

## SETTLEMENT AGREEMENT

This Settlement Agreement (“**Agreement**”) is entered into by and between the City and County of San Francisco (“the **City**”), Universal Protection Service, LP dba Allied Universal Security Services (“**Universal**”), Treeline Security (“**Treeline**”), and Plaintiffs Robert Burchell, F/V Rose Marie, Inc., Erik Anfinson, John Barnett, Sarah Bates, F/V AL-W, Ken Burns, Chris Cameron, MJ Fisheries, Inc., Mike Costello, Andrew Evanow Jr., Andrew Evanow Sr., Michael Fontes, Chris Fox, Mike Harvie, Sean Hodges, David Kemp, Nick Krieger, WAC Fisheries, Inc., Philip Lafata, Daniel Lazzari, Patrick Lazzari, Brand Little, Benedetto Lo Grande, Chuck Louie, Bob Maharry, John Mellor, Savior Papetti, Mark Schwarz, Shane Wehr, Andrew Cresalia, Oceanic Logistics LLC, Tomas Walsh, and Sean Cross. Defendants City, Universal and Treeline are referred to herein collectively as “**Defendants.**” Defendants Universal and Treeline are referred to herein collectively as the “**Security Contractors.**” The plaintiffs named above are collectively referred to herein as “**Burchell Plaintiffs.**” Plaintiffs and Defendants are collectively referred to herein as the “**Parties**”.

### RECITALS

WHEREAS, on or about May 23, 2020, a fire occurred on Pier 45 in San Francisco (the “**Fire**”) that damaged property owned by the City and the Burchell Plaintiffs;

WHEREAS, on or about December 28, 2020, certain of the Burchell Plaintiffs filed a complaint against the City for damages arising from the Fire (the “**Complaint**”), and initiated the action entitled *Burchell et al., v. City and County of San Francisco*, San Francisco Superior Court Case No. CGC-20-588665 (“**Action**”);

WHEREAS, on or about September 7, 2021, the City tendered its defense of the Action to Universal, who denied the tender;

WHEREAS, on or about December 16, 2021, the City filed a cross complaint against Universal in the Action seeking defense and indemnity;

WHEREAS, on or about February 8, 2022, Universal filed cross complaints against the City and Treeline in the Action;

WHEREAS, on or about March 23, 2022, Treeline filed cross complaints against the City and Universal in the Action;

WHEREAS, on or about April 22, 2022, the Burchell Plaintiffs filed a Third Amended Complaint against the City and Universal for damages arising from the Fire (the “**TAC**”);

WHEREAS, the City has first party property insurance issued by APIP (Alliant Property Insurance Program) (“the City Property Insurers”) that covered certain of its losses resulting from the fire;

WHEREAS, the City made a first party insurance claim to the City Property Insurers for the City’s losses resulting from the Fire; that first party claim has been assigned the claim identifier as “Insured: City & County of San Francisco | Pier 45 Fire | DOL May 23, 2020 | Claim No.: Multiple | McLarens File 002.052404.MI.S.”

WHEREAS, the City has received written confirmation from the City Property Insurers’ authorized representative(s) that City Property Insurers will not pursue subrogation against Universal and/or Treeline as a result of the Fire;

WHEREAS, all Parties understand that the agreement of the City Property Insurers to waive subrogation rights of recovery for all payments made as a result of the Fire is a material term of this settlement and is part of the bargained for exchange for Universal and Treeline entering into this agreement;

WHEREAS, the City Property Insurers authorized the City to release Universal and Treeline from potential subrogation claims by the City Property Insurers;

WHEREAS, the City has confirmed that all prior demand(s) made by or on behalf of the City Property Insurers are rescinded and any and all recovery avenues are resolved/closed;

WHEREAS the City Property Insurers have confirmed in writing that they will not pursue subrogation claims against Universal and/or Treeline;

WHEREAS, the City received written confirmation from City Property Insurers that the City is authorized to execute this Agreement on behalf of City Property Insurers, which specifically includes a waiver of subrogation against Universal and Treeline on behalf of City Property Insurers;

WHEREAS Universal and Treeline have reasonably relied on the promise of City that this Agreement constitutes a release of all claims by the City Property Insurers against Security Contractors and that any and all prior demands are hereby rescinded with the signing of this agreement and that all rights of subrogation are being waived in full as part of the bargained for exchange of this Agreement;

