

**SETTLEMENT AGREEMENT AND
MUTUAL GENERAL RELEASE OF ALL CLAIMS**

This Settlement Agreement and Mutual General Release of All Claims (hereinafter referred to as "this Agreement") is entered into and effective as of the 10th day of September, 2015 by and between the following parties:

- (1) SAN YSIDRO SCHOOL DISTRICT;
- (2) DANIEL R. SHINOFF;
- (3) STUTZ ARTIANO SHINOFF & HOLTZ, APC.

DEFINITIONS

- (1) SAN YSIDRO SCHOOL DISTRICT shall be referred to as "SYSD" throughout this Agreement.
- (2) ECOBUSINESS ALLIANCE, LLC and MANZANA NES SYSD, LLC shall collectively be referred to as "EBA" throughout this Agreement.
- (3) DANIEL SHINOFF and STUTZ ARTIANO SHINOFF & HOLTZ, APC shall collectively be referred to as "SASH" throughout this Agreement.
- (4) All of the above-referenced parties to this Agreement shall hereinafter collectively be referred to as "the Parties" and individually as a "Party."
- (5) The lawsuit filed by EBA against SYSD on April 5, 2012 in the Superior Court of San Diego County (Case No. 37-2012-00095758-CU-BC-CTL) shall hereinafter be referred to as "the Underlying Action."

II.
PURPOSE

This Agreement is made in order (1) to set forth the Parties' respective duties and obligations relating to claims that have arisen from and relate to the Underlying Action; and (2) to resolve any and all differences and disputes that exist between the Parties. In making this Agreement, none of the Parties to this Agreement is admitting the sufficiency or adequacy of any claims, allegations, assertions, contentions, or positions of the other Parties, or the sufficiency or adequacy of any defense to any such claims, allegations, assertions, contentions, or positions. The Parties to this Agreement have agreed to enter into this Agreement to avoid the expense, inconvenience, and distraction of litigation and to be free of further liability to each other, except as otherwise provided herein.

III. RECITALS

This Agreement is made with reference to the following facts:

- (1) For many years, SASH has represented SYSD as legal counsel in a variety of litigated and non-litigated matters.
- (2) In 2012, EBA initiated the Underlying Action against SYSD.
- (3) SASH was retained to represent SYSD in the Underlying Action.
- (4) After entering into the Underlying Action, SYSD filed a cross-complaint against EBA.
- (5) After EBA obtained the dismissal of SYSD's cross-complaint by way of a Motion for Summary Judgment, EBA threatened to file an action against SYSD for malicious prosecution. That action was never filed.

(6) The Underlying Action went to trial in January 2014. A verdict was rendered in favor of EBA and against SYSD in February 2014.

(7) On May 2, 2014, SYSD filed a Notice of Appeal with the Fourth District Court of Appeal, Division 1(Case No. D065910).

(8) On August 5, 2014 judgment was entered against SYSD and in favor of EBA in the total amount of \$8,596,137.90, which amount included an award of attorneys' fees and costs.

(9) On September 4, 2014, EBA filed a Notice of Appeal with the Fourth District Court of Appeal, Division 1(Case No. D066554).

(10) After retaining new legal counsel, SYSD settled the Underlying Action with EBA.

(11) On March 17, 2015, SYSD filed a lawsuit against SASH in the Superior Court of San Diego County (Case No. 37-2015-00009253-CU-PN-CTL) which case shall hereinafter be referred to as "the Instant Action."

(12) On June 5, 2015, the Instant Action was ordered to binding arbitration.

IV.

SETTLEMENT TERMS

NOW, THEREFORE, in consideration of the mutual covenants, promises, representations and warranties set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

(1) **Recitals**. The recitals set forth above are incorporated herein by reference and are made part of this Agreement.

