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20 **UNITED STATES DISTRICT COURT**
21 **NORTHERN DISTRICT OF CALIFORNIA**

22 DENSON M. SALES; ANDRE
23 CLEMONS; ROBERT BEJAR; and
24 MARTIN CHAVEZ on behalf of
25 themselves, all others similarly situated,
26 and on behalf of the general public,

27 Plaintiff,

28 v.

UNITED ROAD SERVICES, INC.;
URS MIDWEST, INC. and DOES 1-
100, inclusive,

Defendants.

Case No. 4:19-cv-08404-JST

*[Assigned to the Honorable Jon S. Tigar;
Department 6]*

**DECLARATION OF DAVID MARA, ESQ.,
IN SUPPORT OF MOTION FOR FINAL
APPROVAL OF CLASS ACTION AND
PAGA SETTLEMENT**

Date: March 7, 2024

Time: 2:00 p.m.

Complaint Filed: November 18, 2019

SAC Filed: May 18, 2023

Trial Date: May 20, 2024

1 I, DAVID MARA, declare the following:

- 2 1. I am President of Mara Law Firm, PC, and counsel of record for the Class in this matter. I
3 am duly admitted to practice before all the courts of the state of California. The following
4 facts are within my personal knowledge and, if called to testify, I could and would
5 competently testify thereto.
- 6 2. I have been practicing law in California since 2004.
- 7 3. I extensively handle employment cases which involve violations of the California Labor
8 Code and Industrial Welfare Commission Wage Orders, such as wage and hour class
9 actions and cases alleging violations of the Private Attorneys General Act of 2004
10 (“PAGA”).
- 11 4. I have litigated over three hundred and fifty (350) class action and PAGA lawsuits. I have
12 been litigating wage and hour class action lawsuits for nearly 20 years. I graduated from
13 California Western School of Law and was admitted to practice law in California in May
14 2004. I primarily handle wage and hour class actions and PAGA actions. I am the President
15 of Mara Law Firm, PC.
- 16 5. I was co-class counsel in *Hohnbaum v. Brinker Restaurant Corp.* (San Diego County
17 Superior Court, Case No. GIC834348) which was the underlying case in the California
18 Supreme Court’s landmark decision in *Brinker Restaurant Corp. v. Superior Court* (2012)
19 53 Cal.4th 1004, in which the California Supreme Court delineated the scope of employer
20 obligations to provide, and employee rights to receive, meal and rest periods under
21 California law. I am frequently called upon to author Amicus Curiae briefs on behalf of
22 Consumer Attorneys of California (“CAOC”). For example, I authored the Amicus Curiae
23 briefs on behalf of CAOC in *Augustus v. ABM Security Services, Inc.* (2016) 2 Cal.5th 257,
24 (The California Supreme Court ruling that, like meal periods, employers must relieve
25 employees of all duty and relinquish all control to satisfactorily discharge its obligation to
26 authorize and permit rest periods.); *Frlekin v. Apple, Inc.* (2020) 8 Cal.5th 1038 (The
27 California Supreme Court ruling that the time spent on the employer’s premises waiting
28 for, and undergoing, required exit searches of packages, bags, or personal technology

1 devices voluntarily brought to work is compensable hours worked within the meaning of
2 the Wage Orders.); *Oliver v. Superior Court* (2021) California Court of Appeal Case No.
3 H049185 (A brief asking the California Court of Appeal for the Sixth Appellate District to
4 determine whether mandatory drive time of personal vehicles should be considered hours
5 worked within the meaning of the Wage Orders' suffered or permitted test.). *Davidson v.*
6 *O'Reilly Auto Enterprises, LLC* (9th Cir., 2020; Docket No. 18-56188)(a brief seeking
7 Review *En Banc* of an order denying class certification in a wage and hour matter). I am
8 also a member of CAOC's Amicus Committee that determines the cases in which the
9 organization will agree to provide amicus support.

10 6. My firm has been named as class counsel in a number of wage and hour class actions in
11 which the Court granted the plaintiff's motion for class certification. For example, my firm
12 has been named class counsel: *Mario Norona v. B&G Delivery System, Inc.* (Sacramento
13 County Superior Court, Case No. 34-2015-00186826-CU-OE-GDS); *Jerald Schroeder v.*
14 *YRC, Inc.; et al.* (Central District of California, Case No. 12-cv-01374-TJH); *John Martin*
15 *v. Sysco Corporation, et al.* (Eastern District of California, Case No. 1:16-cv-00990-DAD-
16 SAB); *William Smith v. Werner Enterprises, Inc. d/b/a C.L. Werner, Inc.* (District of
17 Nebraska, Case No. 8:15-cv-287); *Thomas Perez v. City of San Diego* (San Diego County
18 Superior Court, Case No. 37-2014-00016621-CU-OE-CTL); *Eric Mendez v. M&N*
19 *Consulting, Inc. dba A-Line Messenger Service* (San Bernardino County Superior Court,
20 Case No. CIVDS1923624); *Denson Sales v. Professional Auto Transport, Inc. et al.* (San
21 Bernardino County Superior Court, Case No. CIVDS2010153); *Sonny Williams v. Hansen*
22 *and Adkins Auto Transport, Inc.; et al.* (San Bernardino County Superior Court, Case No.
23 CIVDS2020832); and *Bobby Williams v. Mohsen Transport, Inc.* (San Diego County
24 Superior Court, Case No. 37-2019-00063361-CU-OE-CTL).

25 7. My firm has also been named as class counsel in numerous cases during the settlement
26 process. Here is a non-exhaustive list of cases where my firm has been named as class
27 counsel in cases during the settlement process: *Kenneth Cox v. 3PL Worx, et al.* (Yolo
28 County Superior Court, Case No. CV-18-100); *Brian Davidson v. A&B Trucking Services,*

1 *Inc.* (Kern County Superior Court Case No. BCV-16-102985); *Alex Vega, et al. v. Advance*
2 *Beverage Co., Inc.* (Kern County Superior Court, Case No. BCV-16-100848); *Jaime Ruiz*
3 *v. Altura Centers for Health* (Kern County Superior Court, Case No. BCV-19-101577);
4 *George Zamudio v. AmeriPride Service, Inc.* (Alameda County Superior Court, Case No.
5 RG1809666); *Richard Hendricks v. Antonini Freight Express, Inc.* (San Joaquin County
6 Superior Court, Case No. STK-CV-UOE-2016-6999); *Alton Davis v. Apria Healthcare*
7 *Group, Inc.* (San Diego County Superior Court, Case No. 37-2014-00004724-CU-OE-
8 CTL); *Alan Atchison v. Ashley Furniture Industries, Inc., et al.* (Central District of
9 California, Case No. 17-cv-00528-JAK-SP); *Bernard Payton v. Atech Logistics, Inc.*
10 (Sonoma County Superior Court, Case No. SCV 258595); *Ramon Jenkins v. Compass*
11 *Group USA, Inc., et al.* (Yolo County Superior Court, Case No. CVCV-18-747); *Timothy*
12 *Spikes, et al. v. Bear Trucking, Inc., et al.* (San Bernardino County Superior Court, Case
13 No. CIVDS1715151); *Joshua Turpen v. Benjamin's Transfer Inc.* (Solano County Superior
14 Court, Case No. FCS048845); *Cesar Mendoza v. Bi-Rite Food Service, Inc.* (San Mateo
15 County Superior Court, Case No. 17CIV02044); *Terrance Bailey v. Blue Apron, LLC; et*
16 *al.* (Northern District of California, Case No. 18-cv-07000-VC); *Jeffrey Weast v.*
17 *California Aseptic Beverages, LLC* (San Bernardino County Superior Court, Case No.
18 CIVDS1825256); *Michael Valentich v. Hub Construction Specialties, Inc.* (San Bernardino
19 County Superior Court, Case No. JCCPDS4893); *Jose De Jesus Ortega Velazquez v.*
20 *Hunter Landscape, Inc.; et al.* (San Bernardino County Superior Court, Case No.
21 CIVDS1928062); *Adrian Diaz v. Keystone Automotive Operations, Inc.* (Riverside County
22 Superior Court, Case No. RIC1817450); *Arturo Gonzalez v. NCI Group, Inc. dba NCI*
23 *Building Systems* (Eastern District of California, Case No. 18-cv-00948-AWI-SKO); *Larry*
24 *Perez v. The Nielsen Company (US), LLC* (Orange County Superior Court, Case No. 30-
25 2021-01194324-CU-OE-CXC); *Erik Martinez v. Patrick Industries, Inc.* (San Bernardino
26 County Superior Court, Case No. CIVDS2009663); *Randolph Fitch v. Shaw Industries,*
27 *Inc.; et al.* (San Bernardino County Superior Court, Case No. CIVSB2024674); *Joshua*
28 *Rael v. Intercontinental Hotels Group Resources, Inc.* (Los Angeles County Superior

1 Court, Case No. 19STCV16010); and *Aaron Romero v. Vitro Flat Glass, LLC* (Kern
2 County Superior Court, Case No. BCV-21-101357).

3 8. On November 18, 2019, Plaintiff Denson M. Sales filed his Class Action Complaint for
4 Damages, Injunctive Relief, Declaratory Relief, and Restitution in the Superior Court of
5 Alameda County, California, under Case No. HG19043648 (the “*Sales Action*”), alleging
6 that URS had misclassified him as an independent contractor and asserting a number of
7 wage-and-hour claims under California law. On December 24, 2019, URS removed the
8 case to this Court.

9 9. On February 11, 2020, Plaintiff Andre Clemons filed his Class Action Complaint for
10 Damages and Injunctive Relief in the Superior Court of Alameda County, California, under
11 Case No. RG20054053 (the “*Clemons Action*”), alleging that URS had misclassified him
12 as an independent contractor and asserting a number of wage-and-hour claims under
13 California law. On April 3, 2020, URS removed the case to this Court under Case No. 4:20-
14 cv-02274.

15 10. On April 23, 2020, the Court related the *Sales Action* with the *Clemons Action*. On May
16 4, 2020, the Court granted a request to permit Plaintiff Sales and Plaintiff Clemons to file
17 a joint complaint incorporating Plaintiff Clemons and his claims into the *Sales Action*. The
18 *Clemons Action* was subsequently dismissed on May 27, 2020.

19 11. Plaintiff Sales and Plaintiff Clemons jointly filed a First Amended Complaint on May 4,
20 2020, asserting the following Claims under California law: (1) failure to pay all straight
21 time wages at statutory minimum wage; (2) failure to provide meal periods; (3) failure to
22 authorize and permit rest periods; (4) failure to reimburse/illegal deductions; (5) violations
23 of unfair competition law; (6) knowing and intentional failure to properly itemize wage
24 statements; (7) failure to timely pay all wages owed at termination; and (8) violations of
25 California’s Private Attorneys General Act (“PAGA”). Plaintiffs Sales and Clemons
26 brought these claims on behalf of themselves and all others similarly situated.

27 12. On May 18, 2023, a Second Amended Complaint was filed pursuant to which Plaintiffs
28 Robert Bejar and Martin Chavez were added into this action as plaintiffs and class

1 representatives.

2 13. On May 17, 2023, Plaintiffs Robert Bejar and Martin Chavez filed an amended PAGA
3 letter with the Labor and Workforce Development Agency (“LWDA”).

4 14. URS filed a Motion to Dismiss Plaintiff Clemons’ and Plaintiff Sales’ Meal and Rest Break
5 Claims on May 18, 2020. URS argued that the FMCSA hours-of-service preemption
6 determination prohibited enforcement of any meal and rest break claims with regard to
7 interstate drivers of commercial motor vehicles. After briefing was completed, the Court
8 granted this motion on July 17, 2020, and dismissed Plaintiff Clemons’ and Plaintiff Sales’
9 second and third causes of action with prejudice.

10 15. Plaintiff Clemons and Plaintiff Sales filed a Motion for Class Certification on April 29,
11 2021. Plaintiff Clemons and Plaintiff Sales requested certification of the following class:
12 “All individuals who signed Independent Contractor Service Agreements with URS, who
13 were assigned to a business unit in California, and who drove in California at any time
14 from November 18, 2015, to the date the Court enters an order certifying the matter as a
15 class action.” After briefing was completed, the Court granted this motion on March 29,
16 2022, and certified the Class as defined.

17 16. Class Counsel have engaged in substantial investigation and discovery to assess the relative
18 merits of the claims and URS’s defenses to them. The discovery, investigation, and
19 litigation process has been adequate to give Class Counsel a sound understanding of the
20 value, strength, and vulnerabilities of the Class’s claims. Specifically, Class Counsel has
21 conducted discovery and an investigation into the claims during the prosecution of this
22 action. This discovery, investigation, and prosecution has included, among other things,
23 (a) holding multiple meetings with Plaintiffs and Class Members; (b) serving substantial
24 discovery on URS, including Class-wide discovery; (c) inspecting and analyzing
25 documents and data produced by Plaintiff Clemons and Plaintiff Sales, Class Members,
26 and URS; (d) analyzing the legal positions taken by URS and the developments in the law
27 related to various claims; (e) defending class representative depositions and the depositions
28 of three Class Members; (f) deposing URS’s Rule 30(b)(6) designee; (g) engaging in

briefing on the motion to dismiss; (h) prevailing on a contested motion for class certification; (i) communicating and holding meetings with Class Members; (j) analyzing potential damages before and throughout the settlement negotiation process; (k) researching the applicable law with respect to the Class's claims and URS' potential defenses; and (l) assessing the risk of further litigation.

17. After conducting an analysis of the materials URS produced, Class Counsel also drew on their extensive experience in similar cases to assess the strengths and weaknesses of Plaintiffs' claims. This discovery allowed Class Counsel to assess the merits and value of Plaintiffs' claims and defenses thereto, if a settlement was not reached. Based on their review and independent investigation into the facts and claims asserted in this matter, Class Counsel believe that this settlement is fair, reasonable, and adequate and is in the best interest of the class.

18. This settlement was reached with the assistance of an experienced mediator, Jeffrey Ross, after arms-length bargaining by the Parties at a formal mediation and extensive subsequent post-mediation discussions facilitated through the mediator. The Parties' settlement has been memorialized in a long form settlement agreement. The Parties Joint Stipulation of Settlement and Release of Class Action Claims (hereinafter "Joint Stipulation" or "Settlement Agreement") is attached hereto as **Exhibit 1**.

19. Plaintiffs, and the certified Class, are truck drivers who contracted with and drove for URS during the Class Period. Each of the Class Members was classified by URS as an independent contractor. The core question in the case is whether URS correctly classified the drivers as independent contractors. Plaintiffs assert that URS's classification was in error, and that the drivers were URS's employees under California law. As such, all the claims alleged in this matter are based on URS's failure to classify Class Members as employees. Put differently, if Plaintiffs lose on this single issue, they will take nothing from this matter.

20. In its Order Granting Plaintiffs' Motion for Class Certification, the Court indicated that the multi-factored, "right-to-control" employment test articulated by the California Supreme

1 Court in *S.G. Borello & Sons, Inc. v. Department of Industrial Relations* (“*Borello*”) (1989)
2 48 Cal.3d 341 would control the outcome of whether the class were employees or
3 independent contractors. (See ECF No. 53 at fn 4 (“Because none of Plaintiffs’ claims are
4 grounded in the state wage orders, the ABC Test does not apply to their claims and the
5 Court does not evaluate the predominance question under the ABC test.”)).

6 21. Based on deposition testimony and documents produced in this matter, Plaintiffs contend
7 that URS substantially controls Class Members, and that Plaintiffs would be able to provide
8 evidence to meet the factors delineated in the *Borello* employment test to show that Class
9 Members should have been classified as employees. URS vehemently denies these
10 contentions.

11 22. Plaintiffs assert that URS misclassified Class Members as independent contractors, and,
12 therefore, that Class Members were entitled to protections under the California Labor Code
13 that they were not afforded while working with URS. For example, under the contracts
14 Class Members signed with URS, Class Members were responsible for paying business
15 expenses such as fuel, maintenance, and insurance, that they would not be responsible for
16 if they were employees. In addition, they had to use their personal cell phones in the
17 performance of their work duties. Under California Labor Code § 2802, employees must
18 be reimbursed for necessary business expenses. Plaintiffs contend that Class Members
19 should have been classified as employees and, thus, should have been reimbursed for these
20 business expenses.

21 23. Plaintiffs also assert that due to their alleged misclassification, they were not provided with
22 meal periods, rest periods, itemized wage statements and waiting time penalties that were
23 owed to them under California law. Plaintiffs further assert that the contracts they operated
24 under only paid them for the time they were driving and did not pay them for the time they
25 were performing non-driving tasks such as pre-trip and post-trip inspections.

26 24. Class Members can only recover if they are successful in showing URS misclassified them
27 as independent contractors, rather than employees. In other words, Class Members must
28 show they were employees to recover anything. If they fail to show that threshold issue, no

1 matter how strong their claims are against URS, the Class will recover nothing. Thus, any
2 risk analysis associated with the claims must start foundationally with the existing dangers
3 that could prevent the Class Members from proving they are employees, rather than
4 independent contractors.

5 25. The test that will determine whether the Class of drivers are employees of URS is the right-
6 to-control test articulated by the California Supreme Court, in *Borello*. To be employees
7 under that test, URS must be found to possess “the right to control the manner and means
8 of accomplishing the result desired.” *Ayala v. Antelope Valley Newspapers, Inc.* (2014) 59
9 Cal.4th 522, 532. Courts also must look at secondary factors under the *Borello* test in the
10 determination of whether the Class of drivers are employees. These secondary factors
11 include:

12 (a) whether the one performing services is engaged in a distinct occupation or
13 business; (b) the kind of occupation, with reference to whether, in the locality, the
14 work is usually done under the direction of the principal or by a specialist without
15 supervision; (c) the skill required in the particular occupation; (d) whether the
16 principal or the worker supplies the instrumentalities, tools, and the place of work
17 for the person doing the work; (e) the length of time for which the services are to
18 be performed; (f) the method of payment, whether by the time or by the job; (g)
19 whether or not the work is a part of the regular business of the principal; and (h)
20 whether or not the parties believe they are creating the relationship of employer-
21 employee.

22 *Borello*, 48 Cal. 3d at 351.

23 26. Under the facts, Plaintiffs believe URS controls nearly every aspect of their work of hauling
24 cars and, at a minimum, “retains all *necessary* control” over the drivers. *Borello, supra*, 48
25 Cal.3d at 357 (emphasis in original). For instance, through the contracts, referred to as
26 Independent Contractor Service Agreements (“ICSAs”), URS requires drivers to “full
27 comply with all operating procedures of [URS] and all reasonable specifications of the
28 shipper,” maintain equipment up to URS’s standards and in accordance with URS’s
inspection program, and report to dispatch at various points during hauls.

27 27. Despite this confidence, two very real obstacles stand in the way of the Class successfully
28 being found to be employees. One, the Ninth Circuit, in *Bowerman v. Field Asset Services*,

1 *Inc.* (9th Cir. 2023) 60 F.4th 459¹, recently issued a ruling that made it substantially more
2 difficult to be found an employee under *Borello*. Two, an employment relationship cannot
3 be established on the basis of mandates and policies that are implemented to comply with
4 federal regulations.

5 28. In *Bowerman*, the Ninth Circuit reversed the district court’s finding that class members
6 were employees. Although the district court held that “[n]o reasonable juror could review
7 the Vendor Packets, the work orders, the trainings, the Vendor Profiles, the discipline, and
8 the Vendor scorecards, and conclude [that] any of the Vendors are independent
9 contractors[,]”² the Ninth Circuit rejected that holding, arguing that not all controls are
10 treated equally under the *Borello* test. Specifically, the Ninth Circuit ruled that “if control
11 may be exercised only as to the result of the work and not the means by which it is
12 accomplished, an independent contractor relationship is established.” *Bowerman, supra*,
13 60 F.4th at 474. The Ninth Circuit found that all the facts on which the *Bowerman* plaintiffs
14 relied to establish an employment relationship under *Borello* could reasonably be
15 interpreted as controlling the results of the work. *Id.* at 474-476. The Ninth Circuit also
16 found that many of *Borello*’s secondary factors “tip in favor of independent contractor
17 status.” *Id.* at 476. Specifically, the Ninth Circuit ruled that “the parties intent to create an
18 independent contractor relationship, the class members’ opportunity for profit or loss, the
19 class members’ employment of assistants” tended to show an independent contractor
20 relationship. *Id.*

21 29. Under *Bowerman*, this Court or a jury could find that many of the controls Plaintiffs rely
22 on go to controlling the results of the timely delivery of cars for URS’ customers.
23 Additionally, like *Bowerman*, URS drivers have the ability to hire assistants to perform
24 their work under the ICSA. Indeed, one of the named class representatives in this matter
25 hired numerous drivers to perform work under his ICSAs with URS. Thus, like *Bowerman*,

26 ¹ This opinion was initially issued on July 5, 2022 at 39 F.4th 652. Rehearing *En Banc* was
27 requested and denied. The reviewing Panel, however, ordered the decision amended. Thus, the
2023 decision as cited above is the amended version of the original decision.

28 ² *Bowerman, supra*, 60 F.4th at 466.

1 this Court or jury could find that this “tips in favor of” an independent contractor
2 relationship.

3 30. Although my co-counsel and I believe *Bowerman* is at odds with other Ninth Circuit cases
4 and is distinguishable on certain grounds, it remains binding precedent and counsel does
5 not know how this Court or a jury will apply *Bowerman*. In addition, even if this Court
6 were to rule in Plaintiffs’ favor and find for employment status, like the district court in
7 *Bowerman*, that decision could be similarly overturned by the Appeals Court. The danger
8 of losing on this issue cannot be understated. If the employment status issue is lost, the
9 Class takes nothing.