WHEREAS, the Defendants deny liability for any damages incurred as a result of the Fire;

WHEREAS, in exchange for the promises included herein, Plaintiffs wish to release all claims against Defendants that were asserted or could have been asserted in the Action;

WHEREAS, in exchange for the promises included herein, Defendants wish to release all claims against each other that were asserted or could have been asserted in the Action;

NOW, THEREFORE, the Parties agree as follows:

## TERMS OF AGREEMENT

1. **City Approval:** The Parties agree and understand that this Agreement, and all City obligations set forth herein, are contingent on approval by the San Francisco Port Commission (“**Port Commission**”), the San Francisco Board of Supervisors (“**SFBOS**”), and the Mayor of San Francisco, as set forth in the City’s municipal codes (“**City Approval**”). Counsel for the City will make best efforts to obtain City Approval as soon as feasible. The Parties agree that the Burchell Plaintiffs, Universal, and Treeline shall execute this Agreement before the City submits this Agreement for approval by the Port Commission and SFBOS. The Parties agree and understand that the City cannot execute this Agreement until receipt of City Approval.

2. **Settlement Contribution:** In consideration of the mutual promises, agreements, and understandings contained herein, Defendants agree to pay to the Burchell Plaintiffs the total sum of Six Million Two-Hundred Thousand Dollars (\$6,200,000) (hereinafter “**Settlement Contribution**”). Of this amount, the City shall contribute Two Million Sixty-Six Thousand Six Hundred Sixty-Seven Dollars (\$2,066,667), which shall be paid by the City’s liability insurers. Universal shall contribute One Million Two Hundred Fifty Thousand Dollars (\$1,250,000) and Treeline shall contribute Two Million Eight Hundred Eighty-Three Thousand Three Hundred Thirty Tree Dollars (\$2,883,333).

3. **Funding of Settlement Contribution and Dismissal:** Within 14 days of the occurrence of each and all of the following events (the “**Funding Events**”) the Defendants will issue a payment of Six Million One-Hundred Thousand Dollars (\$6,200,000) from the Settlement Contribution to Gross Klein PC’s trust account (the “**Trust Account**”), using the wire instructions below. Notwithstanding the foregoing, the Parties agree that a portion of the City’s payment may be made within 21 days of the occurrence of each and all of the Funding Events.

- a. City Approval and execution of this Agreement by all Parties, as defined in Section 1;
- b. Delivery of executed W-9 forms from all Burchell Plaintiffs and from their counsel to counsel for Defendants;

Within 10 days of payment of the Settlement Contribution to the Trust Account, Plaintiffs will file a dismissal of the Action with prejudice. Within 10 days of Plaintiffs' dismissal, Defendants will file a dismissal of their respective cross complaints with prejudice.

The wire instructions for the Trust Account to which Defendants will issue payment are as follows:

Account Name:	Gross Klein PC
Account #:	207996463
Bank:	Citibank 245 Market St. San Francisco, CA 94111
Domestic Routing #:	321171184
International Swift Code:	CITIUS33

4. Burchell Plaintiff Releases: In consideration of the performance of all terms and conditions of this Agreement in the manner prescribed herein, the Burchell Plaintiffs on behalf of their respective officers, agents, members, employees, authorized representatives, assignees, insurers (including any property insurers who may have rights of subrogation), and transferees, hereby release and forever discharge Defendants and all of their respective officers, agents, members, employees, authorized representatives, attorneys, assignees, parent companies, partnerships, subsidiaries, affiliated entities, insurers, reinsurers and transferees from any and all liability, claims, demands, actions or causes of action of whatever kind or nature arising out of or in any way connected with the Fire that were or could have been asserted in the Action or any other lawsuit or proceeding.

5. Defendant Releases: In consideration of the performance of all terms and conditions of this Agreement in the manner prescribed herein, the Defendants and their respective officers, agents, members, employees, authorized representatives, assignees, parent companies, partnerships, subsidiaries, affiliated entities, insurers, reinsurers and transferees, hereby release and forever discharge each other and all of their respective officers, agents, members, employees, authorized representatives, attorneys, assignees, insurers, reinsurers and transferees from any and all liability, claims, demands, actions or causes of action of whatever kind or nature arising out of or in any way connected with the Fire that were or could have been asserted in the Action or any other lawsuit or proceeding.