(2) **Payment**. In consideration of SYSD's waiver and release of SASH, as set forth in Section IV.8.a below, SASH through its insurance carrier, Lawyers' Mutual Insurance Company, agrees to pay one million seven hundred ninety three thousand seven hundred twelve dollars (\$1,793,712.00) to SYSD. SASH hereby expressly consents to the payment to SYSD within ten (10) calendar days of the execution of this Agreement by SYSD, as referenced in Section IV.6, below, counsel for SASH shall wire ~~the above payment~~ amount jointly to Bryan C. Vess, APC Client Trust Account and San Ysidro School District in accordance with the wire instructions attached hereto as Attachment A. Counsel for SYSD will promptly notify counsel for SASH in writing via e-mail when the foregoing payment has been received.

(3) **Vacation of Judgment**. SYSD will make good faith efforts to work with EBA to ensure a dismissal with prejudice in the Underlying action by either a Satisfaction of Judgment, or Vacation of Judgment.

(4) **Dismissal of Appeals**. The appeals filed by SYSD and EBA in the Underlying Action shall be dismissed with prejudice within ten (10) calendar days of the full execution of this Agreement by all Parties.

(5) **Request for Covenant Not to Sue.** SYSD will request that EBA does not initiate, file or maintain a legal action of any type or nature whatsoever, including but not limited to an action for malicious prosecution, against SASH arising out of its handling of the Underlying Action. The Parties recognize that SYSD cannot control the conduct of EBA and SYSD's obligations hereunder are satisfied by a good faith request to EBA.

(6) **Dismissal of the Instant Action.** SYSD will file a Request for Dismissal with Prejudice with the Court in the Instant Action, which shall encompass a dismissal of the order to submit the Instant Action to binding arbitration. The Request for Dismissal with Prejudice shall be filed within five (5) business days of the full payment of the settlement as set forth in Section IV.2 herein.

(7) **Mutual Covenants, Releases and Discharges.**

a. **SYSD's Release and Discharge of SASH.** As part of this Agreement, SYSD expressly covenants not to initiate, file or maintain a legal action of any type or nature whatsoever against SASH for claims, demands, or potential causes of action, whether known or unknown, arising out of, connected with, or incidental to any of the matters set forth in the Recitals above or to SASH's representation of SYSD in any action or matter whatsoever in which SASH may have advised or represented SYSD at any time from the beginning of the attorney-client relationship between SYSD and SASH until the final execution and delivery of this Agreement to all Parties. In accordance with this Agreement, SYSD does hereby and for and for its past, present and future officers, directors,

agents, employees, shareholders, board members, partners, successors, predecessors, principals, owners, insurers, affiliates, attorneys, accountants, assigns, heirs, executors, administrators and representatives and all persons and entities acting by, through, under or in concert with it, completely releases, acquits and fully, finally and forever discharges SASH, its (in each case and as intended third-party beneficiaries) past, present and future officers, directors, agents, employees, shareholders, members, partners, successors, predecessors, principals, owners, insurers, affiliates, attorneys, accountants, assigns, heirs, executors, administrators and representatives, and all persons and entities acting by, through, under or in concert with it (collectively "the SASH Released Parties") from any and all claims, actions, rights, attorneys' fees, obligations, costs, liens, judgments, demands, damages, liabilities, expenses, compensations and causes of action of any and every kind, nature and character whatsoever, known or unknown, which SYSD may now have, has ever had or may have in the future against SASH or the SASH Released Parties arising out of, connected with, or incidental to any of the matters set forth in the Recitals above or to SASH's representation of SYSD in any action or matter whatsoever in which SASH may have advised or represented SYSD at any time from the beginning of the attorney-client relationship between SYSD and SASH until the final execution and delivery of this Agreement to all Parties, except as expressly provided herein. This release is not intended as a release and/or dismissal of any claims against Manuel Paul (including San Diego Superior Court Case No.