10 31. Even if Plaintiffs prevail over *Bowerman*, “[a] putative employer does not exercise any
11 degree of control merely by imposing requirements mandated by government regulation.”
12 *Linton v. DeSoto Cab Co., Inc.* (2017) 15 Cal. App. 5th 1208, 1223. The contractual
13 relationship between URS and the Class Members is governed by the federal motor carrier
14 leasing regulations, which set forth the requirements for a written lease between the
15 owners/lessors of motor vehicle equipment (in this case, the Class Members) and the
16 lessees of that equipment (in this case, URS).

17 32. Accordingly, URS asserts that any policies it has that cover independent contractors are in
18 place to meet these requirements. Significantly, one of these requirements is found in 49
19 C.F.R. § 385.5. Under 49 C.F.R. § 385.5, “[t]o meet the safety fitness standard, the
20 motor carrier must demonstrate it has adequate safety management controls in place,
21 which function effectively to ensure acceptable compliance with applicable safety
22 requirements[.]” (Emphasis added). URS argues that the policies Plaintiffs rely on to
23 establish an employment relationship are in place to meet this broad regulation. Put
24 differently, if the policies and practices Plaintiffs rely on as supporting an employment
25 relationship are found to be an offshoot of URS’s federal mandate that it maintain
26 “adequate safety management controls,” they cannot establish an employment relationship
27 and the Class would take nothing.

28 33. Although my co-counsel and I believe that URS’ policies and rights to control go beyond

1 simply trying to comply with federal safety mandates or other federal regulations, some of
2 the “control” facts are safety-oriented, such as accident reporting, maintaining the
3 equipment according to URS’ specifications, and load securement. With the potential
4 exclusion of some, many, or all facts related to URS’ control from the employment
5 question under *Borello*, the probability of losing on the employment issue increases. Given
6 that a loss on that issue would result in the Class taking nothing from this action,
7 considerable weight had to be given to it in evaluating settlement.

8 34. Although prevailing on the employment issue is a necessary predicate to obtaining any
9 money here, success on the issue does not guarantee the Class will recover anything. It just
10 gets them to the next step: showing URS violated Labor Code section 2802 by failing to
11 reimburse Class Members for costs such as insurance, fuel, maintenance, and damage
12 claims and violated California’s minimum wage laws. As the following shows, many real
13 and considerable obstacles threaten the success of these underlying claims.

14 35. URS has indicated that it intends to file a motion for summary judgment of Plaintiffs’
15 Business Expense Reimbursement claims under Labor Code § 2802 on the grounds that
16 the claims are preempted under the federal Truth-in-Leasing regulations. Specifically, URS
17 was going to argue that all but Plaintiffs’ claims for cell phone reimbursements are
18 preempted and must be dismissed. If successful, this argument would have absolutely
19 gutted the value of the most substantial claims in this case. Despite firmly believing the
20 claims are not preempted, Plaintiffs must deal with the unfortunate and very real fact that
21 three out of five cases in the ninth circuit and California to deal with the issue have found
22 in favor of preemption.

23 36. Given the fact that a majority of courts faced with the issue have ruled against the Plaintiffs’
24 interest, a considerable amount of weight had to be given to the prospect that Plaintiffs here
25 would similarly succumb to a preemption argument on their most valuable expense
26 reimbursement claims.

27 37. Alternatively, URS argues that it pays Class Members enhanced compensation to cover
28 business expenses. URS relies on the case *Gattuso v. Harte-Hanks Shoppers, Inc.*, 42 Cal.

1 4th 554 (2017).

2 38. Plaintiffs disagree that URS pays Class Members an enhanced compensation and rely on
3 the case *Espejo v. The Copley Press, Inc.*, 13 Cal. App. 5th 329, 367 (2017). Plaintiffs
4 argue that URS' compensation is not the same as in *Gattuso* because URS deducts amounts
5 for costs before they pay the compensation and there is no way for drivers to identify what
6 amount is being paid for labor performed and the amount being paid as reimbursement for
7 business expenses.

8 39. Again, if Plaintiffs had lost on this issue, their most valuable claim would have been gutted.

9 40. Plaintiffs claim the ICSAs fail to pay for non-driving time and only pay for the actual
10 hauling of cars. Thus, Plaintiffs argue when they are not driving, the ICSAs pay them
11 nothing, which violates California's minimum wage laws. Whether any compensation is
12 owed to employees is a matter determined primarily by contract, which, here, would be the
13 ICSAs. *Oman v. Delta Airlines, Inc.* 9 Cal.5th 762, 782.

14 41. In opposing this claim, URS relies on the case *Salter v. Quality Carriers*, 20-cv-479, 2021
15 U.S. Dist. LEXIS 213111 *1 (C.D. Cal. Oct. 27, 2021). In *Salter*, the Central District of
16 California granted summary judgment in the employer's favor of the plaintiff's cause of
17 action for failure to pay minimum wage. *Id.* at *30-*32. There, the parties entered into an
18 agreement that outlined the compensation to be paid. The agreement set forth compensation
19 that the plaintiff would receive for services which were defined to include "transport, load,
20 unload, and perform other transportation-related services." *Id.* at *30. The plaintiff earned
21 an adjusted gross revenue for each load tendered to him. *Id.* The *Salter* court found that the
22 plaintiff understood that his compensation pursuant to the parties' agreement "was for
23 'transportation-related services,' which included tasks beyond merely driving his truck
24 from one location to another." *Id.* at *32.

25 42. Here, if the ICSAs can be read to compensate for transportation related services, like *Salter*,
26 they would compensate for all tasks, including non-driving time, associated with
27 transporting. Therefore, considerable deference had to be paid to the fact this Court or a
28 jury could find the ICSAs did not contemplate compensation of specific acts – i.e., driving

1 – but paid for everything, which would result in Class Members taking nothing for their
2 minimum wage claims.

3 43. Early in the case, this Court granted URS’ motion to dismiss Plaintiffs Sales’ and Clemons’
4 claims for meal and rest periods with prejudice pursuant to the FMCSA’s December 28,
5 2018, Decision and Order. In that Decision and Order, the FMCSA ordered that
6 California’s meal and rest period claims were preempted. The Ninth Circuit ruled that the
7 agency did not exceed its authority in issuing the decision. *Int’l Bhd. Of Teamsters, Local*
8 *2785 v. Fed. Motor Carrier Safety Administration* (9th Cir. 2021) 986 F.3d 841, 846.
9 (“Because the agency’s decision reflects a permissible interpretation of the Motor Carrier
10 Safety Act of 1984 and is not arbitrary or capricious, we deny the petitions for review.”).

11 44. The Ninth Circuit, however, left open the question of whether that Decision and Order of
12 the FMCSA could apply to claims retroactive to its issuance date of December 28, 2018.
13 The Ninth Circuit, however, answered that question in the affirmative, in *Valiente v. Swift*
14 *Transportation Co. of Arizona, LLC* (9th Cir. 2022) 54 F.4th 581, 587. (Finding “Congress
15 and the FMCSA have spoken with a clear voice in prohibiting enforcement of California’s
16 MRB rules[, and] [a]llowing Plaintiffs to move forward with their claims would require
17 this Court to act in opposition to that decree.”). Thus, the meal and rest period claims are
18 not part of the class certification order here and the only potential value of meal and rest
19 period claims lies in the remote and totally unknowable prospect that the agency may
20 reverse course at some point. There is no evidence the agency is going to change its
21 opinion.

22 45. As to the waiting time penalties claims, URS argues that Plaintiffs would not be able to
23 prove that URS “willfully” failed to pay Class Members the appropriate wages due upon
24 separation of employment. “A willful failure to pay wages within the meaning of Labor
25 Code Section 203 occurs when an employer intentionally fails to pay wages to an employee
26 when those wages are due. However, a good faith dispute that any wages are due will
27 preclude imposition of waiting time penalties under Section 203.” Cal. Code Regs. Tit. 8
28 § 13520. “A ‘good faith dispute’ that any wages are due occurs when an employer presents

1 a defense, based in law or fact, which would preclude any recovery on the part of the
2 employee. The fact that a defense is ultimately unsuccessful will not preclude a finding
3 that a good faith dispute did exist.” *Id.*

4 46. URS contends that any failure to pay wages due at the separate of employment was not
5 willful. URS argues that it would not be liable for waiting time penalties because a “good
6 faith dispute” exists over the payment of those wages. *See* Cal. Code Regs. Tit. 8 § 13520;
7 *Amaral v. Cintas Corp. No. 2* (2008) 163 Cal.App.4th 1157, 1201.

8 47. As to Plaintiffs’ wage statement claim, URS asserts that any violation of California Labor
9 Code § 226 was not “knowing and intentional.” *See* Cal. Lab. Code § 226(e) (“An
10 employee suffering injury as a result of a **knowing and intentional** failure by an employer”
11 may recover damages”) (emphasis added); *Amaral v. Cintas Corp. No. 2* (2008) 163
12 Cal.App.4th 1157, 1195 (“Some statutory penalties are imposed only if an employers’
13 violation was ‘willful’ or ‘knowing.’ . . . [S]ection 226, subdivision (e) penalizes an
14 employer’s ‘knowing and intentional’ failure to provide itemized wage statements under
15 section 226, subdivision (a)[.]”). URS also contends that employees cannot show that they
16 have suffered an injury because of any potential violation of California Labor Code § 226.

17 48. It should be noted that the waiting time penalties claim is derivative of the meal period,
18 rest period, and unpaid wages claims. As such, if those claims fail, the waiting time
19 penalties claim would also be extinguished.

20 49. Plaintiffs’ PAGA claims are based upon the same underlying conduct as Plaintiffs’ class
21 claims. As such, they are subject to the same risks of establishing employment status and
22 the underlying claims are subject to the same risks on the merits.

23 50. In addition, there is the risk that the Court would reduce the maximum penalty amount, if
24 established. Section 2699, subdivision (e)(2) provides that “[i]n any action by an aggrieved
25 employee seeking recovery of a civil penalty available under subdivision (a) or (f), a court
26 may award a lesser amount than the maximum penalty amount specified by this part if,
27 based on the facts and circumstances of the particular case, to do otherwise would result in
28 an award that is unjust, arbitrary, oppressive, or confiscatory.” In *Thurman v. Bayshore*

1 *Transit Management, Inc.*, the court found that penalties may be reduced when a defendant
2 has taken its obligations to comply with the law seriously. *Thurman v. Bayshore Transit*
3 *Management, Inc.*, 203 Cal. App. 4th 1112, 1135-1136 (2012). URS argues that if the case
4 were to continue in litigation, it would be able to show that it took its obligations to comply
5 with the law seriously. As such, if Plaintiffs were able to prevail on the merits of their
6 PAGA claims, the Court may reduce the maximum penalty amount.

7 51. As noted, Plaintiffs PAGA claims are based on the same alleged unlawful conduct as their
8 class claims. Because of this, the likelihood of the Court reducing the PAGA penalties
9 awarded to Plaintiffs and the Aggrieved Individuals – assuming liability is proven as to
10 each of Plaintiffs’ claims – is higher in this case where Class Members would be receiving
11 damages for the same conduct under both the class claims and the PAGA claims. URS
12 argues that this would be an unjust double recovery and would lead the Court to reducing
13 any PAGA penalty amount.

14 52. Should litigation continue, there is also the risk that Plaintiffs may not be able to maintain
15 certification of the Class or of a subset of Class Members. Specifically, URS argues that if
16 litigation were to continue, it would move to decertify a subset of the Class Members that
17 used assistant drivers. URS contends that decertification is proper because some Class
18 Members used assistant drivers and Plaintiffs will not be able to show class-wide data
19 reflecting which routes were driven by a Class Member and which were driven by a
20 secondary driver utilized by a Class Member. This is important because, if there is no way
21 to determine who drove each load there is no way to determine who incurred damages, i.e.,
22 who incurred expenses or who incurred wage loss.

23 53. URS contends that to try to determine who was injured would prove unmanageable. URS
24 relies on the rationale in the case *Villapando v. Excel Direct*. See *Villalpando v. Exel Direct*
25 *Inc.*, 12-cv-04137, 161 F. Supp. 3d 873 (N.D. Cal. May 20, 2016). In *Villapando*, the
26 Northern District decertified a portion of a certified class for similar reasons that URS
27 presents here. The court in *Villapando* decertified class members who utilized secondary
28 drivers as to all damages. *Id.* at 880. The *Villapando* court found that class members who

1 used secondary drivers could not recover damages for hours worked, miles driven, and
2 expenses incurred by secondary drivers. *Id.* at 881. The *Villapando* court found that the
3 challenge occurred in determining as to these class members what proportion of the driving
4 was personally performed by the class member and what portion of the driving was done
5 by assistant drivers. *Id.* On this basis, the *Villapando* court found that in determining
6 damages for these class members, individual issues overwhelmed common ones and
7 decertification was proper. *Id.* 881-882.

8 54. For these reasons, while the Court has already granted class certification, Plaintiffs would
9 face challenges in maintaining that certification through trial.

10 55. Attached hereto as **Exhibit 2** is an exemplar of an Independent Contractor Service
11 Agreement.

12 56. The preliminary approval motion and supporting documents were uploaded to the Labor
13 Workforce Development Agency. Plaintiffs did not receive a response or objection to the
14 settlement from the LWDA.

15 57. The final approval motion and supporting documents were uploaded to the Labor
16 Workforce Development Agency. Attached hereto as **Exhibit 3** is a confirmation received
17 as a result of this upload.

18 I hereby declare under penalty of perjury under the laws of the United States of America
19 that the foregoing is true and correct.

20 Dated: February 8, 2024

MARA LAW FIRM, PC

21
22 /s/ David Mara
23 David Mara, Esq.
24 Representing the Class
25
26
27
28

Exhibit 1

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

DENSON M. SALES; ANDRE
CLEMONS; ROBERT BEJAR; and
MARTIN CHAVEZ on behalf of
themselves, all others similarly situated,
and on behalf of the general public,

Plaintiffs,

v.

UNITED ROAD SERVICES, INC.;
URS MIDWEST, INC. and DOES 1-
100, inclusive,

Defendants.

Case No. 4:19-cv-08404-JST

*[Assigned to the Honorable Jon S. Tigar;
Department 6]*

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

Complaint Filed: November 18, 2019
SAC Filed: May 18, 2023
Trial Date: None Set

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1 JOINT STIPULATION OF SETTLEMENT AND RELEASE OF CLASS ACTION
2 CLAIMS

3 This Joint Stipulation of Settlement and Release of Class Action Claims (Stipulation) is
4 made and entered into by Signing Plaintiffs Robert Bejar and Martin Chavez (“**Signing**
5 **Plaintiffs**”) and the Certified Class, as defined below, on the one hand, and Defendants, URS
6 Midwest, Inc. d/b/a United Road and United Road Services, Inc. (collectively “URS”), on the other
7 hand. This Stipulation is subject to the approval of the Court under Rule 23(e) of the Federal Rules
8 of Civil Procedure (Rule 23(e)) and is made for the purpose of consummating settlement of this
9 Action, as defined below, on a classwide basis subject to the following terms and conditions. As
10 detailed below, in the event the Court does not enter an order granting final approval of the
11 Stipulation or the conditions precedent are not met for any reason, this Stipulation shall be null
12 and void and shall have no force or effect whatsoever.

13 **I. DEFINITIONS**

14 As used in this Stipulation, the following terms shall have the meanings specified below.
15 To the extent terms or phrases used in this Stipulation are not specifically defined below, but are
16 defined elsewhere in this Stipulation, they are incorporated by reference into this definition section.

17 **1. Action.** “Action” shall mean the civil action entitled *Denson M. Sales and Andre*
18 *Clemons, on behalf of themselves, all others similarly situated, and on behalf of the general public,*
19 *v. United Road Services, Inc. and URS Midwest, Inc.*, Case No. 4:19-cv-08404-JST, pending in
20 the U.S. District Court for the Northern District of California.

21 **2. Administrative Expenses.** “Administrative Expenses” shall include any and all
22 costs incurred in connection with the Settlement Administrator’s work.

23 **3. CAFA Notice.** “CAFA Notice” shall mean the notice of this Stipulation required
24 to be served by URS with the appropriate federal and state agencies as required by 28 U.S.C.
25 § 1715(b).

26 **4. Claims.** “Claims” shall mean the claims for relief asserted in the Second Amended
27 Class Action Complaint: (1) failure to pay all straight time wages at statutory minimum wage; (2)

1 failure to provide meal periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 9-2001(11); Cal.
2 Code Regs., tit. 8 § 11090); (3) failure to authorize and permit rest periods (Lab. Code § 226.7;
3 IWC Wage Order No. 9-2001(12); Cal. Code Regs. Title 8 § 11090); (4) failure to reimburse/illegal
4 deductions (Lab. Code §§ 221, 2802, Cal. Regs., tit. 8, § 11090(8)); (5) violation of Unfair
5 Competition Law (Bus. & Prof. Code § 17200, *et seq.*); (6) knowing and intentional failure to
6 properly itemize wage statements (Lab. Code § 226); (7) failure to timely pay all wages owed at
7 termination (Lab. Code § 203); and (8) violations of California’s Private Attorneys General Act
8 (“PAGA”) (Lab. Code § 2699, *et seq.*).

9 **5. Class.** “Class” shall mean all individuals who signed Independent Contractor
10 Service Agreements with URS, who were assigned to a business unit in California, and who drove
11 in California at any time from November 18, 2015 to March 29, 2022. If the individual executing
12 the Independent Contractor Service Agreement did so on behalf of a corporation or LLC, then the
13 individual or individuals who were principals or owners of the corporation or LLC shall be
14 considered part of the Class.

15 **6. Class Counsel.** “Class Counsel” shall mean Mara Law Firm, 2650 Camino Del Rio
16 N., Suite 302, San Diego, California 92108, and Hunter Pyle Law, 505 14th Street, Suite 600,
17 Oakland, California 94612.

18 **7. Class List.** “Class List” shall mean the list of names, Social Security numbers, last-
19 known addresses, phone numbers, and email addresses, and contract lease and termination dates
20 of Class Members.

21 **8. Class Member.** “Class Member” shall mean any person who is a member of the
22 Class, or, if such person is incompetent or deceased, the person’s legal guardian, executor, heir, or
23 successor-in-interest.

24 **9. Class Notice.** “Class Notice” shall mean the Notice of Proposed Class Action
25 Settlement and Final Approval Hearing, as set forth in the form of **Exhibit 1** attached hereto, or as
26 otherwise approved by the Court, which is to be mailed and emailed to Class Members.

1 **10. Class Period.** “Class Period” shall mean November 18, 2015 through the date on
2 which the Court issues an order granting preliminary approval.

3 **11. Class Participants or Participating Class Members.** “Class Participant(s)” or
4 “Participating Class Member(s)” shall mean any and all Class Member(s) who do not submit a
5 timely and valid Opt-Out Request.

6 **12. Complaint.** “Complaint” shall mean the Second Amended Complaint filed on May
7 18, 2023 in this Action as ECF No. 90.

8 **13. Court.** “Court” shall mean the U.S. District Court for the Northern District of
9 California.

10 **14. Defense Counsel.** “Defense Counsel” shall mean Adam C. Smedstad, Scopelitis,
11 Garvin, Light, Hanson & Feary, P.C., 5470 Shilshole Ave. NW, Suite 520, Seattle, Washington
12 98107.

13 **15. Effective Date.** “Effective Date” shall be the date when all of the following events
14 have occurred: (a) this Stipulation has been fully executed; (b) the Court has given preliminary
15 approval to the Settlement; (c) Notice has been given to the Class Members providing them with
16 an opportunity to opt-out of the Settlement; (d) if more than 10% of the Class Members opt-out,
17 URS has elected not to exercise its rights to void the settlement; (e) the Court has held a Final
18 Approval and Fairness Hearing and entered a final order and judgment approving this Stipulation;
19 and (f) the later of the following dates: (i) when the period for filing any appeal, writ, or other
20 appellate proceeding opposing the Settlement has elapsed without any appeal, writ, or other
21 appellate proceeding having been filed; or (ii) any appeal, writ, or other appellate proceeding
22 opposing the Settlement has been dismissed finally and conclusively with no right to pursue further
23 remedies or relief; or (iii) any appeal, writ, or other appellate proceeding has upheld the Court’s
24 final order with no right to pursue further remedies or relief. In this regard, it is the intention of the
25 Parties that the Settlement shall not become effective until the Court’s order approving the
26 Settlement is completely final and there is no further recourse by an appellant or objector who
27 seeks to contest the Settlement.

1 **16. Estimated Individual Settlement Amount.** “Estimated Individual Settlement
2 Amount” shall mean the Individual Settlement Amount originally calculated by the Settlement
3 Administrator using the ratio of a Class Member’s Weeks Worked divided by the total number of
4 Weeks Worked by the Class, times the Net Settlement Amount.

5 **17. FMCSA.** “FMCSA” shall mean the Federal Motor Carrier Safety Administration,
6 an agency of the U.S. Department of Transportation.

7 **18. Final Approval and Fairness Hearing.** “Final Approval and Fairness Hearing”
8 shall mean the final hearing held to ascertain the fairness, reasonableness, and adequacy of the
9 Settlement.

10 **19. Gross Settlement Amount.** “Gross Settlement Amount” shall mean **\$7,500,000**,
11 which will be all-inclusive and non-reversionary, including Individual Settlement Amounts to all
12 Class Participants that URS will pay in connection with this Settlement, in exchange for the release
13 of the Participating Class Members’ Released Class Claims and Released PAGA Claims. The
14 Gross Settlement Amount shall be used to satisfy all of URS’s liabilities arising from the
15 Settlement, including interest, Class Counsel’s attorney’s fees and costs, Administrative Expenses,
16 civil penalties recoverable under PAGA, and the Net Settlement Amount. URS will have no
17 obligation to pay any amount in connection with this Settlement apart from the Gross Settlement
18 Amount. No portion of the Gross Settlement Amount will revert to URS for any reason.

