and its subparts.
- 8.6** Any Settlement Administration Fees in excess of \$40,000 shall be paid by or on behalf of Defendants in addition to the Total Maximum Settlement Amount and the Attorneys' Fees and Expenses.

9. RELEASES

- 9.0 Opt-In Plaintiffs' Released Claims.** Upon the Court's entry of the Final Approval Order and entry of the Order of Dismissal, the Opt-In Plaintiffs on behalf of themselves and each of their respective spouses, heirs, assigns, administrators, executors, beneficiaries, conservators, successors, insurers, and attorneys, voluntarily agree to fully waive, release, and forever discharge the "Released Parties" from any and all Fair Labor Standards Act claims (and related Tennessee, Florida, Kansas, Indiana, South Carolina, and Missouri state law wage claims) that accrued to the Settlement Collective Members while working to deliver packages to Amazon customers in the United States while being paid by JARS at any time between October 29, 2018 and April 30, 2022, including but not limited to claims under the FLSA, Tennessee, Florida, Kansas, Indiana, South Carolina, and Missouri law, or any other federal, state, or local wage and hour law, pertaining to the alleged failure to pay for all hours worked, claims for unpaid wages (including overtime compensation), claims for working through meal or rest periods, and related claims for liquidated damages, interests, penalties, fees or costs, that were or could have been asserted in the Litigation based upon the facts alleged in the operative complaint (the "Released Claims").
- 9.1** Opt-In Plaintiffs, to the fullest extent allowed by law, are prohibited from asserting any claims released by them in this Settlement, and from commencing, joining in, prosecuting, or voluntarily assisting in a lawsuit or adversarial proceeding against the Released Parties, based on claims released by them in this Settlement. The Notice substantially in the form attached at Exhibit B will advise that, by opting in to the Settlement, Opt-In Plaintiffs further agree they will not opt-in, will withdraw any opt-in, and will dismiss this action or themselves from the action in actions where they are a claimant,

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plaintiff, or appellant, and will opt-out of those actions if they become aware of such actions. Excluded from this prohibition are any instances where any individual is legally compelled to testify through service of a subpoena or other process.

9.2 Released Parties. “Released Parties” shall mean Amazon.com; Amazon.com Services, Inc.; Amazon Logistics, Inc.; JARS TD, Inc. (including Juan Soto, David Carlson, and Adam Robertson), and each of their respective present and former affiliates, divisions, members, joint venture partners, subsidiaries, parents, predecessors, any merged entity or merged entities and/or its or their present and former officers, partners, directors, employees, agents, attorneys, shareholders and/or successors, insurers or reinsurers, employee benefit plans (and the trustees, administrators, fiduciaries, agents, representatives, insurers and reinsurers of such plans), assigns, trustees, heirs, administrators, executors, representatives and/or principals thereof, and all persons or entities acting by, through, under, or in concert with any of them, and any individual or entity that could be jointly liable with any of them.

9.3 Plaintiff Coleman’s General Release. In consideration for payment in the gross sum of \$10,000.00 by or on behalf of Defendants to Plaintiff Coleman, Plaintiff Coleman agrees to the provisions in this Section 9.3. Specifically, Plaintiff Coleman expressly waives any and all claims against each of the Released Parties to the maximum extent permitted by law, and releases each of the Released Parties from any and all actual or potential actions, claims, causes of action, and damages, known or unknown, which Plaintiff Coleman ever had, now has or hereafter may have as a result of any matters arising from and in connection with Plaintiff Coleman’s work as a DSP with JARS TD, Inc. It is understood that this release includes, but is not limited to, any claims for wages, bonuses, employment benefits (including claims under continuing employee benefit plans or claims under ERISA), stock options, restricted stock units, or any other stock purchase plans of the Released Parties’ parents, subsidiaries or affiliates, or damages of any kind whatsoever, arising out of any common law torts, any contracts, express or implied, any covenant of good faith and fair dealing, express or implied, any theory of wrongful discharge, any theory of negligence, any theory of retaliation, any theory of discrimination or harassment in any form, any legal restriction on the Released Parties’ right to terminate employees, or any federal, state, or other governmental statute or ordinance, including, without limitation, Title VII of the Civil Rights Act of 1964, Section 1981, Americans with Disabilities Act, Family and Medical Leave Act, the Equal Pay Act, the Employee Retirement

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Income Security Act (including, but not limited to, claims for breach of fiduciary duty under ERISA), the Genetic Information Nondiscrimination Act, the Tennessee Civil Human Rights Act, all as amended, or any other statutory or common law limitation or regulation of the employment relationship of state or federal law, as well as any claim for attorneys' fees and costs incurred by or on behalf of Plaintiff Coleman.