37-2015-00003840-CU-NP-CTL) or anyone else other than the named persons and entities who are released herein.

b. SASH's Release and Discharge of SYSD. As part of this Agreement, SASH expressly covenants not to initiate, file or maintain a legal action of any type or nature whatsoever against SYSD for claims, demands, or potential causes of action, whether known or unknown, arising out of, connected with, or incidental to arising out of, connected with, or incidental to any of the matters set forth in the Recitals above or to SASH's representation of SYSD in any action or matter whatsoever in which SASH may have advised or represented SYSD at any time from the beginning of the attorney-client relationship between SYSD and SASH until the final execution and delivery of this Agreement to all Parties. In accordance with this Agreement, SASH does hereby and for and for its past, present and future officers, directors, agents, employees, shareholders, members, partners, successors, predecessors, principals, owners, insurers, affiliates, attorneys, accountants, assigns, heirs, executors, administrators and representatives and all persons and entities acting by, through, under or in concert with them, completely releases, acquits and fully, finally and forever discharges SYSD, its (in each case and as intended third-party beneficiaries) past, present and future officers, directors, agents, employees, shareholders, board members, partners, successors, predecessors, principals, owners, insurers, affiliates, attorneys, accountants, assigns, heirs, executors, administrators and representatives, and all persons and entities acting by, through, under or in concert with them (collectively "the SYSD Released Parties")

from any and all claims, actions, rights, attorneys' fees, obligations, costs, liens, judgments, demands, damages, liabilities, expenses, compensations and causes of action of any and every kind, nature and character whatsoever, known or unknown, which SASH may now have, has ever had or may have in the future against SYSD or the SYSD Released Parties that arise out of, relate to, are connected with, or refer in any way to arising out of, connected with, or incidental to any of the matters set forth in the Recitals above or to SASH's representation of SYSD in any action or matter whatsoever in which SASH may have advised or represented SYSD at any time from the beginning of the attorney-client relationship between SYSD and SASH until the final execution and delivery of this Agreement to all Parties, except as provided herein.

V.

MUTUAL AGREEMENT BY AND BETWEEN
ALL PARTIES

(1) **Mutual Representations and Warranties.** Each Party represents and warrants to the other Parties that no other releases, consents, approvals or settlements are necessary from any other person or entity to release and discharge completely the other Parties and relevant Released Parties from the claims specified herein. Each of the signatories to this Agreement warrants and represents that he, she or it is competent and authorized to enter into and fully perform this Agreement on behalf of the Party for whom he, she or it purports to sign, and that all actions or approvals necessary to enter into and fully perform this Agreement have been obtained and remain in full force and effect. Any

entity signing this Agreement represents and warrants that this Agreement is executed with the authority of its Board of Directors, Membership, or Partnership of said corporation. Each of the signatories to this Agreement further represents and warrants that he, she or it has authority to irrevocably bind all persons and entities in accord with and to the extent set forth in this Agreement. Each Party agrees to fully indemnify, defend and hold harmless all other Parties, including each Party's Released Parties, from and against any and all claims, liabilities, damages or expenses that may be asserted against or incurred by a Party or such Party's Released Parties by one not a party to this Agreement, who claims that his, her or its consent to the terms of this Agreement was required by one of the Parties, in breach of the foregoing representations and warranties.

(2) **Execution Not an Admission.** This Agreement is the result of a settlement and compromise of disputed matters as set forth herein. By entering into this Agreement, no Party hereto admits that the claims of the other are valid or meritorious, and each Party hereto agrees that the terms of this Agreement shall never be used, referred to, or considered as an admission of liability of such claims.

(3) **Furtherance of Agreement.** The Parties agree that they will act in good faith to further facilitate this Agreement and to cooperate with one another in implementing the terms of this Agreement.

(4) **Full and Complete Investigation.** The Parties have made an investigation of the facts pertaining to this settlement and to this Agreement, and

all the matters pertaining thereto, as they deem necessary and appropriate to their decision to enter into this Agreement.

(5) **Attorneys' Fees and Costs in the Underlying Action.** Each Party shall bear and be solely responsible for such Party's attorneys' fees, disbursements, and other costs incurred to date as a result of the Instant Action.