19 **20. Hearing on Preliminary Approval.** “Hearing on Preliminary Approval” shall
20 mean the hearing held on the motion for preliminary approval of the Settlement.

21 **21. Individual Settlement Amount.** “Individual Settlement Amount” shall mean the
22 settlement payments the Settlement Administrator calculates and sends to Class Participants using
23 the ratio of a Participating Class Member’s Weeks Worked divided by the total number of Weeks
24 Worked by all Participating Class Members, times the Net Settlement Amount.

25 **22. Net Settlement Amount.** “Net Settlement Amount” shall mean the Gross
26 Settlement Amount less (a) Class Counsel’s claim for attorneys’ fees, not to exceed twenty-five
27 percent (25%) of the Gross Settlement Amount or \$1,875,000, as approved by the Court; (b) Class
28

1 Counsel's claim for actual costs and expenses, not to exceed \$50,000, as approved by the Court;
2 (c) Administrative Expenses, not to exceed \$20,000, as approved by the Court; and (d) the PAGA
3 payment to the LWDA and the PAGA Payment, and shall be the maximum amount to be
4 distributed to Participating Class Members.

5 **23. Notice of Estimated Individual Settlement Amount.** "Notice of Estimated
6 Individual Settlement Amount" shall mean the notice sent to Class Members of their Estimated
7 Individual Settlement Amount calculated by the Settlement Administrator.

8 **24. Notice Packet.** "Notice Packet" shall mean the Class Notice that will be mailed to
9 each Class Member by the Settlement Administrator.

10 **25. PAGA Aggrieved Individual(s).** "PAGA Aggrieved Individuals" shall mean
11 Class Members that worked at any time during the PAGA Period.

12 **26. PAGA Payment.** "PAGA Payment" shall mean the funds allocated for the
13 settlement and full release of the Released PAGA Claims by the PAGA Aggrieved Individuals.

14 **27. PAGA Payment to the LWDA.** "PAGA Payment to the LWDA" means the funds
15 allocated to the PAGA Payment, which shall be paid to the LWDA.

16 **28. PAGA Period.** "PAGA Period" shall mean February 10, 2019, through the date on
17 which the Court issues an order granting preliminary approval.

18 **29. Opt-Out(s).** "Opt-Out(s)" shall mean any and all Class Members who timely and
19 validly request exclusion from the Class portion of the settlement in accordance with the terms of
20 the Notice.

21 **30. Opt-Out and Objection Deadline.** "Opt-Out and Objection Deadline" shall mean
22 the date by which Class Members must submit their Opt-Out Request to the Settlement
23 Administrator, or if a Class Member objects to the fairness of the settlement, the date by which
24 such Class Member must file their written objection with the Court, both of which shall be 60 days
25 after the Settlement Administrator mails the Notice.

26 **31. Opt-Out Request.** "Opt-Out Request" shall mean a timely and valid request for
27 exclusion from the Class portion of the settlement in accordance with the terms of the Notice.

1 **32. Parties.** “Parties” shall mean Signing Plaintiffs and URS.

2 **33. Preliminary Approval Date.** “Preliminary Approval Date” shall mean the date
3 upon which the Court enters an order preliminarily approving this Settlement.

4 **34. Released Class Claims.** “Released Class Claims” shall mean all claims that were
5 plead in the Second Amended Complaint, including claims for unpaid minimum wages under Cal.
6 Lab. Code §§ 558, 1182.1-1182.3, 1194, 1194.2, 1197, and 1198; unpaid meal and rest breaks
7 under Cal. Lab. Code §§ 558, 226.7, and 512, Cal. Code Regs., tit. 8 § 11090, and IWC Wage
8 Order No. 9-2011; failure to reimburse/illegal deductions under Cal. Lab. Code §§ 221 and 2802,
9 and Cal. Regs., tit. 8 § 11090; related claims under California Labor Code §§ 201-3, 226, 204,
10 210; and claims for unlawful business practices under the California Business and Professions
11 Code §§ 17200, *et seq.*, as alleged in the Second Amended Complaint. The Released Class Claims
12 shall be for the Class Period.

13 **35. Released PAGA Claims.** “Released PAGA Claims” shall mean all claims asserted
14 in the Operative PAGA letter and/or the Second Amended Complaint, including claims for unpaid
15 minimum wages under Cal. Lab. Code §§ 558, 1182.1-1182.3, 1194, 1194.2, 1197, and 1198;
16 failure to pay wages due for missed meal and rest breaks under Cal. Lab. Code §§ 226.7, and 512;
17 failure to reimburse/illegal deductions under Cal. Lab. Code § 2802; and related claims under
18 California Labor Code §§ 201-203, 204, 210, and 226, 226.3, and 226.8. The Released PAGA
19 Claims shall be for the PAGA Period.

20 **36. Released Parties.** “Released Parties” shall mean URS, and all its present and
21 former officers, directors, shareholders, members, partners, agents, employees, insurers,
22 representatives, attorneys, parent companies, subsidiaries, divisions, affiliates, successors and
23 assigns, and related companies.

24 **37. Settlement.** “Settlement” shall mean the class action settlement embodied in this
25 Stipulation, which is subject to Court approval. The Settlement is non-reversionary and is not made
26 on a “claims made” basis. No portion of the Settlement shall revert to, or become due and payable
27 to, URS.

1 **38. Settlement Administrator.** “Settlement Administrator” shall mean Phoenix Class
2 Action Administration Solutions, which the Parties have agreed will be responsible for
3 administration of the Settlement and related matters, or another neutral administrator mutually
4 agreed to by the Parties.

5 **39. Settlement Payment.** “Settlement Payment” shall mean an amount paid to a Class
6 Member from the Net Settlement Amount.

7 **40. Stipulation.** “Stipulation” shall mean this Joint Stipulation of Settlement and
8 Release of Class Action, including any attached exhibits.

9 **41. URS.** “URS” shall mean URS Midwest, Inc. d/b/a United Road, and United Road
10 Services, Inc.

11 **42. Weeks Worked.** “Weeks Worked” shall mean the weeks between a Class
12 Member’s contract lease date and contract termination date. Partial weeks will count as a week
13 worked.

14 **II. FACTUAL AND PROCEDURAL BACKGROUND OF ACTION**

15 **1. Plaintiffs’ Claims.**

16 On November 18, 2019, Plaintiff Denson M. Sales filed his Class Action Complaint for
17 Damages, Injunctive Relief, Declaratory Relief, and Restitution in the Superior Court of Alameda
18 County, California, under Case No. HG19043648 (the “*Sales Action*”), alleging that URS had
19 misclassified him as an independent contractor and asserting a number of wage-and-hour claims
20 under California law. On December 24, 2019, URS removed the case to the U.S. District Court for
21 the Northern District of California under Case No. 3:19-cv-08404-SK.

22 On February 11, 2020, Plaintiff Andre Clemons filed his Class Action Complaint for
23 Damages and Injunctive Relief in the Superior Court of Alameda County, California, under Case
24 No. RG20054053 (the “*Clemons Action*”), alleging that URS had misclassified him as an
25 independent contractor and asserting a number of wage-and-hour claims under California law. On
26 April 3, 2020, URS removed the case to the U.S. District Court for the Northern District of
27 California under Case No. 4:20-cv-02274.

1 On April 23, 2020, the Court related the *Sales* Action with the *Clemons* Action. On May
2 4, 2020, the Court granted the joint request to permit Plaintiffs to file a joint complaint
3 incorporating the plaintiff and claims from the *Clemons* Action into the *Sales* Action. The *Clemons*
4 Action was subsequently dismissed on May 27, 2020.

5 Plaintiffs jointly filed a First Amended Complaint on May 4, 2020, asserting the following
6 Claims under California law: (1) failure to pay all straight time wages at statutory minimum wage;
7 (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to
8 reimburse/illegal deductions; (5) violations of unfair competition law; (6) knowing and intentional
9 failure to properly itemize wage statements; (7) failure to timely pay all wages owed at termination;
10 and (8) violations of California's Private Attorneys General Act ("PAGA"). Plaintiffs brought
11 these claims on behalf of themselves and all others similarly situated.

12 On May 18, 2023, a Second Amended Complaint was filed pursuant to which Signing
13 Plaintiffs Robert Bejar and Martin Chavez were added into this action as plaintiffs and class
14 representatives.

15 On May 17, 2023, Signing Plaintiffs Robert Bejar and Martin Chavez filed an amended
16 PAGA letter with the Labor and Workforce Development Agency ("LWDA") ("the Operative
17 PAGA Letter").

18 URS denied and continues to deny any liability to Plaintiffs and Class Members and has
19 raised various defenses to the Claims.

20 **2. Relevant Procedural History.**

21 URS filed a Motion to Dismiss Plaintiffs' Meal and Rest Break Claims on May 18, 2020.
22 URS argued that the FMCSA hours-of-service preemption determination prohibited enforcement
23 of any meal and rest break claims with regard to interstate drivers of commercial motor vehicles.
24 After briefing was completed, the Court granted this motion on July 17, 2020 and dismissed
25 Plaintiffs' second and third causes of action with prejudice.

26 Plaintiffs filed a Motion for Class Certification on April 29, 2021. Plaintiffs requested
27 certification of the following class: "All individuals who signed Independent Contractor Service
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1 Agreements with URS, who were assigned to a business unit in California, and who drove in
2 California at any time from November 18, 2015 to the date the Court enters an order certifying the
3 matter as a class action.” After briefing was completed, the Court granted this motion on March
4 29, 2022. The Court certified the Class as defined by Plaintiffs, appointed Plaintiffs as co-class
5 representatives, and appointed Plaintiffs’ counsel as Class Counsel.

6 **3. Class Counsels’ Discovery, Investigation, and Evaluation of Risk.**

7 Class Counsel have vigorously prosecuted this case, and URS has vigorously contested it.
8 Class Counsel have engaged in sufficient investigation and discovery to assess the relative merits
9 of the Claims and URS’s defenses to them. This discovery, investigation, and litigation process
10 has been adequate to give Class Counsel a sound understanding of the merits of the Class’s Claims
11 and to evaluate the worth of the Claims to the Class. This Settlement was reached with the
12 assistance of an experienced mediator, Jeffrey Ross, after arms-length bargaining by the Parties at
13 a formal mediation scheduled on November 4, 2021 and many subsequent conversations.

14 Specifically, Class Counsel has conducted discovery and an investigation relating to the
15 Claims during the prosecution of the Action. This discovery, investigation, and prosecution has
16 included, among other things, (a) holding multiple meetings with Plaintiffs and Class Members;
17 (b) serving substantial discovery on URS, including Class-wide discovery; (c) inspecting and
18 analyzing documents and data produced by Plaintiffs, Class Members, and URS; (d) analyzing the
19 legal positions taken by URS and the developments in the law related to various Claims; (e)
20 defending Plaintiffs’ depositions and the depositions of numerous Class Members; (f) deposing
21 URS’s Rule 30(b)(6) designee; (g) engaging in briefing on the motion to dismiss and class
22 certification; (h) communicating with Class Members; (i) analyzing potential damages before and
23 throughout the mediation process; (j) researching the applicable law with respect to the Claims
24 and the potential defenses thereto; and (k) assessing the risk of further litigation.

25 Class Counsel believe that the Claims have merit. However, Class Counsel recognize and
26 acknowledge the expense and delay of continued lengthy proceedings necessary to prosecute the
27 Claims in this Action against URS, including URS’s defenses to their claims, through trial and
28

1 appeals. Class Counsel has considered the uncertain outcome and the risk of any litigation, the risk
2 of continued litigation in complex actions such as this, as well as the difficulties and delays
3 inherent in such litigation, and the potential difficulty of continuing to maintain the Action as a
4 class action. Class Counsel is mindful of the inherent problems of proof under, and possible
5 defenses to, the Claims. Class Counsel believes that the Settlement set forth in this Stipulation
6 confers substantial benefits upon Class Members and that an independent review of this Stipulation
7 by the Court in the approval process will confirm this conclusion. Based on their own independent
8 investigation and evaluation, Class Counsel have determined that the Settlement set forth in the
9 Stipulation is in the best interests of the Class Members.

10 **4. URS's Denial of Wrongdoing and Liability.**

11 URS denies each and every one of the claims and contentions alleged by Plaintiffs in the
12 Action. URS has expressly denied and continues to deny all charges of wrongdoing or liability
13 against it arising out of any of the conduct, statements, acts or omissions alleged, or that could
14 have been alleged, in the Action. Nonetheless, URS has concluded that further litigation relating
15 to the Claims would be protracted and expensive and that it is desirable that the Claims be fully
16 and finally settled in the manner and upon the terms and conditions set forth in this Stipulation in
17 order to limit further expense, inconvenience and distraction, to dispose of burdensome and
18 protracted litigation, and to permit the operation of URS's business without further expensive
19 litigation and the distraction and diversion of its personnel with respect to matters at issue in the
20 Action. URS has also carefully considered the uncertainty and risks inherent in any litigation,
21 especially in complex cases such as the Action. URS has, therefore, determined that it is desirable
22 and beneficial that the Claims be settled in the manner and upon the terms and conditions set forth
23 in this Stipulation.

24 **5. Intent of the Settlement.**

25 The Settlement set forth herein intends to achieve the following: (1) entry of an order
26 approving the Settlement and granting the monetary and other relief set forth in this Stipulation to
27 the Participating Class Members; (2) entry of an order granting final approval and entering
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1 judgment; (3) discharge of Released Parties from liability for any and all of the Released Class
2 Claims as to the Participating Class Members for the Class Period; and (4) discharge of the
3 Released Parties from liability for any and all of the Released PAGA Claims as to PAGA
4 Aggrieved Individuals for the PAGA Period.

5 **III. SETTLEMENT CONSIDERATION**

6 **1. Gross Settlement Amount.**

7 The Gross Settlement Amount shall constitute adequate consideration for the Settlement
8 and will be made in full and final settlement of: (a) the Released Class Claims and any interest
9 thereon, (b) the Administrative Expenses, (c) Class Counsel's claims for attorneys' fees, costs and
10 expenses, as approved by the Court, (d) the Released PAGA Claims, penalties under PAGA,
11 including PAGA payments to the LWDA and PAGA Aggrieved Individuals; and (e) any other
12 obligation of URS under this Stipulation.

13 **2. Class Counsel's Attorneys' Fees, Costs, and Expenses.**

14 At the time Class Counsel submit a motion for final approval of the Settlement, Class
15 Counsel may also submit a motion for an award of attorneys' fees not to exceed \$1,875,000 or
16 twenty-five percent of the Gross Settlement Amount, and for reimbursement of costs and expenses
17 not to exceed \$50,000, which will be heard by the Court at the Final Approval and Fairness
18 Hearing. As a condition of this Settlement, Class Counsel have agreed to pursue their attorneys'
19 fees, costs, and expenses with respect to the Claims only in the manner reflected by this Section.
20 Any attorneys' fees, costs, and expenses awarded by the Court shall be paid from the Gross
21 Settlement Amount and shall not constitute payment to any Class Members. The Settlement is not
22 conditioned on the Court's approval of Class Counsel's motion for attorneys' fees, costs, and
23 expenses, and any amounts that are not approved for attorneys' fees, costs, and expenses shall
24 remain part of the Net Settlement Amount.

25 The attorneys' fees, costs, and expenses approved by the Court shall encompass, with
26 respect to the Claims: (a) fees for all work performed and costs and expenses incurred by, or at the
27 direction of, any attorney purporting to represent Plaintiffs or the Class through the Effective Date;

1 (b) fees for all work to be performed and costs and expenses to be incurred in connection with
2 approval by the Court of the Settlement, including any appeal arising out of an objection to the
3 Settlement; and (c) fees for all work to be performed and costs and expenses, if any, incurred in
4 connection with administering the Settlement through final approval of the Settlement and entering
5 of judgment.

6 **3. Administrative Expenses.**

7 All costs and expenses due to the Settlement Administrator in connection with its
8 administration of the Settlement, including, but not limited to, providing the Notice, calculating
9 Weeks Worked and the Estimated Individual Settlement Amounts, locating Class Members,
10 processing Opt-Out Requests, and calculating, administering, and distributing Settlement
11 Payments to the Class Members, shall be paid from the Gross Settlement Amount. The Parties
12 agree to cooperate in the settlement administration process and to make all reasonable efforts to
13 control and minimize the costs incurred in the administration of the Settlement.

14 The Parties have agreed that the Administrative Expenses shall not exceed \$20,000. To the
15 extent the Administrative Expenses exceed \$20,000, the excess is to be paid from the Gross
16 Settlement Amount, subject to Court approval. Under no circumstances will URS be required to
17 pay more than the Gross Settlement Amount.

18 **4. PAGA Penalties and LWDA Payment.**

19 The Parties agree that \$126,325 will be allocated to civil penalties recoverable under
20 PAGA, of which 75%, or \$94,743.75, will be paid to the LWDA; and 25%, or \$31,581.25, will be
21 distributed among PAGA Aggrieved Individuals.

22 **5. Settlement Payments to Class Members and PAGA Aggrieved Individuals.**

23 Each Class Participant and PAGA Aggrieved Individual shall receive payment based on a
24 formula calculated in accordance with Article IV, Section 1(b).

25 **6. Tax Treatment of Payments.**

26 For the purpose of calculating applicable taxes for the payment of the Individual Settlement
27 Amounts paid to Class Participants and PAGA Aggrieved Individuals, the Parties agree that 100%

1 of the Individual Settlement Amounts will be paid on a 1099 basis and will not be subject to tax
2 withholding. The Settlement Administrator shall be responsible for issuing and providing
3 Form 1099s to Class Participants and PAGA Aggrieved Individuals for their Individual Settlement
4 Amounts. Accordingly, URS will not owe any payroll taxes under this Settlement. Unless
5 otherwise set forth therein, each Class Participant, PAGA Aggrieved Individuals, and Class
6 Counsel will be responsible for payment of their own tax obligations, if any. Class Members who
7 may have questions about their tax liability, if any, should consult independent tax counsel.

8 **7. Deposit by URS.**

9 Within 14 days after the Preliminary Approval Date, URS shall remit \$10,000 by wire
10 transfer to the Settlement Administrator from the Gross Settlement Amount and for partial
11 payment of the Settlement Administrator's costs and expenses to administer the Settlement. In the
12 event the Court does not approve the Settlement, any unused amount from the \$10,000 shall be
13 returned to URS and the Parties shall split the fees and costs incurred to the Settlement
14 Administrator.

15 **8. Payment by URS of Balance of the Gross Settlement Amount.**

16 Within thirty days after the Effective Date, URS will remit the balance of the Gross
17 Settlement Amount to the Settlement Administrator by wire transfer.

18 **IV. SETTLEMENT DISTRIBUTION**

19 **1. Allocation of the Gross Settlement Amount.**

20 The Claims of all Class Participants and PAGA Aggrieved Individuals are settled for the
21 Gross Settlement Amount. The Gross Settlement Amount of \$7,500,000 shall be allocated as
22 follows:

23 **a. Administrative Expenses.**

24 The Administrative Expenses, shall include any Attorneys' Fees, Costs and Expenses for
25 Class Counsel, costs and expenses of the Settlement Administrator, including providing Class
26 Notice to Class Members, the PAGA Payment, and the PAGA payment to the LWDA as set forth
27 above in Article III.

1 **b. Individual Settlement Amounts.**

2 Individual Settlement Amounts to be paid from the Net Settlement Amount to the Class
3 Participants will be determined as follows: Each of the Class Participants shall receive a pro rata
4 share of the Net Settlement Amount. Pro rata shares shall be determined by, first, determining the
5 value of a single Week Worked by dividing the Net Settlement Amount by the total number of
6 Weeks Worked by all Class Participants during the Class Period. Individual Settlement Amounts
7 will be determined by multiplying the value of a single Week Worked by the number of the total
8 Weeks Worked by each Class Participant during the Class Period.

9 Individual Settlement Amounts to be paid from the PAGA Payment to the PAGA
10 Aggrieved Individuals will be determined as follows: Each of the PAGA Aggrieved Individuals
11 shall receive a pro rata share of the PAGA Payment available for distribution to PAGA Aggrieved
12 Individuals. Pro rata shares shall be determined by, first, determining the value of a single Week
13 Worked by dividing the PAGA Payment available for distribution to PAGA Aggrieved Individuals
14 by the total number of Weeks Worked by all PAGA Aggrieved Individuals during the PAGA
15 Period. Individual Settlement Amounts will be determined by multiplying the value of a single
16 Week Worked by the number of the total Weeks Worked by each PAGA Aggrieved Individuals
17 during the PAGA Period.

18 The Individual Settlement Amounts are payments for all Released Class Claims and
19 Released PAGA Claims. The Individual Settlement Amounts will be treated as non-wage
20 payments reported on a Form 1099. The Settlement Administrator shall be responsible for issuing
21 and providing Form 1099s to Class Participants and/or PAGA Aggrieved Individuals for their
22 Individual Settlement Amounts. Unless otherwise set forth herein, each Class Participant, and
23 Class Counsel will be responsible for payment of their own tax obligations, if any. Class
24 Participants who may have questions about their tax liability, if any, should consult independent
25 tax counsel.

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1 **2. Time for Payment of Attorney Fees, Costs, and Expenses to Class Counsel.**

2 The Settlement Administrator shall pay any attorney fees, costs, and expenses awarded by
3 the Court to Class Counsel by wire transfer within 14 days after the Settlement Administrator
4 receives the balance of the Gross Settlement Amount from URS after the Effective Date of the
5 Settlement. Class Counsel will provide the Settlement Administrator with the necessary W-9 form,
6 tax ID number, and bank routing information for the payment.