Plaintiff Coleman also expressly waives any and all claims against the Released Parties and, to the maximum extent permitted by law, releases the Released Parties from any and all actual or potential actions, claims, causes of action, and damages, known or unknown, arising out of Plaintiff Coleman's work as a DSP with JARS TD, Inc., or the termination of employment under the Age Discrimination in Employment Act and the Older Workers Benefit Protection Act.

Plaintiff Coleman agrees that Plaintiff Coleman may not serve as a representative of a class action, collective action, or representative action, may not participate as a member of a class action, collective action, or representative action, and may not recover any relief from a class action, collective action, or representative action, against the Released Parties, for any claims that are being released herein and that arose prior to the execution of this agreement.

For the purpose of implementing a full and complete release, Plaintiff Coleman hereby expressly waives all rights and benefits Plaintiff Coleman may have under this Paragraph 14, as well as under any other statutes or common law principle of similar effect that provides any remedy of any kind, and acknowledges that the release set forth in this Agreement is intended to include the discharge of all claims that Plaintiff Coleman does not know or suspect to exist at the time this Agreement is effective. Plaintiff Coleman agrees and acknowledges that this is a knowing and voluntary waiver.

It is expressly understood and agreed, however, that nothing in this Agreement is a waiver or release by Plaintiff Coleman of any claims Plaintiff Coleman may have for workers' compensation benefits. Plaintiff Coleman further acknowledges that Plaintiff Coleman has not made any claims or allegations related to sexual harassment or sexual abuse and none of the payments set forth in this Agreement are related to sexual harassment or sexual abuse.

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10. DISMISSAL OF LITIGATION

- 10.0** Upon satisfaction of the conditions specified herein, including entry of the Final Approval Order by this Court, the Parties agree to—and shall—dismiss this Litigation with prejudice.

11. PUBLIC COMMENT

- 11.0** Prior to the filing of the Preliminary Approval Motion for approval with the Court, the Parties agree not to disclose the terms of this Settlement except in court papers filed to seek approval, except for any disclosures agreed to by the Parties and as necessary to effectuate the Settlement. Before approval, Plaintiff and Plaintiff's Counsel shall not issue a press release, hold a press conference, publish information about the settlement on any website (other than information directed to Settlement Collective Members regarding the approval and the settlement website established by the Settlement Administrator), or otherwise publicize the Settlement. However, nothing about this Section shall restrict Plaintiff's Counsel from citing to or referencing this settlement in court filings, as necessary, including for purposes of seeking approval of the settlement. Plaintiff and Plaintiff's Counsel agree not to respond to any media inquiries except to refer reporters to the papers filed with the Court. Nothing in this provision will affect the ability of Plaintiff's Counsel to carry out their duties consistent with and as required by the Court or affect Plaintiff's Counsel's attorney-client communications.

12. MISCELLANEOUS

- 12.0 No Retaliation.** Defendants will not take any adverse action against any Settlement Collective Member on the grounds that they are eligible to participate or does participate in the Settlement. If requested, Defendants shall state Defendants and Plaintiff's Counsel encourage Settlement Collective Members to participate in the Settlement.
- 12.1 No Admission of Liability.** This Settlement Agreement and all related documents are not and shall not be construed as an admission by Defendants of any fault, liability, or wrongdoing.
- 12.2 Defendants' Legal Fees.** Defendants' legal fees and expenses in this Litigation shall be borne by the Defendants.