(6) **Legal Representation.** The Parties acknowledge they had the opportunity to receive the advice of independent legal counsel prior to the execution of this Agreement and had the opportunity to receive a full and complete explanation from legal counsel regarding the legal nature and effect of this Agreement, and each Party further represents that he, she or it understands the terms and provisions of this Agreement and their nature and effect. The Parties further represent that they are entering into this Agreement freely and voluntarily. The Parties agree that this Agreement shall be interpreted simply, in accordance with its plain meaning, and shall not be construed or interpreted for or against any Party, regardless of the source of draftsmanship.

(7) **No Reliance on Representations Not in This Agreement.** Other than as set forth herein, including Section IV.2 above, no Party to this Agreement has made any statement or representation to any other Party regarding any fact or right upon entering into this Agreement, and no Party has relied upon any statement, representation or promise of any other Party (or of any Party's Released Parties) in executing this Agreement, or making the settlement provided for herein, except as expressly stated in this Agreement.

(8) **Waiver.** No breach of any provision herein can be waived except in writing by the Party against whom enforcement of the waiver is sought. Waiver of one breach of any provision herein shall not be deemed to be a waiver of any other breach of the same or any other provision herein. Failure on the part of any Party to complain of any act or failure to act of any other Party or to declare any other Party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such Party hereunder.

(9) **Counterpart Copies and Fax or Electronic Signatures.** This Agreement may be executed in counterparts in original or by way of e-mail or facsimile signature. When each Party has signed and delivered such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one and the same agreement which shall be binding upon and effective as to the Parties. No counterpart shall be effective until all Parties hereto have executed and delivered an executed counterpart hereof. In the event this Agreement is executed or delivered via fax or e-mail, the fax copy or printout of such e-mail shall have the same validity as an original for all purposes including but not limited to utilization of the procedures for settling a dispute.

(10) **Successors and Assigns.** This Agreement may not be assigned by any Party without the prior written consent of the other Parties. Subject to the foregoing provisions, this Agreement shall inure to the benefit of the Parties and all Released Parties and shall be binding upon the Parties and their respective heirs, successors and assigns.

(11) **Applicable Law and Venue.** This Agreement is made, executed and entered into and shall be governed by the internal laws of the State of California.

(12) **Confidentiality.** The Parties agree and acknowledge that this Agreement may be disclosed by SYSD pursuant to a Public Records Act Request and/or any other provision of law, including the anticipated disclosure of this Agreement at a public meeting. SYSD may also be required to take action to comply with statute or other legal authority that requires disclosure of documents or information pertaining to this Settlement, including disclosure of this Agreement. The Parties agree not to seek to publicize or gain publicity as to the circumstances and terms of this Settlement Agreement. The Parties agree, acknowledge, represent and warrant that any court, arbitrator or tribunal of competent jurisdiction shall interpret these exceptions narrowly, in each instance, and in favor of preserving the complete confidentiality of this Agreement.

(13) **Non-Disparagement.** The Parties agree that they (and any person or entity acting by, through, under or in concert with them) will not directly or indirectly, in any capacity or manner, make, express, transmit speak, write, verbalize or otherwise communicate in any way (or cause, further, assist, solicit, encourage, support or participate in any of the foregoing), any remark, comment, message, information, declaration, communication or other statement of any kind, whether verbal, in writing, electronically transferred or otherwise, to disparage or defame the other Parties.

(14) **Entire Agreement**. This Agreement is the entire agreement of the Parties relating to the matters stated therein and supersedes any previous oral or written agreements, statements and understandings with respect to such matters.