7 **3. Time for PAGA Payment to LWDA.**

8 Within seven days after the Effective Date of the Settlement, Class Counsel shall provide
9 a copy of the Final Order Approving Settlement and Judgment to the Settlement Administrator
10 and upload a copy of the order to the LWDA's website. Within 14 days after the Settlement
11 Administrator receives the balance of the Gross Settlement Amount from URS after the Effective
12 Date of the Settlement, the Settlement Administrator will transmit the LWDA's portion of the
13 PAGA Payment to the LWDA. The LWDA's address is:

14 Department of Industrial Relations
15 Accounting Unit
16 455 Golden Gate Avenue, 10th Floor
17 San Francisco, CA 94102

18 **4. Time for Payment of Individual Settlement Amounts.**

19 The Settlement Administrator shall make every effort to mail, by first-class U.S. mail, to
20 the last-known address, the Individual Settlement Amount to each Class Participant and PAGA
21 Aggrieved Individual no later than 14 days after the Settlement Administrator receives the balance
22 of the Gross Settlement Amount from URS after the Effective Date of the Settlement.

23 If the Settlement Administrator is not able to mail the Individual Settlement Amounts to
24 Class Participants and PAGA Aggrieved Individuals within the time period set forth above, it shall
25 so inform Class Counsel and Defense Counsel and provide an approximate date by which the
26 Individual Settlement Amounts will be mailed. Under no circumstances shall the Settlement
27 Administrator distribute checks to Class Participants and PAGA Aggrieved Individuals until all

1 disputes of Estimated Individual Settlement Amounts have been resolved, all Individual
2 Settlement Amounts calculated, and accounted for, and the obligations set forth in Section IV(1)(a)
3 have been calculated and approved by the Court. In the event any Class Participant or PAGA
4 Aggrieved Individual is deceased, payment shall be made payable to the estate of that Class
5 Participant or PAGA Aggrieved Individual as the case may be, and delivered to the executor or
6 administrator of that estate, unless the Settlement Administrator has received an affidavit or
7 declaration pursuant to California Probate Code § 13101, in which case payment shall be made to
8 the affiant(s) or declarant(s).

9 Upon request by Class Counsel, the Settlement Administrator shall provide a declaration
10 of payment to Class Counsel, who will be responsible for filing it with the Court.

11 **5. Returned and Uncashed Settlement Checks.**

12 Each Class Participant and PAGA Aggrieved Individual must cash his or her Individual
13 Settlement Amount check within 180 days after it is mailed to him or her. If a check is returned to
14 the Settlement Administrator, the Settlement Administrator may make such efforts, if any, as it
15 deems to be reasonable to re-mail it to the Class Participant or PAGA Aggrieved Individual at his
16 or her correct address. If any Class Participant's Individual Settlement Amount or PAGA
17 Aggrieved Individual's check is not cashed within 90 days after it is mailed or re-mailed,
18 whichever is later, the Settlement Administrator will send the Class Participant and or PAGA
19 Aggrieved Individual a letter informing him or her that, unless the check is cashed within the next
20 90 days, it will expire and become non-negotiable and will offer to replace the check if it was lost
21 or misplaced, but not cashed. If the check remains uncashed by the expiration of the 180-day
22 period, the Settlement Administrator will pay over the Individual Settlement Amount and or
23 PAGA Payment represented by the check to the California State Controller – Unclaimed Property
24 Division, with the identity of the Class Participant to whom the funds belong. In such event, the
25 Class Participant and PAGA Aggrieved Individual will nevertheless remain bound by the
26 Settlement.

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1 **6. Extension of Time to Pay and/or Process Claims.**

2 Should the Settlement Administrator need more time than is provided under this Stipulation
3 to complete any of its obligations, the Settlement Administrator may request, in writing, such
4 additional time (including an explanation of the need for additional time) from Defense Counsel
5 and Class Counsel. If Defense Counsel and/or Class Counsel do not agree, in writing, to the
6 Settlement Administrator's request for additional time, the Settlement Administrator, Class
7 Counsel, or Defense Counsel may seek such additional time from the Court.

8 **7. No Additional Contribution by URS.**

9 URS's monetary obligations under this Stipulation are limited to the Gross Settlement
10 Amount. Thus, all costs and expenses arising out of or in connection with the performance of this
11 Stipulation shall be paid from the Gross Settlement Amount.

12 **V. NOTICE TO CLASS MEMBERS AND CLAIMS ADMINISTRATION**
13 **PROCESS**

14 **1. The Settlement Administrator.**

15 The Settlement Administrator will be responsible for locating correct Class Members'
16 addresses, mailing and emailing, to the extent that emails are available, the Notice Packet to Class
17 Members, processing Opt-Outs received (if any), calculating the weeks worked for each Class
18 Participant, calculating the Individual Settlement Amount for each Class Participant, handling
19 inquiries from Class Members concerning the Class Notice, Estimated Individual Settlement
20 Amounts, or any other issue, preparing, administrating, and distributing settlement checks to Class
21 Participants and PAGA Aggrieved Individuals, and performing such other duties as the Parties
22 may direct.

23 On a weekly basis, the Settlement Administrator will provide reports to Class Counsel and
24 Defense Counsel updating them as to the number of validated timely received Opt-Outs submitted
25 by Class Members. The Settlement Administrator will serve on Class Counsel and Defense
26 Counsel via e-mail copies of disputes no later than seven days after their receipt. Within 14 days
27 after the Opt-Out Deadline, but no later than 14 days before the Final Approval Hearing, or as soon
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1 thereafter as practicable, the Settlement Administrator will provide Class Counsel with a
2 declaration of due diligence and proof of mailing of the Class Notice, which Class Counsel will
3 file with the Court no later than seven days prior to the Court's Final Approval and Fairness
4 Hearing. Within 14 days after the Opt-Out Deadline, or as soon thereafter as practicable, the
5 Settlement Administrator will compile and deliver to Class Counsel and Defense Counsel a final
6 report with information regarding the final pro rata portion of each Class Participant and the final
7 number of Opt-Outs.

8 The Settlement Administrator will also host a settlement website subject to the Parties
9 approving the website's name that includes relevant documents such as the Second Amended
10 Complaint, the settlement approval motions, the Court's orders granting settlement approval, and
11 the Class Notice.

12 All costs and expenses of the Settlement Administrator for administration of the Settlement
13 shall be paid from the Gross Settlement Amount as part of the Administrative Expenses.

14 **2. Class List to Be Provided by URS to the Settlement Administrator.**

15 URS shall provide a Class List to the Settlement Administrator, as well as to Class Counsel,
16 within 14 days after entry and service of an Order Granting Preliminary Approval of this
17 Settlement. The Class List will contain the information URS has in its files reflecting Class
18 Members' names, Social Security numbers, last-known addresses, phone numbers, and email
19 addresses, and contract lease and termination dates. The Class List shall be marked "Confidential
20 – Attorney's and Settlement Administrator's Eyes Only." Class Counsel represents, warrants,
21 covenants and agrees that (a) Class Counsel shall hold the Class List, including any copies thereof,
22 in strictest confidence and shall not disclose or divulge its contents to any Class Member, including
23 the Plaintiffs, or to any third party other than the Settlement Administrator; (b) the Class List shall
24 be kept in secure facilities; and (c) the contents of the Class List shall be used exclusively for
25 administration of the Settlement pursuant to this Stipulation and for no other purpose, including,
26 but not limited to, fact-gathering, or discovery. This provision does not preclude Class Counsel
27 from speaking with Class Members about the terms of this Settlement once the Motion for
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1 Preliminary Approval is filed with the Court or earlier with those Class Members with whom they
2 have had contact.

3 **3. Calculation of Weeks Worked.**

4 The Settlement Administrator will calculate Weeks Worked based on the contract lease
5 and termination dates provided in the Class List. Partial weeks worked shall count as a Week
6 Worked for this purpose. The Settlement Administrator will prepare the Notice of Estimated
7 Individual Settlement Amount based on its calculation of Weeks Worked.

8 **4. Notice of Class Action.**

9 The Class Notice, which includes each Class Member's estimated Individual Settlement
10 Amount, is attached hereto as Exhibit 1.

11 Within 14 days after the Settlement Administrator receives the Class List from URS, the
12 Settlement Administrator will first update all addresses using the National Change of Address
13 System (NCOA) and then mail to all Class Members, via first-class U.S. mail, the Class Notice.
14 At the same time, the Settlement Administrator will also email the Notice Packet to all Class
15 Members for whom Defendant has email addresses.

16 **5. Returned or Undeliverable Notice Packets.**

17 In the event of returned or non-deliverable Notice Packets, the Settlement Administrator
18 will make reasonable efforts, including skip-tracing services offered by publicly available
19 databases, to locate Class Members and re-send the Notice Packet. If the Settlement Administrator
20 is not able to find a more accurate address through its skip-tracing efforts, the Settlement
21 Administrator will call the Class Member's last known phone number in an attempt to obtain an
22 accurate address. If the Settlement Administrator is unable to obtain an accurate address for a Class
23 Member, the Settlement Administrator shall provide Class Counsel with the name of the Class
24 Member so Class Counsel can perform a TLO search in an attempt to obtain an accurate address
25 for the Class Member. It will be conclusively presumed that a Class Member's Notice Packet was
26 received if the Notice Packet has not been returned within 21 days of the original mailing of the
27 Notice Packet to the Class Member.

1 **6. Dispute Resolution Regarding Weeks Worked.**

2 Each Class Member will receive a Class Notice, as set forth in the form of **Exhibit 1**
3 attached hereto, which will specify the Weeks Worked for which that Class Member is credited.

4 Class Members will be entitled to dispute the number of Weeks Worked reported on the
5 Notice of Estimated Individual Settlement Amount Form by sending written notice of their dispute
6 to the Settlement Administrator by the Opt-Out Deadline. To be considered by the Settlement
7 Administrator, such written dispute must be: (a) signed by the Class Member; (b) timely; and (c)
8 if possible, be accompanied by evidence of the actual weeks worked during the Class Period.
9 Evidence of dates of engagement with Defendants alone will not constitute sufficient evidence if
10 the Class Member has worked in other jobs or positions for Defendants.

11 Within seven days of receiving a dispute concerning a Class Member's Weeks Worked,
12 the Settlement Administrator shall review all documents received from the Class Member in
13 support of the Class Member's dispute and shall contact Defendants and Class Counsel regarding
14 the dispute. Defendants and Class Counsel shall work in good faith to resolve the dispute.

15 The Settlement Administrator shall be the final arbiter of the number of Weeks Worked by
16 the Class Member during the Class Period. The Settlement Administrator shall inform the Parties
17 of its decision regarding the dispute. The Settlement Administrator shall resolve all disputes prior
18 to the date upon which the Settlement Administrator must submit its Declaration to counsel for
19 final approval of the Stipulation by the Court.

20 Any changes to a Class Member's Weeks Worked will be reflected in the total weeks
21 worked for the entire Class on the updated Class List. For example, if Class Member "A" disputed
22 his or her Weeks Worked and provides satisfactory evidence that his or her Weeks Worked should
23 be increased by two weeks, and the Settlement Administrator, in consultation with Defendants,
24 Class Counsel, and the records provided, agrees, the total Weeks Worked for the entire Class will
25 also be increased by two weeks for purposes of calculating Individual Settlement Amounts.

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1 **7. Objection Requirements.**

2 In order to object to the Settlement, a Class Member must not have excluded himself or
3 herself from the Settlement and must send their written objection to the Court no later than the
4 Opt-Out Deadline or, if applicable, the extended date upon a re-mailing of the Notice Packet. In
5 the instance that the Class Member's Notice Packet is re-mailed, that Class Member's Objection
6 Deadline, dispute and/or Opt-Out Deadline shall be recalculated so that the Class Member shall
7 have an additional 14 calendar days from the Opt-Out Deadline and Objection Deadline to Opt-
8 Out or object.

9 **8. Non-Receipt of Notice Packet.**

10 In the event the procedures set forth herein are followed and the intended Class Member
11 of a Notice Packet later asserts that he or she did not receive the Notice Packet, the Class Member
12 will remain a Class Participant and will be bound by all terms of the Stipulation and the order
13 granting final approval entered by the Court.

14 **9. Opt-Out Procedure.**

15 The Notice of Class Action Settlement will notify all Class Members of their right to Opt-
16 Out of the Class portion of the Settlement. It will also instruct Class Members who wish to Opt-
17 Out of the Class portion of the Settlement to send to the Settlement Administrator a letter setting
18 forth their name, information needed to be properly identified, and their desire to Opt-Out of the
19 Class portion of the Settlement.

20 For a Class Member to request exclusion from the Class portion of the Stipulation and
21 Settlement, the Opt-Out Request must be mailed to the Settlement Administrator and postmarked
22 no later than the Opt-Out Deadline. Any returned envelopes containing the Class Notice from the
23 initial mailing which have forwarding addresses will be used by the Settlement Administrator to
24 locate Class Members. In the event that, prior to the Opt-Out Deadline, any Class Notice mailed
25 to a Class Member is returned as having been undelivered by the U.S. Postal Service, the
26 Settlement Administrator shall perform a skip trace search and seek an address correction for such
27 Class Member(s), and a second Notice Packet will be sent to any new or different address obtained.

1 In such instance, the Opt-Out Request must be postmarked no later than 14 days after the Opt-Out
2 Deadline.

3 It will be conclusively presumed that, if an envelope containing the Class Notice has not
4 been returned within 21 days of the mailing, the Class Member received the Class Notice.
5 However, a Class Member may ask the Settlement Administrator for a substitute Notice Packet
6 and file an Opt-Out Request any time up to the Opt-Out Deadline.

7 Within 14 days after the Opt-Out Deadline, the Settlement Administrator shall provide
8 Class Counsel and Defense Counsel with a Declaration of Due Diligence and Proof of Mailing
9 (Declaration) about the mailing of the Class Notice and its attempts to locate Class Members. The
10 Declaration shall specify the number of Class Members to whom Class Notices were sent, the
11 number of Class Members to whom Class Notices were not delivered, the number of Opt-Out
12 Requests received, and the name of individuals who submitted Opt-Out Requests. Class Counsel
13 shall file the Declaration with the Court in conjunction with final approval.

14 If the Settlement Administrator determines that an Opt-Out Request returned by a Class
15 Member before the Opt-Out Deadline is deficient, then the Settlement Administrator shall mail or
16 email a deficiency letter to that Class Member identifying the problem and informing the Class
17 Member that they must rectify the problem by the Opt-Out Deadline.

18 Those Class Members who have not submitted an Opt-Out Request by the Opt-Out
19 Deadline shall share in the distribution of the Net Settlement Amount of the Gross Settlement
20 Amount and shall be bound by the judgment in this Action and the release of Released Class
21 Claims and Released PAGA Claims set forth in Article XI of this Stipulation. PAGA Aggrieved
22 Individuals may not Opt-Out of PAGA portion of the Settlement and shall release the Released
23 PAGA Claims and receive a portion of the PAGA Payment.

24 **10. Objections.**

25 The Class Notice shall inform the Class Members of their right to object to the Settlement.
26 Any Class Member who wishes to object to the Settlement must send a written objection to the
27 Court no later than the Objection and Opt-Out Deadline. The date of delivery of the written
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1 objection is deemed to be the date the objection is deposited in the U.S. mail, postage prepaid, as
2 evidenced by the postmark. The objection must include the case name and number and must set
3 forth, in clear and concise terms a statement of the reasons why the objector believes that the Court
4 should find that the proposed Settlement is not in the best interest of the Class and the reasons why
5 the Settlement should not be approved, including the legal and factual arguments supporting the
6 objection. The objection must state whether it applies only to the objector, to a specific subset of
7 the class, or to the entire class.

8 If an objector also wishes to appear at the Final Approval Hearing, in person or through an
9 attorney, he or she must *also* file a notice of their intention to appear at the same time as the
10 objection is filed. Unless otherwise ordered by the Court, Class Members shall not be entitled to
11 speak at the Final Approval Hearing unless they have submitted a timely written objection and
12 notice of intention to appear pursuant to this Section. Class Members who have properly and timely
13 submitted objections may appear at the Final Approval Hearing, either in person or through a
14 lawyer retained at their own expense.

15 **11. Notice of Settlement to State and Federal Officials.**

16 Within 10 days of receiving notice of filing of a Motion for Preliminary Approval of this
17 Stipulation, Defense Counsel shall serve the CAFA Notice of this Stipulation on the appropriate
18 federal and state officials, as required by 28 U.S.C. § 1715(b). Defense Counsel will also file proof
19 with the Court that this notice was provided.

20 **VI. MOTIONS FOR COURT APPROVAL**

21 **1. Preliminary Approval.**

22 Class Counsel will submit this Stipulation to the Court and request preliminary approval
23 of the Settlement within 14 days of execution of this Stipulation by the Parties and their counsel.
24 If preliminary approval of this Settlement is not granted by the Court, the Action will proceed as
25 if the parties had not entered into this Stipulation.

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1 **2. Final Approval.**

2 Class Counsel will request final approval of the Settlement no later than 35 days prior to
3 the date set by the Court for the Final Approval and Fairness Hearing. The Final Approval and
4 Fairness Hearing shall be held in the U.S. District Court for the Northern District of California on
5 a date to be determined by the Court. At preliminary approval, the Parties will propose to the Court
6 a date for the Final Approval and Fairness Hearing.

7 **3. Motion for Attorneys' Fees and Costs.**

8 Class Counsel will file a motion for attorneys' fees and costs no later than 35 days prior to
9 the Opt-Out and Objection Deadline.

10 **4. Proposed Order and Judgment.**

11 Upon Final Approval of the Settlement, the Parties shall present to the Court a proposed
12 Final Approval Order, approving of the Settlement and entering Judgment in accordance therewith.
13 After entry of Judgment, the Court shall have continuing jurisdiction over the action for purposes
14 of: (1) enforcing this Settlement Agreement, including the enforcement of Participating Class
15 Members' Release of the Released Class Claims and PAGA Aggrieved Individuals' Release of
16 the Released PAGA Claims; (2) addressing settlement administration matters, and (3) addressing
17 such post-judgment matters as may be appropriate under Court rules and applicable law. This
18 Judgment will effectuate the release of all Participating Class Members' Released Class Claims
19 against the Released Parties and all PAGA Aggrieved Individuals' Released PAGA Claims against
20 the Released Parties. To the extent that Class Members and/or the named Class Representatives
21 opt out of the settlement, their claims shall be deemed to have been tolled from November 18,
22 2019, to the date that the Court finally approves of the Settlement Agreement.

23 **5. Post-Distribution Accounting.**

24 Within 21 days after the check cashing, the Class Counsel will file a Post-Distribution
25 Accounting and post it on the settlement website, which provides for the information outlined in
26 the Northern District Procedural Guidance for Class Action Settlements and the Court's Standing
27 Order for All Civil Cases Before District Judge Jon S. Tigar.

1
2 **VII. NULLIFICATION OF THIS STIPULATION**

3 **1. Non-Approval of the Stipulation.**

4 If (a) the Court should for any reason decline to approve this Stipulation in the form agreed
5 to by the Parties, or (b) the Court should for any reason fail to enter an order granting final approval
6 and entering judgment, or (c) the final approval order and judgment is reversed, modified or
7 declared or rendered void, then the Stipulation and Settlement shall be considered null and void,
8 and the Stipulation, Settlement, or any of the related negotiations or proceedings, shall be of no
9 force or effect, and all parties to the Stipulation shall stand in the same position, without prejudice,
10 as if the Stipulation had been neither entered into nor filed with the Court. Notwithstanding the
11 foregoing, the Parties may attempt in good faith to cure any perceived defects in the Stipulation to
12 facilitate approval. The Parties will be equally responsible for all charges incurred by the
13 Settlement Administrator as of the date of entry of any order denying preliminary or final approval
14 of this Stipulation.

15 **2. URS's Right to Void Settlement.**

16 URS shall have the right to terminate this Stipulation if 10% or more of the Class Members
17 opt-out. In such event, URS, shall have the option to terminate the Stipulation and decline to
18 proceed with the Settlement, in which case URS shall have no obligation to fund the Gross
19 Settlement Amount, and none of the Gross Settlement Amount shall be distributed to Class
20 Participants, the Plaintiffs, or Class Counsel.

21 **3. Invalidation.**

22 Invalidation of any material portion of the Stipulation shall invalidate the Stipulation in its
23 entirety, unless the Parties shall subsequently agree in writing that the remaining provisions of the
24 Stipulation are to remain in full force and effect. The Parties will be equally responsible for all
25 charges incurred by the Settlement Administrator as of the time the Stipulation is invalidated.

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1 **4. Stay Upon Appeal.**

2 In the event of a timely appeal from the final approval order and judgment, other than as
3 described in Article V, Section 2, the judgment shall be stayed, URS shall have no obligation to
4 fund the Gross Settlement Amount, and none of the Gross Settlement Amount shall be distributed
5 to Class Participants, the Plaintiffs, or Class Counsel. The actions required by this Stipulation shall
6 not take place until all appeal rights have been exhausted by operation of law.

7 **5. Apportionment of Settlement Administrator Charges in the Event of**
8 **Stipulation Failure.**

9 In the event the Stipulation is not finally approved, any unused amount from the deposit
10 shall be returned to URS by the Settlement Administrator, and Class Counsel shall reimburse URS
11 for one-half of the portion of the deposit expended by the Settlement Administrator for expenses.
12 In the event the Settlement Administrator has expended more than the deposit on the expenses of
13 claims administration for the Settlement, the Parties shall be equally responsible for all such
14 charges.