6. Waiver: Except for those obligations that are specifically reserved or are otherwise stated in this Agreement, and with respect to those matters specifically released herein, the Parties waive the provisions of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF

EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

7. Good Faith: The Parties stipulate that this settlement is in good faith within the meaning of California Code of Civil Procedure §877.6.

8. Notice of Conditional Settlement: The Parties have filed with the court a Notice of Conditional Settlement to allow the Parties time to seek City Approval of the Settlement Contribution. The Notice of Conditional Settlement will remain in effect until such City Approval is obtained or until the Parties notify the court that a settlement has not been finalized.

9. Enforceability: This Agreement is binding and may be enforced by a motion under Code of Civil Procedure section 664.6 or by any other procedure permitted by law in the applicable court. The parties intend and agree that this agreement is admissible, binding, and subject to disclosure as provided by California Evidence Code section 1123. This agreement is neither privileged nor inadmissible under California Evidence Code section 1119.

#### **Additional Provisions**

10. Governing Law: The laws of the State of California shall govern the Parties' rights and obligations under this Agreement.

11. Advice of Counsel: The Parties acknowledge that they have had an opportunity to be advised by their own independently selected legal counsel and other advisors in connection with this Agreement and enter into the Agreement solely on the basis of that advice, if any, and on the basis of their own independent investigation of all the facts, law, and circumstances material to this Agreement or any provision thereof, and not in any manner or to any degree based upon any statement or omission by any other party or its legal counsel. By executing this Agreement, each party acknowledges that it has read the Agreement and understands its terms and provisions.

12. Exceptions: The Parties understand and agree that this settlement shall have no impact on the City's ability to perform its governmental functions. The City shall continue to perform its governmental functions arising out of the San Francisco Charter, San Francisco's Municipal Codes and Ordinances, and any other applicable law. This includes, but is not limited to, levying and collecting taxes or fees owed to the City and requiring compliance with applicable building code requirements. The Parties acknowledge that the City retains all rights to perform its governmental functions.

13. Authorization and Indemnity: Each party to the Agreement represents and warrants that (1) it is authorized to enter into this Agreement; (2) that the individual signing on behalf of such party is authorized to execute the Agreement on its behalf; (3) that the Party has not assigned or transferred any interest in the matters released under this Agreement, and (4) that it is the lawful owner of all right, title and interest to every claim and every other matter which it purports to release in this Agreement. In the event a breach of this Section 13 results in a claim made against any Defendant based upon matters released by any Party under this Agreement, the breaching party shall defend and indemnify the other Defendants against any such claim.

14. Counterparts: This Agreement may be signed in one or more counterparts, each of which shall be deemed an original, with the same force and effect as if all signatures appeared on the same document. A photocopy will serve in place of an original. Likewise, a copy of this Agreement with a signature transmitted by facsimile or by email or other electronic means, shall be deemed to be and may be relied upon as an original, executed counterpart.

15. Binding: This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, trustees, beneficiaries, predecessors, successors, assigns, insurers, reinsurers, partners, partnerships, parents,

subsidiaries, affiliated and related entities, officers, officials, directors, principals, agents, servants, employees, and representatives.

16. Superior Equities: City affirms that its equities would not be superior to the Security Contractors in any subrogation action.

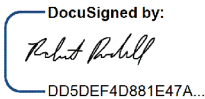
17. Modification: This Agreement may not be modified, amended, or supplemented except by written instrument specifically identifying this Agreement and signed by each of the Parties.

18. Headings: Titles and headings of sections of this Agreement are for convenience only and shall not affect the construction of any provision of this Agreement.

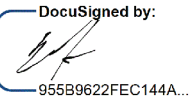
19. Fees and Costs: Each party agrees to bear its own costs and fees associated with or arising from the Action.

20. Joint Drafting. The Parties agree that this Agreement is the product of joint drafting and that any ambiguity will not be construed against any Party.

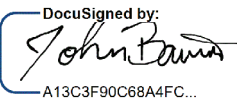
IT IS SO AGREED:

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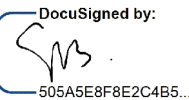
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By: Robert Burchell  
Individually and on behalf of F/V Rose Marie, Inc.

Signed:  955B9622FEC144A...

Dated: 12/8/2022  
By: Erik Anfinson

Signed:  A13C3F90C68A4FC...