(15) **Waiver of Civil Code Section 1542**. The Parties further acknowledge that they may hereafter discover facts different from or in addition to those that they now know or believe to be true with respect to any release herein made, and agree that every release herein made is now and will remain effective, notwithstanding such different or additional facts or the discovery thereof. The Parties hereto expressly waive and relinquish any and all rights and benefits conferred upon them by the provisions of Section 1542 of the California Civil Code, which are as follows:

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

The Parties acknowledge, warrant and represent that they are familiar with Civil Code Section 1542 and that the effect and import of that provision has been fully explained to them by their attorneys. There is a risk that, subsequent to the execution of this Agreement, the Parties will incur or suffer loss, damage or injuries related to the subject matter of this Agreement, but which is unknown and unanticipated at the time this Agreement is signed. The Parties hereby assume the above-mentioned risks and understand that this Agreement shall apply to all

unknown and unanticipated claims, losses, damages, or injuries related to the subject matter of this Agreement, as well as those known or anticipated, and upon advice of legal counsel the Parties do hereby waive any and all rights under Civil Code Section 1542.

(16) **Ambiguities.** The Parties and/or their attorneys have participated in the preparation and negotiation of this Agreement and, thus, it is understood and agreed that the general rule that ambiguities are to be construed against the drafter shall not apply to this Agreement. In the event that any language of this Agreement is found to be ambiguous, the Parties shall have an opportunity to present evidence with respect to any such ambiguous language as permitted by California law.

(17) **Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under existing or future applicable laws, such provisions shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement, and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

(18) **Modifications**. This Agreement may only be amended by a written agreement signed by all Parties.

(19) **Materiality**. Each provision of this Agreement shall be considered material for the purpose of establishing a breach of this Agreement.

(20) **Knowing and Voluntary Agreement**. The Parties acknowledge that, before signing this Agreement, they were given sufficient time in which to consider this Agreement. The Parties further acknowledge that: (1) they carefully read this Agreement; (2) they fully understand all of its terms; (3) they are knowingly and voluntarily entering into this Agreement; (4) they are receiving valuable consideration in exchange for their execution of this Agreement; and (5) before signing this Agreement, they had an adequate opportunity to consult their private legal counsel to the extent they each deemed appropriate.

PLEASE READ CAREFULLY.

THIS AGREEMENT INCLUDES A RELEASE OF KNOWN AND UNKNOWN CLAIMS.

THE SIGNATORIES HAVE CAREFULLY READ THIS ENTIRE AGREEMENT. THE SIGNATORIES FULLY UNDERSTAND THE FINAL AND BINDING EFFECT OF THIS AGREEMENT. THE ONLY PROMISES MADE TO ANY SIGNATORY ABOUT THIS AGREEMENT, AND TO INDUCE ITS EXECUTION, ARE CONTAINED IN THIS AGREEMENT. THE SIGNATORIES ARE SIGNING THIS AGREEMENT VOLUNTARILY.

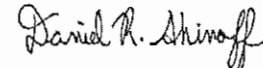
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first written above.

Dated: 09/24/15

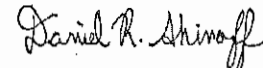

Signature

Antonio Martinez
Print Name
SAN YSIDRO SCHOOL DISTRICT

Dated: 9/29/15



DANIEL R. SHINOFF

Dated: 9/29/15



For STUTZ ARTIANO SHINOFF &
HOLTZ by
for James Holtz (Vice President &
Secretary)

APPROVED AS TO FORM

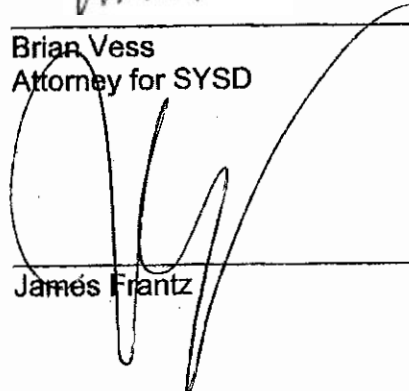
Dated: 9/24/15


William Trejo
Attorney for SYSD

Dated: 9/29/15


Brian Vess
Attorney for SYSD

Dated: 9/28/15


James Frantz

Attorney for SYSD

Dated: 9/29/15

Opal Shee@loskey FOR
Douglas Butz
Attorney for SASH