15 **VIII. RELEASES**

16 **1. Release of Claims by Class Participants.**

17 Upon the Effective Date, the Class Participants will have each released URS and the
18 Released Parties, and each of them, of and from any and all of the Released Class Claims, and
19 PAGA Aggrieved Individuals will have released URS and the Released Parties, and each of them,
20 of and from any and all of the and Released PAGA Claims. It is the desire of the Parties to fully,
21 finally, and forever settle, compromise, and discharge the Class Participants' Released Class
22 Claims, and the PAGA Aggrieved Individuals' Released PAGA Claims, against the Released
23 Parties.

24 As such, the Class Participants are providing the Released Parties with a full and complete
25 release with respect to the Released Class Claims. Similarly, the PAGA Aggrieved Individuals
26 understand and agree that they are providing the Released Parties with a full and complete release
27 with respect to the Released PAGA Claims.

Each Class Participant will be bound to the release of Released Class Claims as a result of the final approval of this Stipulation. Each PAGA Aggrieved Individual will be bound to the release of Released PAGA Claims as a result of the final approval of this Stipulation.

2. Claims Not Resolved.

It is understood and agreed that the Stipulation will not release any person, party or entity from claims, if any, by Class Participants for worker's compensation, unemployment, or disability benefits of any nature, nor does it release any claims, actions, or causes of action which may be possessed by Class Participants under state or federal discrimination statutes, including, without limitation, the California Fair Employment and Housing Act, the Cal. Government Code section 12940, *et seq.*; the Unruh Civil Rights Act, the Cal. Civil Code § 51, *et seq.*; the California Constitution; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000, *et seq.*; the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101, *et seq.*; the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 *et seq.*; and all of their implementing regulations and interpretive guidelines.

IX. DUTIES OF THE PARTIES

1. Mutual Full Cooperation.

The Parties agree to cooperate fully with one another to accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be limited to, execution of such other documents and the taking of such other actions as may reasonably be necessary to fulfill the terms of this Stipulation. The Parties shall use their best efforts, including all efforts contemplated by this Stipulation and any other efforts that may become necessary by court order, or otherwise, to effectuate this Stipulation and the terms set forth herein. As soon as practicable after execution of this Stipulation, Class Counsel, with the cooperation of URS and Defense Counsel, shall take all necessary and reasonable steps to secure the Court's final approval of this Stipulation.

2. Duty to Support and Defend the Stipulation.

The Parties hereto agree to abide by all terms of the Stipulation in good faith and to support the Stipulation fully and to use their best efforts to defend this Stipulation from any legal challenge,

whether by appeal or collateral attack.

3. Duties Prior to Court Approval.

Class Counsel shall promptly submit this Stipulation to the Court for preliminary approval and determination by the Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall apply to the Court for the entry of a preliminary approval order agreed upon by the Parties, scheduling a hearing on the question of whether the proposed Settlement should be approved as fair, reasonable, and adequate as to the Class Members, approving as to form and content the proposed Class Notice attached hereto as **Exhibit 1**, and directing the mailing of the Class Notice to Class Members. Defense Counsel shall file a notice of non-opposition to the motion for preliminary approval or join in the motion.

X. MISCELLANEOUS PROVISIONS.

1. Different Facts.

The Parties acknowledge that, except for matters expressly represented herein, the facts in relation to the dispute and all claims released by the terms of this Stipulation may turn out to be other than or different from the facts now known by each party and/or its counsel, or believed by such party or counsel to be true, and each party therefore expressly assumes the risk of the existence of different or presently unknown facts, and agrees that this Stipulation shall be in all respects effective and binding despite such difference.

2. No Prior Assignment.

The Parties represent, covenant, and warrant that 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 right herein released and discharged except as set forth herein.

3. Non-Admission.

Nothing in this Stipulation shall be construed to be or deemed an admission by URS of any liability, culpability, negligence, or wrongdoing toward Plaintiffs, the Class Members, or any other person, and URS specifically disclaims any liability, culpability, negligence, or wrongdoing

1 toward Plaintiffs, the Class Members, or any other person. Each of the Parties has entered into this
2 Stipulation with the intention to avoid further disputes and litigation with the attendant
3 inconvenience, expenses, and contingencies. Nothing herein shall constitute any admission by
4 URS of wrongdoing or liability, or of the truth of any factual allegations in the Action. Nothing
5 herein shall constitute an admission by URS that the Action was properly brought as a class,
6 collective or representative action other than for settlement purposes. To the contrary, URS has
7 denied and continues to deny each and every material factual allegation and alleged claim asserted
8 in the Action. To this end, the Settlement of the Action, the negotiation and execution of this
9 Stipulation, and all acts performed or documents executed pursuant to or in furtherance of this
10 Stipulation, shall not be deemed to be, and may not be used as, an admission or evidence of any
11 wrongdoing or liability on the part of URS or of the truth of any of the factual allegations in the
12 Complaint in the Action; and are not, shall not be deemed to be, and may not be used as, an
13 admission or evidence of any fault or omission on the part of URS in any civil, criminal or
14 administrative proceeding in any court, administrative agency, or other tribunal.

15 **4. Public Comments Regarding the Litigation or the Stipulation.**

16 Neither the Signing Plaintiffs nor Class Counsel shall issue any press release related to the
17 settlement. Signing Plaintiffs and Class Counsel agree that, prior to preliminary approval of the
18 Stipulation, they will keep the terms of the Stipulation and Settlement confidential except for
19 purposes of communicating with the Plaintiffs only. The Plaintiffs shall be informed that the
20 Stipulation and Settlement is confidential and shall be advised to keep the Stipulation and
21 Settlement confidential.

22 From and after preliminary approval of the Stipulation, Class Counsel may: (i) as required
23 by law; (ii) as required under the terms of the Stipulation; or (iii) as required under Class Counsel's
24 duties and responsibilities as Class Counsel, comment regarding the specific terms of the
25 Stipulation, including placing a general description of the case and the Stipulation on its website.
26 In all other cases, the Signing Plaintiffs and Class Counsel agree to limit their statements regarding
27 the terms of the Stipulation, whether oral, written or electronic (including the world wide web), to
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1 say the Action have been resolved and that the Signing Plaintiffs and Class Counsel are satisfied
2 with the Stipulation terms. Nothing in this Paragraph is intended to interfere with Class Counsel's
3 duties and obligations to faithfully discharge their duties as Class Counsel, including but not
4 limited to, communicating with Class Members regarding the Stipulation and Settlement.

5 Following entry of the order granting final approval of the Stipulation, Class Counsel shall
6 not be prohibited from including information regarding the Stipulation that is a matter of public
7 record on its firm's website but shall not mention URS's name in any such information. All
8 necessary disclosures may be made on the Parties' financial statements; to the Parties' accountants
9 and auditors; in public filings; to government regulatory agencies; and to any local, state, or federal
10 taxing authority; or as otherwise required by law.

11 **5. Non-Retaliation.**

12 URS understands and acknowledges that it has a legal obligation not to retaliate against
13 any Class Member. URS will refer any inquiries regarding this Stipulation to the Settlement
14 Administrator or Class Counsel and will not discourage Class Members, directly or indirectly,
15 from participating in, opting out of, or objecting to the Stipulation.

16 **6. Construction.**

17 The Parties hereto agree that the terms and conditions of this Stipulation are the result of
18 lengthy, intensive, arms-length negotiations between the Parties and that this Stipulation is not to
19 be construed in favor of or against any party by reason of the extent to which any party or his or
20 its counsel participated in the drafting of this Stipulation.

21 **7. Governing Law.**

22 This Stipulation is intended to and shall be governed by the laws of the State of California,
23 without regard to conflict of law principles, in all respects, including execution, interpretation,
24 performance, and enforcement.

25 **8. Notices.**

26 Except for the Notice to Class Members required by the Settlement Administrator and the
27 CAFA Notice, any and all notices or other communications required or permitted under this
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1 Stipulation shall be in writing and shall be sufficiently given if delivered in person to the party or
2 their counsel or if sent to the party without counsel by United States certified mail, postage prepaid,
3 e-mail, facsimile, or overnight delivery addressed to the address of the party appearing in this
4 Stipulation.

5 **9. Captions and Interpretations.**

6 Article and section titles or captions contained herein are inserted as a matter of
7 convenience and for reference only and in no way define, limit, extend, or describe the scope of
8 this Stipulation or any provision thereof.

9 **10. Modification.**

10 This Stipulation may not be changed, altered, or modified, except in writing signed by the
11 Parties and approved by the Court. This Stipulation may not be discharged except by performance
12 in accordance with its terms or by a writing signed by the Parties.

13 **11. Integration Clause.**

14 This Stipulation contains the entire agreement between the Parties relating to the
15 Settlement of the Action and the transactions contemplated thereby, and all prior or
16 contemporaneous agreements, understandings, representations, and statements, whether oral or
17 written, and whether by a party or such party's legal counsel, are hereby superseded. No rights
18 under this Stipulation may be waived except in writing.

19 **12. Successors and Assigns.**

20 This Stipulation shall be binding upon and inure to the benefit of the Parties and their
21 respective present and former heirs, trustees, executors, administrators, representatives, officers,
22 directors, shareholders, agents, employees, insurers, attorneys, accountants, auditors, advisors,
23 consultants, pension and welfare benefit plans, fiduciaries, parent companies, subsidiaries,
24 affiliates, related companies, joint ventures, predecessors, successors, and assigns.

25 **13. Class Counsel Signatories.**

26 Because the Class Members are so numerous, the Parties agree that it is impossible or
27 impractical to have each Class Member sign this Stipulation. It is agreed that, for purposes of
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1 seeking approval of the Stipulation and Settlement, this Stipulation may be executed on behalf of
2 the Class Members by Class Counsel and the Signing Class Members.

3 **14. Corporate Signatories.**

4 Any person executing this Stipulation or any such related document on behalf of a
5 corporate signatory hereby warrants and promises, for the benefit of all Parties hereto, that such
6 person has been duly authorized by such corporation to execute this Stipulation or any such related
7 document.

8 **15. Execution in Counterparts.**

9 This Stipulation shall become effective upon its execution by all of the undersigned. The
10 Parties may execute this Stipulation in counterparts, and execution of counterparts shall have the
11 same force and effect as if all Parties had signed the same instrument.

12 **16. Attorney Fees, Costs, and Expenses.**

13 Except as otherwise specifically provided for herein, each party shall bear his or its own
14 attorneys' fees, costs, and expenses, taxable or otherwise, incurred by them with respect to the
15 Claims in the Action and shall not seek reimbursement thereof from any other party to this
16 Stipulation.

17 **17. Action to Enforce Stipulation.**

18 In any suit or court action to enforce the terms of this Stipulation, the prevailing party shall
19 be entitled to recover attorneys' fees, costs, and expenses.

1 Dated: 6/21/2023

UNITED ROAD SERVICES, INC.



Name: Mark Anderson, President & CEO
Title:

5 Dated:

ROBERT BEJAR

8 Dated:

MARTIN CHAVEZ

12 Dated:

MARA LAW FIRM, PC

14 David Mara, Esq.
15 Jill Vecchi, Esq.
16 Representing the Class

16 Dated:

HUNTER PYLE LAW

18 Hunter Pyle, Esq.
19 Andrea Núñez, Esq.
20 Representing the Class

20 Dated:

**SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY, P.C.**

22 
23 Adam C. Smedstad, Esq.
24 Representing Defendants

25 4882-3219-2873, v. 1
26 4882-3219-2873, v. 1

1 Dated:

UNITED ROAD SERVICES, INC.

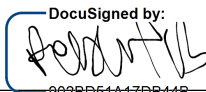
2
3 Name:

4 Title:

5 Dated: 6/14/2023

ROBERT BEJAR

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9 Dated: 6/14/2023

MARTIN CHAVEZ

10 DocuSigned by:

11 

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13 Dated: 6/14/2023

MARA LAW FIRM, PC

14 DocuSigned by:

15 

16 David Mara, Esq.

17 Jill Vecchi, Esq.

18 Representing the Class

19 Dated: 6/14/2023

HUNTER PYLE LAW

20 DocuSigned by:

21 

22 13514D8E487B4B8...

23 Hunter Pyle, Esq.

24 Andrea Núñez, Esq.

25 Representing the Class

26 Dated:

**SCOPELITIS, GARVIN, LIGHT,
HANSON & FEARY, P.C.**

27 Adam C. Smedstad, Esq.

28 Representing Defendants

4882-3219-2873, v. 1

4882-3219-2873, v. 1

Exhibit 1

NOTICE OF CLASS ACTION SETTLEMENT

UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA

Denson M. Sales, et al. v. United Road Services, Inc., Case No. 4:19-cv-08404-JST

TO: All individuals who signed Independent Contractor Service Agreements with URS, who were assigned to a business unit in California, and who drove in California at any time from November 18, 2015, to March 29, 2022. This includes individuals who are principals or owners of the corporations or LLCs on whose behalf an individual executed the Independent Contractor Service Agreement. These individuals are referred to in this Notice as “Class Members.”

The United States District Court for the Northern District of California authorized this notice.

This is not a solicitation from a lawyer.

- This notice contains important information about your legal rights as part of a class action settlement. Please read it fully and carefully.
- Denson M. Sales and Andre Clemons, Drivers who worked for URS Midwest, Inc. d/b/a United Road and United Road Services, Inc. (“URS”), sued URS. Robert Bejar and Martin Chavez were later added as named Plaintiffs and Class Representatives in this case. The term “Plaintiffs” as used in this document refers to Mr. Sales, Mr. Clemons, Mr. Bejar and Mr. Chavez. The term “Signing Plaintiffs” refers to Mr. Bejar and Mr. Chavez.
- The case is pending in the United States District Court for the Northern District of California (Case No. 4:19-cv-08404-JST). Plaintiffs and URS are referred to collectively as the “Parties.”
- Plaintiffs’ allegations are brought on their own behalf and on behalf of all Class Members, as defined above.
- Plaintiffs have asserted the following claims against URS: (1) failure to pay all straight time wages at statutory minimum wage; (2) failure to provide meal periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 9-2001(11); Cal. Code Regs., tit. 8 § 11090); (3) failure to authorize and permit rest periods (Lab. Code § 226.7; IWC Wage Order No. 9-2001(12); Cal. Code Regs. Title 8 § 11090); (4) failure to reimburse/illegal deductions (Lab. Code §§ 221, 2802, Cal. Regs., tit. 8, § 11090(8)); (5) violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); (6) knowing and intentional failure to properly itemize wage statements (Lab. Code § 226); (7) failure to timely pay all wages owed at termination (Lab. Code § 203); and (8) violations of California’s Private Attorneys General Act (“PAGA”) (Lab. Code § 2699, et seq.).
- URS denies that it violated the law in any manner and contends that its policies and practices have complied with the law at all times.
- The Court has not decided whether URS did anything wrong.

- Under the proposed Settlement, URS will pay a total of \$7,500,000, to be apportioned and paid among identified members of the Class, after deductions for Court-approved payments, including payment of penalties to the State of California, requested in the amount of \$94,743.75.

YOUR OPTIONS	
Do Nothing	You will receive a proportionate share of the Settlement if final approval is granted and will give up any right to bring any claims in the future that are part of the Settlement.
Opt Out of the Settlement	If you opt yourself out of the Settlement, you will not receive a Settlement payment. But, you will retain the right to assert claims that are included in the Settlement. By doing so, you will bear the risk that you may lose those claims. To opt out, you must timely write to the Class Administrator and follow the procedures described below.
Object to the Settlement	If you disagree with any aspect of this Settlement, you may assert your objections by timely writing to the Class Administrator and filing with the Court your objection according to the procedures described below. If you opt out, you may not object. If you object, you will still be bound by the Settlement if it is approved by the Court.

- These rights and options—**and the deadlines to exercise them**—are explained in this notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made only if the Court approves the Settlement and after appeals (if any) are resolved. Please be patient.

BASIC INFORMATION

1. Why did I get this notice package and Why Should I Read this Notice?

The records of URS indicate that you have been a Class Member during the time period from November 18, 2015 through [insert preliminary approval date] (the Class Period). If the Court approves the Settlement, you will receive a payment and your legal rights may be affected. Thus, you have a right to information about the Settlement and your legal rights. That is the intent of this notice.

2. What is this lawsuit about?

Plaintiffs have asserted the following claims against URS on behalf of the Class Members:

(1) failure to pay all straight time wages at statutory minimum wage; (2) failure to provide meal periods; (3) failure to authorize and permit rest periods; (4) failure to reimburse/illegal deductions; (5) violation of Unfair Competition Law; (6) knowing and intentional failure to properly itemize wage statements; (7) failure to timely pay all wages owed at termination; and (8) violations of California's Private Attorneys General Act ("PAGA"). These claims are referred to in this Notice as the "Claims."

URS denies that the Claims are valid, denies that the Court should permit Plaintiffs to bring the Claims on behalf of the Class, and contends that it complied with the law at all times.

3. What is a class action?

In a class action, one or more people sue on behalf of people whom they allege have similar claims.

4. Why is there a settlement?

The Court has not yet decided in favor of Plaintiffs or URS on the Claims being settled. Plaintiffs think they could recover a significant amount of wages, penalties, and interest on behalf of the Class if they were to win at trial. On the other hand, URS denies all liability and believes that Plaintiffs will not win anything in the case. After years of negotiations, both sides have agreed to the Settlement of the Claims.

The purpose of the Settlement is so that the risks and costs of trial, for both sides, are eliminated, and the Class can be provided with an immediate monetary benefit. Signing Plaintiffs, URS, and their attorneys all believe that this Settlement is best for the Class and the Parties.

The Court has given its preliminary approval to the Settlement as fair and reasonable to the Class.

5. How do I know if I am part of the Settlement?

Everyone who fits this description is a Class Member:

All individuals who signed Independent Contractor Service Agreements with URS, who were assigned to a business unit in California, and who drove in California at any time from November 18, 2015 to March 29, 2022.

If the individual executing the Independent Contractor Service Agreement did so on behalf of a corporation or LLC, then the individual or individuals who were principals or owners of the corporation or LLC shall be considered part of the Class.

6. Are there exceptions to being included?

Yes. If you are a Class Member, you may opt out as stated in Section 13 below. If you do not opt out, you will receive part of the Settlement if approved.

7. What if I'm still not sure if I am included.

If you are still not sure whether you are included, you can call the Class Administrator at [Number] or write to the Class Administrator at [address]. You also may contact Class Counsel identified below for more information.

8. How much money is the Settlement for and how is it allocated?

URS has agreed to pay \$7,500,000 to settle all Claims in this lawsuit. That amount will cover all expenses related to the Settlement.

The Class Administrator will apportion the fund to be paid to Class Members based on their number of workweeks during the Class Period.

9. How much will my payment be and what is the information used to calculate my share?

Based on upon the calculation described above, it is currently estimated that your share of the Settlement will be _____.

This amount could change, depending on how many Class Members opt-out, and/or further determinations by the Class Administrator and/or rulings of the Court.

Of your share of the Settlement, 100% will be reported as "1099" miscellaneous income by the Class Administrator to federal and state tax authorities. No deductions will be taken out of your share of the Settlement. However, you are responsible for all tax liability in relation to payments to you under the Settlement.

This Notice is not tax advice. Do not ask Class Counsel, or URS, or its counsel for tax advice, as they will not provide it. You should consult your own tax advisor.

URS's records show that the following information pertinent to the calculation of your estimated settlement share:

Your number of workweeks during the Class Period is _____.

Your number of workweeks during the PAGA Period (February 10, 2019 to [Preliminary Approval]) is _____.

If you disagree with this information, you must notify the Class Administrator by writing to them at the address set forth in paragraph 7. Be sure to include your full name, email address, mailing address, telephone number, last four digits of your social security number, and all supporting documentation, and to sign your document.

Your notification must be signed and postmarked no later than [60 days from mailing]. After inquiring further of URS, the Class Administrator will make a final resolution of dispute.

10. How can I get a payment?

You do not need to do anything to qualify for a payment. It is important that you immediately notify the Class Administrator if your mailing address is different from the address to which this Notice was sent, or if that address changes.

11. When will I receive a payment?

Payments will be distributed pursuant to a schedule established by the Settlement and by the Court. Presently, the expected date of payment is estimated to be _____. This could change depending on factors influencing the Class Administrator's tasks, any objections to the Settlement, and/or actions by the Court.

12. What am I giving up to get a payment?

Each member of the Class (except those who properly opt out) on behalf of themselves and on behalf of all who claim by or through them or in their stead, do hereby and forever release, acquit and discharge and covenant not to sue URS, and all its present and former officers, directors, shareholders, members, partners, agents, employees, insurers, representatives, attorneys, parent companies, subsidiaries, divisions, affiliates, successors and assigns, and related companies (referred to as the "Released Parties") for any and all claims during the Class Period pleaded in the operative Second Amended Complaint, including without limitation claims for: (1) failure to pay all straight time wages at statutory minimum wage; (2) failure to provide meal periods (Lab. Code §§ 226.7, 512, IWC Wage Order No. 9-2001(11); Cal. Code Regs., tit. 8 § 11090); (3) failure to authorize and permit rest periods (Lab. Code § 226.7; IWC Wage Order No. 9-2001(12); Cal. Code Regs. Title 8 § 11090); (4) failure to reimburse/illegal deductions (Lab. Code §§ 221, 2802, Cal. Regs., tit. 8, § 11090(8)); (5) violation of Unfair Competition Law (Bus. & Prof. Code § 17200, et seq.); (6) knowing and intentional failure to properly itemize wage statements (Lab. Code § 226); (7) failure to timely pay all wages owed at termination (Lab. Code § 203); (8) violations of California's Private Attorneys General Act ("PAGA") (Lab. Code § 2699, et seq.); and (9) interest associated with any of the claims released in this paragraph.