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- 12.3 Effect of Non-Approval.** If the Court does not approve the Settlement as provided herein, the Parties agree to engage in follow-up negotiations with the intent of resolving the Court's concerns that precluded approval and, if feasible, to resubmit the settlement for approval. If the Settlement is not approved as resubmitted, or if the Parties are not able to reach another agreement, then any Party may void this Agreement; at that point, the Parties agree each shall return to their respective positions as existed on the day before this Agreement was executed and this Agreement shall not be used in evidence or argument in any other aspect in the Action.
- 12.4 Interim Stay of Proceedings.** The Parties agree to hold in abeyance all proceedings in this Litigation, except such proceedings as necessary to implement and complete the Settlement.
- 12.5 Amendment or Modification.** This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors in interest, but only as approved by the Court. This Agreement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.
- 12.6 No Assignment.** Class Counsel and Plaintiff represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Litigation, or any related action.
- 12.7 Authorization to Enter Into Settlement Agreement.** The Parties warrant and represent that they are authorized to enter into this Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement. The Parties and their counsel shall cooperate with each other and use their best efforts to effect the implementation of the Agreement. In the event that the Parties are unable to reach resolution on the form or content of any document needed to implement this Agreement, or on any supplemental provisions or actions that may become necessary to effectuate the terms of this Agreement, the Parties shall seek the assistance of the court-approved mediator, Michael Russell, to resolve such disagreement.
- 12.8 Binding on Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of Plaintiff, Defendants, and the Opt-In Plaintiffs and their heirs, beneficiaries, executors, administrators, successors, transferees,

successors, assigns, or any corporation or any entity with which any party may merge, consolidate or reorganize. The Parties hereto represent, covenant, and warrant they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or rights herein released and discharged except as set forth herein.

- 12.9 Counterparts.** This Agreement may be executed in one or more counterparts, including by facsimile, email, and electronic signature. All executed counterparts and each of them shall be deemed to be one and the same instrument. All executed copies of this Agreement, and photocopies thereof (including facsimile and/or emailed copies of the signature pages), shall have the same force and effect and shall be as legally binding and enforceable as the original.
- 12.10 No Signature Required by Collective Members.** Only the Named Plaintiff and Defendants will be required to execute this Settlement Agreement. The Settlement Notice will advise all Settlement Collective Members of the binding nature of the release and the release shall have the same force and effect as to Opt-In Plaintiffs if this Settlement Agreement were executed by each Opt-In Plaintiff.
- 12.11 Cooperation and Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement; hence the drafting of this Agreement shall not be construed against any of the Parties. The Parties agree the terms and conditions of this Agreement were negotiated at arm's length and in good faith by the Parties and reflect a settlement reached voluntarily, based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.
- 12.12 Governing Law.** This Settlement Agreement shall be governed by and interpreted according to Tennessee law.
- 12.13 Jurisdiction of the Court.** The Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Settlement and all orders and judgments entered in connection therewith, and the Parties and their Counsel submit to the jurisdiction of the Court for this purpose.
- 12.14 Entire Agreement.** This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement.

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IN WITNESS WHEREOF, the Parties and their Counsel have executed this Settlement Agreement as follows:

PLAINTIFF:

Timothy Coleman Date: 4/25/2024, 2024
Timothy Coleman

DEFENDANTS:

Amazon.com, Inc. Date: _____, 2024

Amazon Logistics, Inc. Date: _____, 2024

Amazon.com Services, Inc. Date: _____, 2024

JARS TD, Inc. Date: _____, 2024

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IN WITNESS WHEREOF, the Parties and their Counsel have executed this Settlement Agreement as follows:

PLAINTIFF:

Timothy Coleman
Timothy Coleman

Date: 4/25/2024, 2024

DEFENDANTS:

DocuSigned by:
Eane Brown
0AC4AA6BEE2D4A8...
Amazon.com, Inc.

Date: 10/30, 2024

DocuSigned by:
Eane Brown
0AC4AA6BEE2D4A8...
Amazon Logistics, Inc.

Date: 10/30, 2024

DocuSigned by:
Eane Brown
0AC4AA6BEE2D4A8...
Amazon.com Services, Inc.

Date: 10/30, 2024

Adam Kaler
JARS TD, Inc.

Date: April 18, 2024

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APPROVED AS TO FORM BY PLAINTIFF'S COUNSEL:

Andrew Frisch

Date: 5/6/2024, 2024

Andrew Frisch

Paul Botros

MORGAN & MORGAN, PA

APPROVED AS TO FORM BY AMAZON DEFENDANTS' COUNSEL:

Kyle A Petersen

Date: March 31, 2024

Kyle A Petersen

Andrew McKinley

Kevin Young

SEYFARTH SHAW LLP

APPROVED AS TO FORM BY JARS TD, INC.'s COUNSEL

Russ Bryant

Date: April 18, 2024

Russ Bryant

JACKSON SHIELDS

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