Dated: 12/8/2022  
By: John Barnett

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Dated: 12/8/2022  
By: Sarah Bates

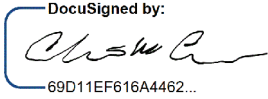
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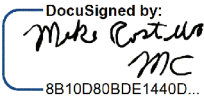
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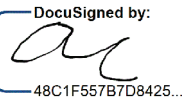
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On behalf of F/V AL-W and Ken Burns

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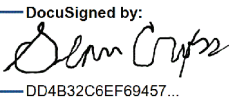
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By: Chris Cameron

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By: Mike Costello  
Individually and on behalf of MJ Fisheries, Inc.

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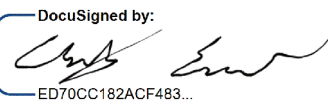
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By: Andrew Cresalia

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By: Sean Cross

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By: Andrew Evanow Sr.

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By: Andrew Evanow, Jr.

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Signed: *Michael Fontes*

Dated: *12-9-2022*  
By: Michael Fontes

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By: Chris Fox

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By: Mike Harvie

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By: David Kemp

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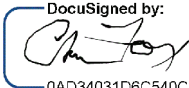
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By: Philip Lafata  
Individually and on behalf of WAC Fisheries, Inc.

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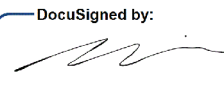
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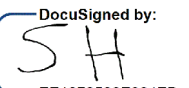
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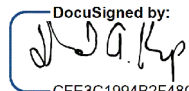
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By: David Kemp

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By: Nick Krieger

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By: Philip Lafata  
Individually and on behalf of WAC Fisheries, Inc.

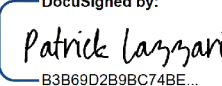
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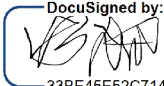


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Daniel Lazzari  
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By: Daniel Lazzari

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Patrick Lazzari  
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By: Patrick Lazzari

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Brand Little  
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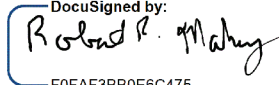
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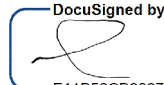
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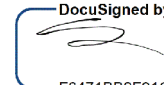
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By: Chuck Louie

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By: Robert Maharry

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By: John Mellor

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Savior Papetti  
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Dated: 12/8/2022  
By: Savior Papetti

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By: Mark Schwarz

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Dated:  
By: Shane Wehr

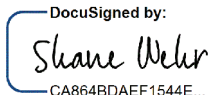
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Dated:  
By: Tomas Walsh  
Individually and on behalf of Oceanic Logistics LLC

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By: Mark Schwarz

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By: Shane Wehr

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Dated: 12/8/2022  
By: Tomas Walsh  
Individually and on behalf of Oceanic Logistics LLC

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Dated: 12/15/2022

UNIVERSAL PROTECTION SERVICE, LP DBA  
ALLIED UNIVERSAL SECURITY SERVICES

DocuSigned by:  
KADIAN BLANSON  
KADIAN BLANSON  
Its: VP MANAGING COUNSEL-LITIGATION

Dated: \_\_\_\_\_

TREELINE SECURITY

By: \_\_\_\_\_  
JONATHAN LOSADA  
Its: CHIEF OPERATIONS OFFICER

**APPROVED AS TO FORM:**

Dated: \_\_\_\_\_

DAVID CHIU

By: \_\_\_\_\_  
RICHARD E. ROBINSON  
Deputy City Attorney  
Attorneys for City and County Of San Francisco

Dated: \_\_\_\_\_

UNIVERSAL PROTECTION SERVICE, LP DBA  
ALLIED UNIVERSAL SECURITY SERVICES

By: \_\_\_\_\_  
KADIAN BLANSON  
Its: VP MANAGING COUNSEL-LITIGATION

Dated: 12/15/2022

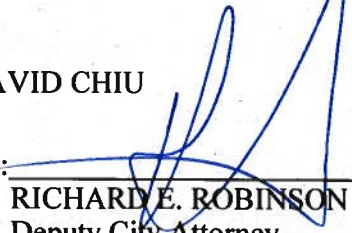
TREELINE SECURITY

By:  \_\_\_\_\_  
JONATHAN LOSADA  
Its: CHIEF OPERATIONS OFFICER

**APPROVED AS TO FORM:**

Dated: 12/15/2022

DAVID CHIU

By:  \_\_\_\_\_  
RICHARD E. ROBINSON  
Deputy City Attorney  
Attorneys for City and County Of San Francisco