13. How do I opt out of the settlement?

To exclude yourself from the Settlement, you must send a signed letter by mail to the Class Administrator stating words to the effect of, “I wish to be excluded from the Settlement Class.” You must also include your name, mailing address, and telephone number.

Your request to opt out of the Settlement must be postmarked no later than [60 days from mailing] to the Class Administrator at the address in paragraph 7.

If you ask to be excluded, you will not be legally bound by the Settlement if approved. You will not get any money from the Settlement, and you will not be allowed to object to the Settlement.

14. If I don’t exclude myself, can I sue URS for the same thing later?

No. Unless you exclude yourself, you will give up any right to sue URS for the claims that this Settlement resolves. If you have a pending lawsuit or the same claims that are being settled against URS, speak to your lawyer in that case immediately. You must exclude yourself from this Settlement in order to continue your own lawsuit if it involves the same claims.

15. If I exclude myself, can I get money from this settlement?

No. If you exclude yourself, you will not receive any money from this Settlement.

16. Who is my legal representative in this case?

The Court has appointed as Class Counsel the following attorneys:

Mara Law Firm, 2650 Camino Del Rio N., Suite 302, San Diego, California 92108, (619) 234-2833; and

Hunter Pyle Law, 505 14th Street, Suite 600, Oakland, CA 94612, (510) 444-4400.

You will not be charged for the work performed by these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

If you have questions about this Settlement, you may contact Class Counsel. They will consult with you and attempt to answer your questions. Do not contact URS with any such questions.

17. How do I object to the Settlement?

If you are a Class Member and do not opt out, you can object to the Settlement if you don't like any part of it. However, the Court cannot order a larger settlement, The Court can only approve or deny the proposed Settlement.

If the Court denies approval, no settlement payments will be sent out and the lawsuit will continue. If that is what you want, you must object. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views.

To object to the Settlement, you must send a written objection to the Court no later than [60 days from mailing] to the Class Administrator at the address in paragraph 7. Your objection must include your name and address, as well as the case name and number and must set forth, in clear and concise terms a statement of the reasons why you believe that the Court should find that the Settlement is not in the best interest of the Class and the reasons why the Settlement should not be approved. Your objection must state whether it applies only to the objector, to a specific subset of the class, or to the entire class.

If you also wish to appear at the Fairness Hearing, in person or through an attorney, you must *also* file a notice of your intention to appear at the same time as the objection is filed. Unless otherwise ordered by the Court, you will not be entitled to speak at the Final Approval Hearing unless you have submitted a timely written objection and notice of intention to appear.

18. What's the difference between objecting and opting out?

Objecting is simply saying that you don't like something about the Settlement and do not want it approved. Opting out is saying that you don't want to be part of the Class and participate in the Settlement. If you opt out, you have no basis to object because the case no longer affects you.

19. When and where will the Court decide whether to approve the settlement?

The Court will hold a Fairness Hearing at _____ a.m. on _____, [insert court information]. At this hearing, the Court will make a final decision as to whether the Settlement is fair, reasonable, and adequate. If you or other Class Members object to the Settlement, the Court will consider the objections. At or after the hearing, the Court will decide whether to grant final approval to the Settlement. At the Fairness Hearing, the Court may continue the hearing to another date without additional notices being sent out.

20. Do I have to come to the hearing?

No. Class Counsel will answer questions the Judge may have. You are welcome to come at your own expense. If you properly submit an objection, you don't have to come to Court to talk about

it. As long as you properly submitted your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the Fairness Hearing. You cannot appear and speak at the hearing if you opt out.

22. What happens if I do nothing at all?

If you do nothing, or fail to act timely, you'll receive your share of the Settlement, but you will be barred from bringing the released claims against URS as described in paragraph 12.

23. No retaliation by URS

California law makes it unlawful to retaliate against you for participating in a lawsuit like this one.

24. How do I get more details about the Settlement?

This notice is intended as a summary and does not fully describe this action, the claims, the defenses, or the proposed Settlement, which is subject to the terms and conditions of the Settlement Agreement filed with the Court as preliminarily approved by the Court. For further information, you may call or contact the Class Administrator (see paragraph 7 for contact information) or Class Counsel (see paragraph 16 for contact information). Do not contact URS.

The Class Administrator also maintains a website at which some important documents in this case are available. The URL for the website is [insert].

You may also obtain more information by contacting Class Counsel, at either address or telephone number listed above; by accessing the Court docket in this case through PACER at <https://ecf.cand.uscourts.gov>; or by visiting the office of the Clerk of the United States District Court, located in Suite 400 S of the United States District Court, Northern District of California, Oakland Courthouse, located at 1301 Clay Street, Oakland, CA 94612, between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Court holidays (you may also visit the Court at any of its other locations, listed at <https://cand.uscourts.gov/locations>).

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, OR DEFENDANT OR ITS COUNSEL WITH INQUIRIES.

Date: _____

This Notice has been approved by the Judge of the United States District Court for the Northern District of California responsible for overseeing and deciding this case.

Settlement Administrator
Address 1
Address 2

**NOTICE TO INDIVIDUALS WHO CONTRACTED WITH UNITED ROAD SERVICES
BETWEEN NOVEMBER 18, 2015 AND MARCH 29, 2022**

Class Member Name
Address 1
Address 2

Exhibit 2

**URS MIDWEST, INC.
FLEET OWNER
MASTER SERVICE AGREEMENT**

URS Lease No. _____

Fleet Owner No. _____

***THIS IS AN IMPORTANT DOCUMENT THAT CREATES RIGHTS
AND OBLIGATIONS FOR BOTH URS MIDWEST, INC. AND YOU.
PLEASE MAKE SURE YOU UNDERSTAND THE TERMS,
CONDITIONS AND OBLIGATIONS OF THIS AGREEMENT
BEFORE YOU ENTER INTO IT.***

This Fleet Owner Master Service Agreement (hereinafter referred to as “Agreement”), is made and entered into on _____ (“Effective Date”) by and between

_____ (“Fleet Owner”) and URS MIDWEST, INC.
_____ (“Carrier”) (USDOT #790261).

Intending to be legally bound by the terms of this Agreement, Fleet Owner and Carrier mutually agree as follows:

RELATIONSHIP AND INTENTION OF PARTIES

The intention of the parties to this Agreement is to (1) create an agreement to facilitate both Carrier’s and Fleet Owner’s compliance with all applicable laws, particularly as they relate to the transport of goods in interstate and intrastate commerce; and (2) create a vendor/vendee relationship between Fleet Owner and Carrier through which Fleet Owner, as an independent business entity, may have the potential and expectation to realize a profit or loss by:

- providing truck tractor power units, trailers, and duly qualified drivers to perform the services described in this Agreement;
- performing certain pick-up, delivery and linehaul activities related to the transport of vehicles, following criteria laid out by the owner of said vehicles; and
- conducting and considering itself as a for-profit business entity that is an unrelated vendor to Carrier for all purposes.

This Agreement sets forth the mutual business objectives of the two parties intended to be served by this Agreement, which are the results Fleet Owner agrees to achieve. The manner and means of reaching these results, however, are within the sole discretion of Fleet Owner, and no officer or employee of Carrier shall have the authority to impose any term or condition on Fleet Owner or on Fleet Owner’s continued operation that is contrary to this understanding. Fleet Owner is expected to exercise independent discretion and business judgment to determine the method,

manner and means of performance of its contractual obligations under this Agreement. Carrier may, however, issue reasonable and lawful directives regarding the results to be accomplished by Fleet Owner and failure to accomplish such results shall be a breach of this Agreement by Fleet Owner. Nothing in this Agreement shall be construed as effecting or constituting any lease to Fleet Owner of any operating authority of Carrier, or to constitute Fleet Owner as a for-hire motor carrier under any provisions of federal, state, or local law.

Neither Fleet Owner, nor any employee or agent of Fleet Owner, shall be considered to be an employee of Carrier, any affiliate of Carrier, or any of Carrier's customers at any time, under any circumstances, for any purpose whatsoever, and nothing in this Agreement shall be construed as inconsistent with the aforementioned vendor/vendee relationship. It is further expressly understood that Fleet Owner, as a business entity, its owner, or any individual working for Fleet Owner or on behalf of Fleet Owner, has no right to receive, and has no claim to, any compensation or benefit currently paid by Carrier, or made available through Carrier to its employees or hereafter established by Carrier for the benefit of its employees. The amounts payable to Fleet Owner for services rendered under this Agreement are defined solely and specifically in this Agreement and shall consist, in its entirety, of the payments to which Fleet Owner is entitled to as a vendor as set forth in Section 3 below.

Fleet Owner represents and warrants as a material condition to this Agreement and as a material inducement to Carrier to enter into this Agreement that Fleet Owner understands the difference between an employee and an independent contractor and has had the opportunity to consult with counsel of its choice prior to entering into this Agreement.

IF AT ANY TIME DURING THE TERM OF THIS AGREEMENT, FLEET OWNER IS OF THE OPINION THAT ANYTHING OTHER THAN AN INDEPENDENT CONTRACTOR OR VENDOR/VENDEE RELATIONSHIP EXISTS BETWEEN FLEET OWNER AND CARRIER, FLEET OWNER SHALL IMMEDIATELY NOTIFY THE PRESIDENT OF CARRIER, IN WRITING.

The term "Fleet Owner" as used in this Agreement shall mean Fleet Owner individually as the signatory to this Agreement or, depending on the context in which the term is used, Fleet Owner, collectively with its employees or agents.

Initials for Carrier

Initials for Fleet Owner

Fleet Owner acknowledges that Carrier makes no representation regarding, and does not guarantee Fleet Owner, any amount of business hereunder during the term of this Agreement. Carrier retains the right to perform any and all of its business requirements with its own employees or to engage other parties of its own choosing for any part or all of its work, subject to the requirements of Section 7(a) of this Agreement.

1. Term: The term of this Agreement shall commence upon the Effective Date and shall continue until December 31st, 2020, unless terminated earlier subject to Section 13 of this Agreement. Both parties by mutual agreement may agree to extend the term for an additional period in writing.

2. Services and Equipment:

(a) Services. Carrier is a duly-licensed, for-hire interstate motor carrier authorized to transport property in interstate and intrastate commerce. Carrier specifically provides for the transportation of vehicles for its customers, which requires specialized truck tractor power units and trailers, as well as the corresponding skills to operate the equipment in order to ensure the safe transport of such vehicles.

Fleet Owner agrees to provide, at its sole cost and expense, such specialized truck tractor power units and trailers and drivers possessing the necessary skills so as to provide the following services: (i) transport; (ii) load and/or unload as may be required by its customers (in such instances, the driver shall be responsible for inspecting the load before, during and after unloading); and (iii) perform other transportation-related services on behalf of Carrier and its customers (collectively “Services”). Fleet Owner agrees that shipments tendered to Fleet Owner shall be delivered to the consignee with reasonable diligence, speed and care. Fleet Owner shall be responsible for any claims resulting from cargo loss, damage, delays or shortages occurring while such cargo is under Fleet Owner’s driver’s care, custody or control, the extent of which is further defined in Section 12(a) herein.

Neither Fleet Owner nor its drivers are obligated to accept for transportation every or any shipment offered by Carrier to Fleet Owner or its drivers, and may decline Carrier’s load tender request without penalty. When a shipment is offered by Carrier to Fleet Owner and is accepted by Fleet Owner or Fleet Owner’s drivers, however, Fleet Owner agrees to be hereby bound to the terms and conditions of any bill of lading, order for service, or other transportation contract entered into by Carrier with Carrier’s customers, and for which Fleet Owner is performing the Services.

(b) Equipment. Fleet Owner agrees that the truck tractor power units and trailers (referred to collectively as “Equipment” or “Fleet”) are accurately described in Appendix 1 of the Agreement and meet the following criteria:

- (i) Fleet Owner represents (i) that it has the legal right to exercise full control over the Equipment; (ii) the Equipment is fully equipped with all safety devices and lights and is in compliance with safety regulations and the requirements of all applicable foreign, federal, state, provincial and municipal laws and regulations; and (iii) the Equipment is not the subject of any other lease, memorandum of agreement or agreement with any other motor carrier.
- (ii) Each truck tractor power unit listed in Appendix 1 shall be equipped with an electronic logging device (“ELD”) as described in Appendix 5.
- (iii) All Equipment listed in this Appendix 1 shall be properly marked as required by Carrier and is hereby subject to this Agreement.

3. Rates and Payments:

(a) Carrier shall pay Fleet Owner a base rate of _____ of the "Transport Revenue" as such designated amount appears in the OVISS and the Fleet Owner's settlement statement, subject to the deductions authorized in this Agreement, Appendix 2, and/or any other agreement(s) which may authorize settlement deductions.

For purposes of this Agreement, the term Transport Revenue means the amount charged to the customer/shipper for the transport of the customer's vehicles by Carrier ("Price") less amounts related to fuel price fluctuations; toll adjustments; logistics fees; expediting; and any payments to third parties, such as brokers, which amounts may vary from time to time. Due to the variety of charges and their unpredictable frequency of such payments, the deductions from the Price to calculate Transport Revenue are not included in the Fleet Owner's settlement statement, but Fleet Owner has the right to inquire about, and obtain the detail regarding, the calculation.

(b) In addition to the base rate, amounts related to the price of fuel may be paid by Carrier to Fleet Owner from time to time and will be identified as "Fuel Support" on the Fleet Owner's settlement statement. The fuel support will vary based on the customer and the origin/destination of the freight and shall be calculated as a percentage of Transport Revenue, which percentage may change from time to time. The applicable fuel support percentage will be provided to Fleet Owner in advance of Carrier offering Fleet Owner any load.

(c) Amounts related to the price of tolls may also be paid by Carrier to Fleet Owner from time to time and will be identified as "Toll Adjustments" on the Fleet Owner's settlement statement. In the event Carrier receives revenue from its customers due to increases in tolls over a certain agreed upon baseline, 100% of such amount shall be passed through to Fleet Owner when and as received by Carrier but will only be paid, however, when Fleet Owner actually incurs the cost of the subject toll.

(d) From time-to-time, Fleet Owner and Carrier may agree upon an alternate rate relating to a particular shipment or shipments from a specific origin. In such event, the alternative rate will be agreed upon prior to the performance of the services and will temporarily supersede and replace the parties' agreement related to rates and charges as is otherwise specifically set forth in this Agreement. The different rate will only apply for the particular shipment(s) for which such an alternative is offered and accepted.

(e) Carrier shall make funds available to Fleet Owner for Services rendered by Fleet Owner's drivers in the amounts set forth in Sections 3(a) and (b) above within fifteen (15) days after receipt by Carrier of the documents specified in Section 7(e) of this Agreement. All components of amounts owed to Fleet Owner for Services rendered and all authorized deductions from such amounts shall be reconciled no less frequently than once every calendar month. Fleet Owner has the obligation to pay such drivers pursuant to the arrangement that Fleet Owner has with such drivers. Carrier will not remit payment directly to any of Fleet Owner's drivers.

If there are any additional or different rates or charges related to a shipment for which Fleet Owner seeks payment, it is Fleet Owner's responsibility to inform Carrier of such additional or different rates or charges within fourteen (14) days of receiving the monthly reconciliation. Failure

to timely notify Carrier shall be deemed as acceptance of the settlement statement as it relates to rates and charges.

4. Escrow Account: Fleet Owner and Carrier agree to establish an account that is intended to serve as a partial source of funds to indemnify Carrier against any potential losses Carrier may incur and to ensure the return to Carrier, upon termination of this Agreement, any property of Carrier that Fleet Owner may have in its possession. For purposes of this Agreement, the account is referred to as the “Escrow Account”, as more fully described in Appendix 3.

5. Charges and Deductions: During the term of this Agreement, Fleet Owner may elect to obtain the following services through the Carrier for Fleet Owner’s use directly or through its drivers’ use:

- (a) UPS account for shipping items;
- (b) A card for purchasing fuel, 3rd party services and obtaining cash advances;
- (c) Corporate Lodging card for hotel stays;
- (d) Blue Beacon account for truck washes;
- (e) Toll transponder;
- (f) Electronic Logging Devices; or
- (g) Other services as they may become available.

Any purchases made by Fleet Owner of said services will be deducted from Fleet Owner’s compensation. In the event Carrier does supply a fuel card to Fleet Owner, Fleet Owner agrees to pay to Carrier a non-refundable annual administration fee set forth in Appendix 2 hereto, for fuel purchased without the fuel card to cover Carrier’s increased costs associated with the fuel tax reporting. Carrier retains the right to suspend providing these services in its sole discretion.

Fleet Owner acknowledges further that he is financially responsible for the payment of the following amounts and agrees to reimburse Carrier in the event Carrier has paid such amounts on Fleet Owner’s behalf:

- (i) Any and all taxes and fees attributable to the operation of the Equipment, including all Federal Highway Use Taxes and all State and Local personal property, fuel or use taxes in addition to all other taxes and fees of any kind or nature. Fleet Owner shall further provide Carrier with certified proof of the payment of any such taxes and fees at the time the same become due.
- (ii) Any and all charges, judgments, fines, costs and expenses, including bail bonds and attorneys’ fees, levied against Fleet Owner, Fleet Owner’s drivers, or Carrier as the result of any violation of any criminal traffic offense or civil forfeiture proceeding attributable to the operation of the Equipment.

6. Use:

(a) Fleet Owner will maintain the Equipment in such condition to ensure it remains available for dispatch and in compliance with FMCSA Regulations during the entire Term of this Agreement. Fleet Owner, at its own cost, shall conduct periodic inspections and maintenance, and maintain records thereof, as required by federal and/or state regulations. Fleet Owner shall make such records available to Carrier for inspection and copying. In addition, Fleet Owner agrees to comply with Carrier's equipment inspection program currently in effect.

(b) Fleet Owner will provide Carrier with proof of current necessary registration and plates for trailers and maintain current registration for all the pieces of Equipment during the term of this Agreement. In the event Fleet Owner is not operating under its own base plate for any piece of Equipment, Fleet Owner shall obtain a Michigan base plate through the Carrier for such piece of Equipment.

(c) Fleet Owner will be financially responsible for all fuel, oil, lubricants, tires, parts, repairs, periodic maintenance, fuel taxes, empty mileage, permits of all types, tolls, ferries, detention, empty miles, fines or penalties incurred for violations of any municipal, state, federal laws, regulations or ordinances and accessorial services, base plates and licenses, and any unused portion of such item, at Fleet Owner's sole expense. Fleet Owner further warrants and agrees that it shall maintain all Equipment so as to present a clean and attractive appearance and shall pay any and all other expenses incidental or necessary to operating the Equipment in a safe, lawful and dependable manner. Fleet Owner shall incur no indebtedness in the name of Carrier under any circumstances. Fleet Owner is not required to purchase or rent products, equipment, or services from Carrier as a condition of entering into this Agreement.

(d) Fleet Owner shall furnish and have available for use at all times, chains, straps, binders, tie-downs, tarps and other auxiliary equipment necessary to secure and protect loads tendered to Fleet Owner or its drivers. Fleet Owner shall also ensure that each power unit has Carrier's recommended fire suppression equipment necessary to protect the vehicles. Fleet Owner shall, at all times, comply with securement and load protection procedures as required by FMCSA and/or policies of Carrier and Carrier's customers.

(e) Fleet Owner may use any piece of Equipment for other purposes when it is not in the service of Carrier. However, in order for Carrier to provide the level of service required by its customers, Carrier must know when Fleet Owner uses any piece of Equipment for any "non-Carrier use". Accordingly, in the event Fleet Owner intends to use any piece of Equipment in any "non-Carrier use", Fleet Owner agrees that at least seventy-two (72) hours prior to such use it shall: (i) notify Carrier of such intended use; (ii) remove or temporarily cover all Carrier identification signs and permit markings bearing Carrier's name, logo, and/or U.S. DOT number; and (iii) confirm to Carrier's satisfaction that appropriate insurance coverage is in place and in effect.

Fleet Owner specifically agrees that any of Carrier's property in Fleet Owner's possession or control during such "non-Carrier use" shall not be employed by Fleet Owner in any way to effect such "non-Carrier use" of property. For purposes of this Section 6(e), the phrase "Carrier's

property” includes, but is not limited to, any item provided in any manner to Fleet Owner by Carrier including, but not limited to placards, permits, fuel cards, and similar property.

At the conclusion of any “non-Carrier-use,” Fleet Owner shall submit copies to Carrier of any applicable driver’s logs or ELD data and other related supporting documents, as appropriate, to verify hours of service status.

7. Drivers: It is the expectation that Fleet Owner will operate its Fleet with multiple drivers who are identified in Appendix 1 of this Agreement when providing Services hereunder. Fleet Owner shall undertake the responsibility for ensuring its drivers meet all the requirements set forth in this Agreement including, but not limited to the following:

(a) Fleet Owner agrees to provide drivers to operate the Equipment. Such drivers shall be fully qualified in accordance with the regulations of the U. S. DOT to perform the operations called for under this Agreement. Fleet Owner shall ensure (i) that all operations and activities of its drivers under providing Services under this Agreement shall be in compliance with the rules, regulations, policy statements, orders or other requirements of the U.S. DOT, FMCSA, and any other regulatory agency, federal or state, including state labor laws and (ii) all such drivers are subject to random drug and alcohol testing in accordance with all federal laws and Carrier’s policies. Fleet Owner shall ensure that drivers shall fully comply with all operating procedures of Carrier, and all reasonable specifications of shipper and provide information to its drivers to accomplish this requirement. In the event any driver fails to meet such qualifications or fails to observe such rules, regulations, or requirements, Fleet Owner shall either provide a substitute driver, or take the driver’s assigned Equipment out of service.

(b) Fleet Owner shall have the affirmative duty to (i) report to Carrier any noncompliance with Section 7(a) above including the issuance of any citations to any driver immediately upon Fleet Owner receiving knowledge of such occurrence, and (ii) immediately cease using any driver who is prohibited by law to perform safety sensitive functions.

(c) Fleet Owner, in its sole discretion shall determine the amount of compensation it will pay to its drivers as well as all other related terms and conditions of contracting or employment. Fleet Owner shall provide at its own expense, such compensation, fringe benefits, unemployment and Social Security taxes attributable to the employment of such driver and shall withhold from such driver’s wage any federal, state or local taxes applicable thereto under any federal, state or local law, statute, or ordinance. Fleet Owner shall obtain a worker’s compensation insurance policy for such drivers, helpers and laborers as described in Appendix 4 of this Agreement. Any additional labor required to load or unload the Equipment shall be provided by and at the expense of Fleet Owner.

(d) Fleet Owner hereby authorizes Carrier to advance monies to the drivers or to any other person so designated by Fleet Owner PROVIDED the necessary authorization documents are signed by Fleet Owner and submitted to Carrier. Said advanced monies shall be deducted from the amounts otherwise payable to Fleet Owner under this Agreement.

(e) Fleet Owner shall cause its drivers (including its owner) to deliver to Carrier all bills of lading, delivery receipts, shipping orders, fuel receipts, loading/unloading reports,

and trip reports immediately upon completion of each trip. Should a driver not be able to use the V-TAS system, the Fleet Owner shall ensure that all of these documents are delivered to Carrier within ten (10) days after the completion of each trip to avoid a charge against amounts otherwise payable to Fleet Owner pursuant to Appendix 2 hereto. Fleet Owner further agrees that the driver (including its owner) assigned to the Equipment will promptly submit to Carrier all required hour of service related data in proper form as required by the FMCSA.

(f) Fleet Owner acknowledges that it and its drivers are representing Carrier to Carrier's customers. Thus, Fleet Owner's drivers shall look and act professional at all times when dealing with Carrier's customers and dress appropriately for the circumstances which shall mean refraining from wearing tank tops; muscle shirts; cut offs; sandals; clothing/pins with suggestive, immoral, profane, rude or derogatory slogans, phrases or pictures or other motor carriers' apparel. Furthermore, Fleet Owner shall abide with any Customer Code of Conduct Policies and shall refrain from the use of social media or other means to post Customer information, photos of Customer's facility, and or Equipment. The Fleet Owner shall ensure its drivers do not wear clothing branded with competitors name or logo. Carrier may prohibit dispatch of any Fleet Owner's drivers found to be in violation of this section until the violation is cured.

8. Dispatchers:

(a) Carrier shall designate a person with whom Fleet Owner or its authorized drivers shall communicate regarding dispatch of the Equipment, customer delivery requirements, or other operational requirements of Carrier pursuant to this Agreement. Fleet Owner shall ensure that such authorized drivers communicate with Carrier's dispatcher between the hours of 8:00 a.m. and 11:00 a.m. on each day such authorized driver is under dispatch with Carrier regarding the location and condition of the Equipment. In the event a driver of Equipment is not authorized by Fleet Owner for the purposes described in this paragraph, then Fleet Owner shall be directly responsible for communication with dispatch. Fleet Owner will also ensure that Carrier is notified of any event or circumstance which shall or may cause a delay in any delivery. Fleet Owner's failure to provide such notification may result in a charge against amounts otherwise payable to Fleet Owner pursuant to Appendix 2 hereto.

(b) In the event Fleet Owner chooses to delegate authority to someone other than the Fleet Owner to communicate with dispatch and/or make other day-to-day decisions on Fleet Owner's behalf under this Agreement, then Fleet Owner shall identify and provide Carrier with information regarding a specific individual or individuals who will be so authorized by Fleet Owner and the scope of such individual's authority to legally bind Fleet Owner and its business regarding decisions relating to this Agreement. In no event, however, shall any such individuals be considered to have signature authority with regard to any changes of any provision in this Agreement or any changes as they relate to rates and charges or other items.

9. U.S. DOT Leasing Regulations: Only to the extent required by Federal Motor Carrier Leasing Regulations, 49 CFR 376.12 et seq. (the "Leasing Regulations"), does Fleet Owner agree to relinquish to Carrier exclusive possession, control and use of the Equipment while the Equipment is in service to Carrier under this Agreement and Carrier agrees to assume responsibility for same. Both Carrier and Fleet Owner specifically acknowledge and agree with

the statement contained in the Leasing Regulations to the effect that nothing contained in the Leasing Regulations is intended to affect whether Fleet Owner, as a lessor, or any driver provided by Fleet Owner, is an independent contractor or an employee of Carrier. It is the intention of the parties that an independent contractor relationship exists between Carrier and Fleet Owner when Carrier, as a motor carrier, and Fleet Owner, operating the Equipment under Carrier's U.S. DOT operating authority, comply with 49 U.S.C. Section 14102 and attendant administrative requirements.

10. Mechanical Failure/Damages:

(a) In the event of mechanical failure of any piece of Equipment or other causes deemed sufficient by Carrier, any cargo upon a piece of Equipment may be transferred to another piece of equipment selected by Carrier for completion of delivery. In such event, Fleet Owner shall be financially responsible for all expenses incurred by Carrier with respect to such transfer and delivery of cargo and such sum will be deducted from amounts otherwise payable to Fleet Owner under this Agreement.

(b) In the event of any accident or damage to cargo, Fleet Owner, Fleet Owner's drivers, or other proper persons shall immediately notify Carrier by telephone before the Equipment is removed from the scene of an accident, and shall promptly complete a written report thereto, as required by law or the policy of Carrier, which report shall be delivered to Carrier and to any government agency.

(c) Fleet Owner assumes full and complete responsibility and liability for any loss or damage to the Equipment, however caused, regardless of whether such loss or damage occurs in performance of this Agreement. Fleet Owner further assumes full and complete responsibility for any claims, demands, action or liability arising from the operation of the Equipment while the same is not in the actual service of Carrier, including, but not limited to, operation of said Equipment for the personal use of Fleet Owner, its drivers or other employees, or for purposes of obtaining repairs, maintenance or other requirements within the responsibility of Fleet Owner.

11. Insurance:

(a) Carrier's Insurance Responsibilities ("Provided Insurance"). During the term of this Agreement and any extension thereof, Carrier, as a for-hire motor carrier, shall carry:

- (i) all insurance necessary to protect the public against all hazards or accidents resulting in bodily injury and death to any persons and damage to property, as required by law (auto liability), and
- (ii) inland marine coverage to cover damage to customers' property/cargo (cargo liability).

The "Provided Insurance" shall be in effect while the Equipment or cargo units are being operated in the furtherance of Carrier's business, including authorized bobtail and deadhead miles, as interpreted through U.S. DOT Regulations; federal and/or state statutes; and applicable case law. A portion of the cost of such insurance coverages is charged to Fleet Owner in the amounts set forth in Appendix 2 to this Agreement.

(b) Fleet Owner's Insurance Responsibilities ("Other Insurance"). Notwithstanding the provisions set forth in Section 11(a) above, it is agreed by the parties that Fleet Owner is responsible for any and all other types of insurance whatsoever, including, without limitation, non-trucking (bobtail), workers' compensation insurance and/or occupational accident insurance, if applicable ("Other Insurance") as described in Appendix 4.

12. Indemnification: Fleet Owner agrees to indemnify and hold harmless Carrier, its employees, representatives, affiliated companies and its customers and their officers, directors, employees, successors and assigns (all hereinafter referred to in this Section 12 as "Carrier") from and against any losses, damages, claims, demands, suits, liability and expenses (including reasonable attorneys' fees and court costs) ("Losses") that arise out of or result from:

(a) Damage or loss, including theft, to cargo being transported by Fleet Owner in the service of Carrier, up to the total sum of \$5,000.00 per incident, per piece of Equipment, and any remaining amounts will be covered by the Provided Insurance, unless the Fleet Owner fails to have Carrier's recommended fire suppression equipment necessary to protect the cargo onboard the Equipment, per Section 6(d) of the Agreement, then the total sum shall be the total claim amount or \$50,000.00, whichever is less. Fleet Owner shall also be liable and responsible for any damage to cargo (not covered by insurance) involving any of its drivers and any piece of Equipment, and any claims resulting from damage to cargo which was not noted and signed for by the shipper at the time and place of shipment;

(b) Injuries or damages to any third person or property caused during the operation of the Equipment or a manifested cargo unit, in the service of Carrier, or the expense cost associated with the investigation or defense of such claims up to the total sum of \$2,500.00 per incident, for which the remainder is covered by the Provided Insurance;

(c) Assertions under workers' compensation, unemployment, or similar laws made by the owner of the Fleet Owner, any driver of Fleet Owner, or other workers furnished by Fleet Owner or claims related to the terms and conditions of the working relationship between Fleet Owner and its drivers or other workers furnished by Fleet Owner;

(d) Fleet Owner's breach, misrepresentation or non-performance before or after termination of this Agreement; or

(e) Claims by governmental authorities or others of any actual or asserted failure of Fleet Owner or Fleet Owner's workers to comply with any law, ordinance, regulation, rule, tariff or order of any government body.

At the request of Carrier, Fleet Owner agrees to defend Carrier against any such "Losses" at Fleet Owner's sole expense. Any attorney retained to defend any such claim, demand or suit shall be mutually acceptable to Carrier and Fleet Owner. Carrier agrees to notify Fleet Owner within a reasonable time of any written claims or demands against Carrier for which Fleet Owner is responsible under this Section 12.

Carrier will provide Fleet Owner with a written explanation and itemization of such deductions for cargo damage, property damage, and other claims under this Section 12.

13. Termination: This Agreement may be terminated during the Term, subject to Section 14(d), as follows:

(a) At any time, with or without cause, by either party upon thirty (30) days written notice.

(b) Upon ten (10) days written notice of unsatisfactory compliance of Fleet Owner with the terms and conditions contained herein provided that such violation has not been cured within ten (10) days of the date of notice.

(c) Immediately, upon the death of Fleet Owner.

(d) Immediately, by either party, by giving notice to the other party in writing in the event of the breach of this Agreement by the other party. Any waiver of a breach of the terms shall be deemed to be limited to that breach and shall not be constructed as a waiver.

(e) Immediately, in the event any piece of Equipment is used in a manner not authorized by Carrier in this Agreement or in any manner contrary to federal, state or local laws or regulations.

(f) Immediately, at the election of the uninvolved party, upon the filing of a petition in bankruptcy or in the event either party becomes insolvent or makes a general assignment for the benefit of creditors. Either party shall have the right to recover all damages (including attorneys' fees) and pursue other remedies at law or in equity that may result from the other party's actions or omissions which caused this Agreement to terminate prior to the date set forth in Section 2, above.

14. Fleet Owner's Obligations Upon Termination: Within five (5) calendar days following the effective date of the termination of this Agreement, Fleet Owner shall:

(a) Provide Carrier with a receipt of all the Equipment stating the date and time of description of such receipt, return to Carrier all shipping documents, driver's logs, keys, credit cards, corporate lodging cards, toll transponders, handheld devices, electronic logging devices, insurance cards, license plates, stickers, operating authorities, permits, and any and all other materials, equipment, supplies or things furnished by Carrier or issued in its name.

(b) Remove from the Equipment and return by personal delivery or overnight courier to Carrier all identification devices and placards (other than those painted directly on the Equipment). If an identification device or placard has been lost or stolen, Fleet Owner shall provide Carrier with a written notice certifying its removal. All identification devices and placards painted directly on the Equipment shall be immediately covered until such time that they can be removed or painted over until completely hidden, and photographs evidencing such action shall be provided to Carrier.

(c) Fleet Owner agrees that after the termination of this Agreement, the use of such property is unauthorized by Carrier and Fleet Owner agrees to indemnify and hold Carrier harmless for any and all actions, damages (including, but not limited to attorneys' fees, suits, monies and court costs), lawsuits, actions or causes of action, whether in law or equity, of any nature

whatsoever, incurred by Carrier as a result of the unauthorized use or failure to return such property.

If Fleet Owner fails to comply with this section or refuses to provide evidence acceptable to Carrier demonstrating compliance, Fleet Owner agrees that Carrier may withhold the return of any monies owed Fleet Owner, including but not limited to any amounts otherwise payable to Fleet Owner under this Agreement or any balance remaining in the Escrow Account or any reserve account established pursuant to this Agreement.

(d) Should this Agreement be terminated for any reason within one hundred eighty (180) days of the execution date hereof, then Carrier shall deduct an “early lease termination fee” in the amount set forth in Appendix 2 hereto. For the purpose of this section, the execution date shall mean the date the Fleet Owner first executed an Agreement with the Carrier, provided that there was no gap or lapse in the Agreements.

(e) If Carrier receives a refund or a credit for base plates purchased for Fleet Owner and issued in the name of Carrier, or if the base plates are reallocated to another lessor, Carrier shall refund to the lessor on whose behalf the base plate was first obtained, a pro-rated share of the amount received, less any expenses incurred by Carrier.

(f) The Fleet Owner’s obligations under Section 12 above (Indemnification) shall survive the termination of this Agreement and the payout of the Escrow Account.

15. Right to Set-Off: Carrier shall be entitled to set-off against and shall deduct from any amount payable to Carrier under this Agreement or any amounts held in the Escrow Account, any amounts due and payable to Carrier from Fleet Owner under this Agreement and the amounts of any losses, damages or expenses (including all court costs and attorneys’ fees) suffered or incurred by Carrier or any of its affiliates as a result of Fleet Owner’s breach of any provisions of this Agreement or the result of the negligence, fraudulent or illegal activities of Fleet Owner or its employees or agents. Fleet Owner shall be provided an accounting of any set-off made against any amounts otherwise payable to Fleet Owner under this Agreement or the Escrow Account. The right to set-off shall survive the termination of this Agreement. Fleet Owner shall remain liable for any remaining indebtedness which may exceed amounts against which Carrier may set-off.

16. Arbitration: Any claim, dispute or controversy including, but not limited to the interpretation of any federal statutory or regulatory provisions purported to be encompassed by this Agreement, any alleged breach of this Agreement, or the enforcement of any statutory rights emanating or relating to this Agreement, **shall be resolved on an individual basis exclusively between Fleet Owner and Carrier by final and binding arbitration to be held in Wayne County, Michigan** before the American Arbitration Association (“AAA”). The arbitration proceeding shall be governed by the following rules:

(a) A written demand for arbitration must be mailed to the other party and the AAA within ninety (90) days of the occurrence of the claimed breach or other event giving rise to the controversy or claim. **Failure to make such timely demand for arbitration shall constitute an absolute bar to the institution of any proceedings and a waiver of the claim.**

(b) The demand for arbitration shall identify the provision(s) of this Agreement alleged to have been breached and shall state the issue proposed to be submitted to arbitration and the remedy sought. The demand shall be submitted to the AAA in accordance with the instructions on its website and shall include a request that the demand be forwarded to the appropriate AAA Regional Office.

(c) As to any dispute or controversy which under the terms of this Agreement is a proper subject of arbitration, no suit at law or in equity based on such dispute or controversy shall be instituted by either party other than a suit to conform, enforce, vacate, modify or correct the award of the arbitrator(s) as provided by law; provided, however, that this clause shall not (i) limit Carrier's right to obtain any provisional remedy including, without limitation, injunctive relief, writ for recovery of possession or similar relief from any court of competent jurisdiction, as may be necessary in Carrier's sole subjective judgment to protect its property rights; or (ii) be applicable to any claim against either party related to a vehicular accident causing property damage (other than cargo), personal injury, or death.

(d) General pleading and discovery processes related to the arbitration proceeding shall comply with the Federal Rules of Civil Procedure.

(e) The arbitration proceeding shall be governed by the AAA's Commercial Arbitration Rules to the extent that such Rules are not inconsistent with the immediately preceding subparts (a) through (d).

17. Governing Law and Choice of Forum: This Agreement shall be interpreted in accordance with, and governed by, the laws of the United States and, of the State of Michigan, without regard to the choice-of-law rules of Michigan or any other jurisdiction. THE PARTIES AGREE THAT ANY CLAIM OR DISPUTE ARISING FROM OR IN CONNECTION WITH THIS AGREEMENT THAT MAY FALL OUTSIDE THE SCOPE OF SECTION 15 ABOVE, WHETHER ASSESSING A CLAIM UNDER FEDERAL, STATE, LOCAL, OR FOREIGN LAW (INCLUDING BUT NOT LIMITED TO 49 C.F.R. PART 376), SHALL BE BROUGHT EXCLUSIVELY IN THE STATE OR FEDERAL COURTS SERVING WAYNE COUNTY, MICHIGAN. CARRIER AND FLEET OWNER HEREBY CONSENT TO THE JURISDICTION AND VENUE OF SUCH COURTS.

18. Non-Fuel Tax Filing and Reporting Responsibilities: Carrier shall report payments made to Fleet Owner pursuant to this Agreement as required by law, though shall not withhold any amounts for taxes on behalf of Fleet Owner except as otherwise required by law. **Fleet Owner shall be solely responsible for the payment of any federal, state, provincial or local income taxes, payroll taxes, employment taxes, self-employment taxes or other charges occasioned by Fleet Owner's status as an independent contractor and the filing of any federal, state, provincial or local returns with respect to such taxes. Carrier shall not be responsible for the payment of any local, state, provincial or federal employment, self-employment taxes, income taxes, ad valorem or any other taxes with respect to Fleet Owner, Fleet Owner's employees, or Fleet Owner's property.**

19. Confidentiality: Fleet Owner acknowledges that material and information which Fleet Owner may acquire about Carrier's customers, pricing, procedures and operations are

considered by Carrier to be proprietary and confidential. Fleet Owner agrees that all such information acquired by the other hereunder shall be held in confidence, and it shall not reveal or use any such information without Carrier's prior written consent. Fleet Owner shall disclose such information or material only to those who have reasonable need to know the same in connection with the performance of the Services, and Fleet Owner agrees to protect the information with the same degree of care that it employs for the protection of its own confidential and proprietary information of a similar nature, but not less than reasonable care. Fleet Owner shall not have any obligation, however, to preserve the confidentiality of any such information to the limited extent that it: (i) is in the public domain or generally available to the public; (ii) was in the possession of or disclosed to Fleet Owner prior to the date hereof, free of any obligation to keep the same confidential; (iii) is lawfully acquired by Fleet Owner from a third party under no obligation of confidentiality to Carrier; or (iv) is required to be disclosed by Fleet Owner under law or court order; provided, however, that Fleet Owner shall give prompt written notice thereof to Carrier. Fleet Owner and Carrier further agree and acknowledge that a monetary remedy for a breach of this Section may be inadequate and that such breach may cause Carrier irrevocable harm. In the event of a breach, Carrier will be entitled, without the posting of a bond and in addition to any monetary damage it may subsequently prove, to seek temporary and permanent injunctive relief, including temporary restraining orders, preliminary injunctions and permanent injunctions. The provisions of this Section 19 shall survive the termination of this Agreement.

20. Miscellaneous Provisions:

(a) This Agreement, together with all appendices attached hereto (which are incorporated herein by reference) and any extensions or renewals of this Agreement, constitute the parties' entire agreement with respect to the subject matter of this Agreement and supersedes all prior statements or agreements, both written and oral. Any and all addenda to this Agreement shall be made a part hereof, provided said addendum is signed and dated by both parties and makes reference to this Agreement by the number hereon.

(b) Any and all notices required under this Agreement to be given by either party to the other shall be in writing and shall be delivered by registered mail to the parties at the address set forth in this Section 20. Service of notice by registered mail shall be deemed to be received three (3) days after placement in the mail. Alternatively, notice may be made via electronic communication, which in order to be effective, requires that the sender receives an affirmative acknowledgement of receipt from the recipient regarding the notice.

To Fleet Owner at:

To Carrier at:

President
URS MIDWEST, INC.
10701 Middlebelt Road
Romulus, Michigan 48174

(c) Neither Carrier nor Fleet Owner may undertake any activity not expressly authorized under this Agreement. Fleet Owner or Fleet Owner's employees may enter in sublease agreements only when so authorized by Carrier in writing.

(d) Fleet Owner agrees not to charge or attempt to obtain credit through Carrier, directly or indirectly, for services or property from other parties, except as expressly provided herein.

(e) Fleet Owner's sole remedy in the event of breach by Carrier of any obligation contained in this Agreement shall be solely to recover money damages directly arising from the breach and Fleet Owner's performance under this Agreement shall not be excused by virtue of any such breach. Carrier shall not be liable for consequential, incidental, or punitive damages.

(f) Fleet Owner further agrees that Carrier may license the Equipment in Carrier's name under the various reciprocity compacts to which Carrier is a party, the cost of which shall be paid by Fleet Owner.

(g) The provisions of this Agreement shall be severable and the unenforceability or invalidity of any one or more provisions, clauses or sentences hereof shall not render any other provision, clause or sentence unenforceable or invalid. The failure of either party to enforce at any time any of the provisions of this Agreement shall in no way be construed to be a waiver of such provisions.

(h) To the extent Fleet Owner operates any piece of Equipment in the State of California, Fleet Owner shall comply with the Truck and Bus Regulation set forth in Title 13 (California Code of Regulations, Section 2025, as amended ("Section 2025") which requires diesel trucks, such as the Equipment operated by Fleet Owner, operating in California to upgrade its emissions systems. Accordingly, Fleet Owner and Carrier mutually agree as follows:

- (i) Fleet Owner agrees that the Equipment shall, for the purposes of compliance with Section 2025, be considered to be in Fleet Owner's fleet for the duration of this Agreement.
- (ii) Fleet Owner agrees that the Equipment utilized to perform services under this Agreement shall, at Fleet Owner's expense, comply with the standards set forth in Section 2025.
- (iii) All compliance obligations set forth in Section 2025 concerning the Equipment shall be the obligation of Fleet Owner. Under no circumstance shall Fleet Owner or, anyone working under Fleet Owner's authority, disable or decrease the effectiveness of emissions control components of the Equipment.
- (iv) Fleet Owner shall provide to Carrier written confirmation that Fleet Owner has reported the Equipment to the California Air Resources Board as included in Fleet Owner's fleet.

- (v) In the event there is any conflict between the terms and provisions in Section 21(h) and any term or provision contained in the Agreement, the terms and provisions of Section 21(h) shall govern and control.

In accordance with this Section 21(h) the following actions are required.

If Fleet Owner is exempt from Section 2025 it must check here:

- ☐ Fleet Owner must provide written confirmation to Carrier of that exempt status by January 1 of each year.

If Fleet Owner is not exempt from Section 2025 then the following two paragraphs shall also apply:

1. By February 1 of each year, Fleet Owner shall provide to Carrier a copy of the certificate of compliance with Section 2025 issued by the California Air Resources Board.
2. Alternatively, if Fleet Owner is exempt from the reporting requirements of Section 2025, Fleet Owner shall, by January 1 of each year, provide Carrier written confirmation that it is aware of the Section 2025 along with engine model year and particulate matter filter on all Equipment used in California.

The undersigned Carrier hereby acknowledges receipt of the above described Equipment from Fleet Owner under the terms of this Agreement on the date first written above.

FLEET OWNER ACKNOWLEDGES AND REPRESENTS THAT FLEET OWNER HAS READ AND FULLY UNDERSTANDS THE PROVISIONS OF THIS AGREEMENT AND HAS HAD SUFFICIENT TIME AND OPPORTUNITY TO CONSULT WITH PERSONAL FINANCIAL, TAX AND LEGAL ADVISORS PRIOR TO EXECUTING THIS AGREEMENT.

Carrier: URS MIDWEST, INC.

Fleet Owner: _____

Signed: _____

Signed: _____

Title: _____

Title: _____

Address: 10701 Middlebelt Rd.,
Romulus, MI 48174

Address: _____

To be completed by all Fleet Owners providing service as a business entity, such as a corporation or limited liability company.

The undersigned hereby represents that he/she is the owner and/or officer of the business entity defined as Fleet Owner in this Agreement and, in addition, personally guarantees: (i) the performance of such entity in the obligations set forth in this Agreement; and (ii) the payment of any liabilities which such entity may owe Carrier.

Name (as Personal Indemnitor)

Signed: _____

Title: _____

APPENDIX 1

URS Lease No. _____

Fleet Owner No. _____

TO
URS MIDWEST, INC.
FLEET OWNER MASTER SERVICE AGREEMENT
FLEET OWNER'S EQUIPMENT & DRIVERS

This Appendix 1 contains the detailed description of the Fleet Owner's Equipment and the identity of the Drivers of such Equipment as contemplated by Section 2(b) and Section 7 of the Agreement and is effective as of _____

EQUIPMENT

1: _____ See Appendix 1A Attachment

DRIVERS

1: _____ See Appendix 1B Attachment

NOTE: To the extent that a Fleet Owner's driver is using the fuel card issued by the Carrier, the fuel card must remain with the tractor to which it was originally assigned and not the driver.

Also, to the extent that drivers are interchanged with tractors, then Fleet Owner must directly communicate that information to Carrier. This duty cannot be delegated to a driver.

This Appendix 1 may be updated from time to time by Fleet Owner and Carrier by completing and executing a new Appendix 1.

This Appendix 1 is executed as of _____, and supersedes any and all previous documents regarding Equipment and Drivers related to Fleet Owner or its owner in any other agreement with Carrier.

URS Midwest, Inc.

FLEET OWNER

Signature

Signature

United Road Representative

Printed Fleet Owner Name

Title

Date

URS Lease No. _____

Fleet Owner No. _____

APPENDIX 2
TO
URS MIDWEST, INC.
FLEET OWNER MASTER SERVICE AGREEMENT
AUTHORIZED SERVICE DEDUCTIONS

Fleet Owner agrees to allow and hereby authorizes Carrier, from time to time as necessary, to deduct from either (i) the Escrow Account established pursuant to this Agreement or (ii) the compensation paid by Carrier to Fleet Owner pursuant to Section 3 of this Agreement for the following items, which unless specifically itemized in this Agreement or this Schedule, shall be (i) the retail prices as established by the vendor of such goods and services; (ii) the amount required by an underlying taxing or licensing authority, without mark-up by Carrier, or (iii) the amount of the cost incurred by Carrier related to such occurrence.

(1) Payments in accordance with Section 4 and Appendix 3 into the Escrow Account plus any additional amounts for which Fleet Owner is financially responsible, including amounts necessary to eliminate the Shortfall described in Appendix 3.

(2) Any amounts for which Fleet Owner is financially responsible pursuant to Section 5 of this Agreement (Charges and Deductions) including, but not limited to,

- a. A fee of \$12.00 per month per power unit for fuel tax processing and reporting as referenced in Section 5.
- b. An annual administrative fee of \$150.00 per power unit for Fleet Owner's election not to use the Fuel Credit Card for fuel purchases as referenced in Section 5.
- c. Any authorized charges in Fleet Owner's name pursuant to subsection 5(g).

(3) The actual cost of the base plate(s) and permits as referenced in subsection 6(c).

(4) Any amounts for which Fleet Owner is financially responsible pursuant to Section 6 of this Agreement (Drivers) including, but not limited to a \$50.00 charge related to the failure to turn in documents as referenced in subsection 7(e); a \$50.00 charge for failure to provide notification of delay in delivery as referenced in subsection 8(a); or any expenses and damages incurred in connection with Fleet Owner's failure to complete the transportation and safe delivery of commodities or property as set forth in this Agreement.

(5) Any amount for which Fleet Owner is financially responsible pursuant to Section 10 of this Agreement (Mechanical Failure/Damages) including, but not limited to items paid by Carrier on Fleet Owner's behalf and internal work orders for repairs made in United Road repair facilities, which will be charged back to Fleet Owner at the amount of the actual work order. This includes an hourly charge and cost of the parts plus mark up as detailed on the work order.

(6) The following amounts pursuant to Section 11(a) of this Agreement (Provided Insurance):

- Casualty Auto Liability:
1-4 car hauler: \$625.00 per month, per power unit
5 car hauler and up: \$750.00 per month, per power unit
- Cargo Liability
1.75 % - 6.0 % of Transport Revenue depending on Fleet Owner's experience rating which Fleet Owner shall be informed of from time to time in advance of the deduction;
and

Any amount for which Fleet Owner is financially responsible pursuant to Appendix 4 of this Agreement ("Other Insurance").

(7) Any amount for which Fleet Owner is financially responsible pursuant to Section 12 of this Agreement (Indemnification).

(8) Any amount for which Fleet Owner is financially responsible pursuant to Section 5 of this Agreement (Charges and Deductions) including, but not limited to, any expenses directly caused by the Fleet Owner's failure to pay for fuel, taxes, empty mileage, tolls, ferries, detention and accessorial services.

(9) Any amount for which Fleet Owner is financially responsible pursuant to Section 13 of this Agreement (Termination).

(10) Any amount for which Fleet Owner is financially responsible pursuant to Section 14 this Agreement (Fleet Owner's Obligations Upon Termination) including, but not limited to, a \$1,000.00 charge for early termination of this Agreement as referenced in subsection 14(d).

(11) Payments for wire charges or service fees incurred by Fleet Owner related to the electronic transmission of documents; the advancing of monies to Fleet Owner; or similar electronic transmissions.

(12) Any fines or violations resulting from any acts or omissions of Fleet Owner or Fleet Owner's employees and/or agents, including, but limited to a \$25.00 processing fee, per violation or citation posted through URS Midwest, Inc..

(13) Unauthorized charges and expenses incurred by Fleet Owner in Carrier's name including, but not limited to, any charges for communications, lodging, meals, fuel or repair of the Equipment.

(14) An invoice processing fee in the amount of 6% of the invoice amount for all vendor payable orders in excess of \$1,000.00 per invoice which are charge account items posted through Carrier's Vendor Payables Department unless otherwise agreed to in writing by both parties.

(15) Any deduction agreed upon in advance between Carrier and Fleet Owner.

(16) Any other expenses or costs arising out of Fleet Owner's failure to comply with the terms of this Agreement including all costs and expenses of litigation, including reasonable attorneys' fees.

This Appendix 2 is executed as of _____ and _____ supersedes any and all previous documents regarding deductions authorized by Fleet Owner, or its owner, in any other agreement with Carrier.

URS Midwest, Inc.

FLEET OWNER

Signature

Signature

United Road Representative

Printed Fleet Owner Name

Title

Date

URS Lease No. _____

Fleet Owner No. _____

APPENDIX 3
TO
URS MIDWEST, INC.
FLEET OWNER MASTER SERVICE AGREEMENT
ESCROW ACCOUNT

The following are the terms and provisions that govern the Escrow Account agreed upon to be established by Fleet Owner and Carrier pursuant to Section 4 of the Agreement.

Escrow Account Deposit Terms

The minimum amount to be held in the Fleet Owner's Escrow Account for the Fleet shall be \$5,000.00 for each truck tractor power unit in the Fleet Owner's Fleet.

Fleet Owner may elect the manner in which deductions from settlement payments shall be made to reach the minimum amount of \$5,000.00 per power unit in the Fleet. The Escrow Account will be funded by a mutually agreed upon fixed amount per settlement as indicated below:

Payments of \$ _____.00 per month

In the event the Fleet Owner, as of the Effective Date of the Agreement, is a party to other agreements with Carrier, which require monies being held in escrow, then such amounts held in escrow shall be transferred into the Fleet Owner's Escrow Account which is the subject of this Appendix 3, and will be applied toward meeting the minimum amount required per power unit in the Fleet.

If at any time during this Agreement, the amount in the Escrow Account is less than the minimum required amount of \$5,000.00 per power unit in the Fleet (the "Shortfall"), then Fleet Owner and Carrier agree that Carrier may make additional deposits into the Escrow Account to meet the minimum balance and deduct the Shortfall from settlement payments otherwise payable to Fleet Owner under this Agreement.

Allocation Provisions

Fleet Owner agrees that in consideration of Carrier agreeing to the amount of the deposit into the Escrow Account as required by Section 4 of the Agreement and the Escrow Account Deposit Terms set forth above, Carrier shall be entitled to set-off and deduct from (1) any amounts payable to Fleet Owner under the Agreement, or (2) any amounts held in this Escrow Accounts for the following:

- any amounts due and payable to Carrier from Fleet Owner under the Agreement related to any piece of Equipment or otherwise;

- the amounts of any losses, damages or expenses (including all court costs and attorney's fees) suffered or incurred by Carrier or any of its affiliates as a result of Fleet Owner's breach of any provision of the Agreement; or
- the amounts of any losses, damages, other indemnification amounts or expenses (including all court costs and attorneys' fees) suffered or incurred by Carrier or any of its affiliates as a result of negligence, fraudulent or illegal activities of Fleet Owner or its employees or its agents.

Carrier agrees to provide Fleet Owner with an accounting of any set-off made against Fleet Owner's compensation or any monies held in this Escrow Account. The right to set-off shall survive the termination of the Agreement.

General

Interest shall accrue on the balance in the Escrow Account at the rate determined by Carrier no less frequently than once a calendar quarter which, in no event, shall be less than the average yield on a 13-week U.S. Treasury Bill on the first auction date during the quarter when the interest period begins. Interest shall be credited to the balance of the Escrow Account no less frequently than on a quarterly basis.

At such time as accounts are settled between Fleet Owner and Carrier upon termination of this Agreement, the amount held in the Escrow Account shall first be applied to reduce any indebtedness of Fleet Owner to Carrier. Any excess amount in the Escrow Account shall be remitted to Fleet Owner within forty-five (45) days of the termination of this Agreement. For purposes of calculating the forty-five (45) day period, the phrase "termination of this Agreement" shall mean the day in which Fleet Owner has fulfilled the obligations set forth in Section 14 (Fleet Owner's Obligations Upon Termination).

Fleet Owner shall have the right to request an accounting in writing of the amounts in the Escrow Account at any time including, but not limited to, interest payments, deductions, and charge backs as any charges occur.

This Appendix 3 is executed as of _____ and supersedes any and all previous documents regarding escrow deposits authorized by Fleet Owner, or its owner, in any other agreement with Carrier.

URS Midwest, Inc.

FLEET OWNER

Signature

Signature

United Road Representative

Printed Fleet Owner Name

Title

Date

APPENDIX 4
TO
URS MIDWEST, INC.
FLEET OWNER MASTER SERVICE AGREEMENT

FLEET OWNER'S INSURANCE RESPONSIBILITIES ("OTHER INSURANCE")

The following sets forth Fleet Owner's obligations contemplated by Section 11(b) of the Agreement:

(a) *Non-Trucking Liability Coverage:* (General and automobile/truckers personal injury and property damage insurance coverage) for a combined single limit of not less than \$1,000,000.00 per incident, with no deductible, together with statutory uninsured motor coverage to cover losses and expenses related to bodily injury and property damage incurred by third parties when the Equipment is not being operated in the furtherance of Carrier's business as described in Section 11(a) of the Agreement including unauthorized bobtail and deadhead miles.

(b) *Workplace Accident Insurance:* In order to do business with Carrier, Fleet Owner must have workplace accident insurance coverage in place as of the Effective Date of the Agreement for Fleet Owner and/or anyone who works for Fleet Owner, either in the form of workers' compensation coverage or occupational accident insurance coverage.

(i) *Workers' Compensation Insurance Coverage:* To the extent that statutory workers' compensation insurance coverage is available to Fleet Owner under the laws of Fleet Owner's place of domicile, Fleet Owner agrees to obtain such coverage, at Fleet Owner's sole expense, to cover Fleet Owner and all employees of Fleet Owner who operate Equipment under this Agreement. If such coverage is obtained through a private insurer, the policy shall contain a waiver of subrogation endorsement, waiving any right of subrogation against Carrier. Fleet Owner agrees not to "opt out" of such statutory coverage and, when available, agrees to "opt into" a workers' compensation coverage program available in its place of domicile. Fleet Owner understands and acknowledges that it is the responsibility of Fleet Owner to review and comply, at Fleet Owner's expense, with each state's laws pertaining to workers' compensation insurance.

(ii) *Occupational Accident Insurance:* In the event subsection (b)(i) above is not applicable to Fleet Owner and to the extent not prohibited by law, Fleet Owner shall obtain occupational accident insurance coverage within its place of domicile which coverage shall include an alternative employer endorsement, indemnity of Carrier or similar provisions acceptable to Carrier. Occupational accident insurance is intended to cover Fleet Owner and any persons not included in the coverage described in the immediately preceding subsection (b)(i) but otherwise utilized by Fleet Owner in performance of this Agreement.

If a Fleet Owner selects to have his drivers covered by Occupational Accident policy, they shall purchase a Workers' Compensation wrap policy, naming Carrier as an additionally insured.

Fleet Owner may elect to obtain non-trucking liability coverage, workers' compensation insurance or occupational accident insurance through Carrier or as an alternative, obtain some or all of such coverages from or through an unrelated third party vendor.

In the event Fleet Owner elects to purchase non-trucking liability insurance or occupational accident insurance described above from or through an unrelated third party vendor, Fleet Owner shall provide to Carrier certificates of insurance evidencing each of the coverages referenced above; naming Carrier as an additional insured; and providing Carrier thirty (30) days prior written notice of cancellation or material change to any such insurance policy(ies). All coverage obtained by Fleet Owner from a source other than Carrier required by this Appendix 4 must be issued by an insurance company qualified to write such coverage in the state(s) where the Equipment is operated, and rated A or better, Class VIII or better by A.M. Best Co.

If Fleet Owner fails to carry continuous coverage at the necessary levels required by this Appendix 4, Fleet Owner agrees to have, and hereby authorizes Carrier to obtain such coverages through a Carrier approved risk program and to deduct from Fleet Owner's settlement 125% of all payments made for such coverage beginning at the onset of the lapse of coverage or terminate this Agreement immediately without prior notice.

This Appendix 4 is executed as of _____ and supersedes any and all previous documents regarding insurance coverages required by Fleet Owner, or its owner, in any other agreement with Carrier.

URS Midwest, Inc.

FLEET OWNER

Signature

Signature

United Road Representative

Printed Fleet Owner Name

Title

Date

APPENDIX 5
TO
URS MIDWEST, INC.
FLEET OWNER MASTER SERVICE AGREEMENT

ELECTRONIC LOGGING DEVICES

In order to do business with Carrier, the truck tractor power units in Fleet Owner's Fleet must be outfitted with certain electronic onboard equipment that is capable for providing the functionality described below. This Appendix 5 sets forth the basis upon which Carrier shall implement its commitment to ELDs.

1. The Operational Platform. Carrier has entered into various agreements with a third-party service provider ("TPSP") that guarantees (i) that its present electronic logging system meets the current AOB RD requirements found in 49 CFR 395.15, and (ii) that its present ELD logging system, including hardware and software, will be upgradable to meet the next set of ELD requirements mandated by the FMCSA (the "TPSP Platform"). The TPSP Platform allows Carrier the ability to access certain licensed technology developed by the TPSP through a communication network that is functionally compatible with Carrier's computer systems.

2. Obtaining an ELD and Installation Alternatives. Fleet Owner has choices regarding obtaining an ELD and its installation.

**FLEET OWNER MUST CHOSE ONE OF THE FOLLOWING
OPTIONS FOR ALL VEHICLES IN THE FLEET THAT ARE REQUIRED TO HAVE
ELDS BY CHECKING THE APPROPRIATE BOX
PRECEDING THE OPTION SELECTED.**

☐ Option A - Use of Carrier's ELD System:

Prior to the installation of the Carrier's placard or license plate, the Fleet Owner must arrange to have the ELD installed by an authorized installer. Fleet Owners who agree to use the Carrier's ELD System will receive the following:

- All TPSP ELD-required hardware at no cost – \$650 value per unit
- Discounted monthly communication fee of \$20/month
 - o Carrier is not charging Fleet Owner the full monthly cost of the system and is providing a significant subsidy to lower the cost burden to Fleet Owner.

Additional Provisions Related to Option A :

(a) Removal of Electronic Logging Device Unit Without Consent. Carrier shall retain ownership of all the TPSP ELD related equipment at all times that this Appendix is in effect. Fleet Owner shall be prohibited from removing the TPSP ELD from the Equipment without Carrier's prior written consent.

(b) Reinstallation Expense. In the event Fleet Owner replaces the truck tractor power unit, Fleet Owner shall bear the expense of removal and reinstallation of the TPSP ELD(s) in Fleet Owner's replacement unit and hereby authorizes Carrier to deduct all such expense from amounts otherwise payable to Fleet Owner under the Agreement and/or the Escrow Account.

(c) Loss or Damage. Fleet Owner shall be responsible for the return of each TPSP ELD to Carrier immediately upon any request from Carrier or the termination of this Agreement. A qualified technician selected by Carrier shall remove the TPSP ELD. Fleet Owner shall pay normal de-installation expense and hereby authorizes Carrier to deduct such expense from amounts otherwise payable to Fleet Owner under the Agreement and/or Escrow Account. If the TPSP ELD is lost, damaged as a result of Fleet Owner's negligence, or not returned upon request or upon termination of the Agreement, the Fleet Owner hereby authorizes Carrier to deduct from amounts otherwise payable by Carrier to Fleet Owner under the Agreement and/or the Escrow Account or, if necessary, to collect additional payments from Fleet Owner for, the entire expense incurred by Carrier in repairing or replacing the TPSP ELD, together with all collection costs, including reasonable attorneys' fees. Carrier shall not be responsible for any loss or damage to Fleet Owner's Equipment arising or resulting from the installation, use, or removal of the TPSP ELD.

☐ Option B – Fleet Owner's ELD:

Fleet Owner assumes all responsibility related to the sourcing and installation of an ELD in the Equipment that is technically and functionally compatible with the TPSP Platform.

Additional Provisions Related to Option B.

In the event Fleet Owner selects Option B, it is Fleet Owner's responsibility to (i) provide a written verification from the manufacturer that the ELD device installed in the Equipment is certified by the USDOT; (ii) ensure that the ELD device is capable of collecting the basic records of duty status ("RODS") data and other categories of information which the TPSP Platform currently provides; (iii) coordinate with the TPSP representative to ensure the operational functionality and compatibility between your ELD device and the TPSP Platform; and (iv) arrange with TPSP to pay all costs associated with any installation, rewiring, or reconfiguring which may be necessary for operational functionality and compatibility of your ELD device with the TPSP Platform, and any usage costs incurred through your selection of the ELD device.

3. Categories of Electronic Information Collected by TPSP's Platform. The TPSP Platform for which Carrier has contracted, is capable of collecting various categories of information and data regarding, for example, the power unit and its operations ("Electronic Information"). Such categories include RODS data and other data and information such as fuel usage, speed, operational events, and maintenance diagnostic information.

4. Carrier Uses of the Electronic Information. The Electronic Information is transmitted from the power unit to the TPSP and then from the TPSP to the Carrier. Carrier may, from time to time, access certain categories of Electronic Information in furtherance of its efforts to comply with applicable law, including FMCSA's Hours of Service Regulations, to meet customer requirements.

The TPSP is responsible for the storage of the Electronic Information. Carrier does not collect or store the Electronic Information. Carrier has access to the Electronic Information, and reserves the right to request, in its sole discretion, that the TPSP collect and store the Electronic Information for a specific period of time. If Fleet Owner or his/her drivers have questions regarding the safeguards that the TPSP has in place to protect against the loss, unauthorized access, use, destruction, or improper disclosure of the Electronic Information, they may contact the Carrier for information regarding access to the TPSP. Carrier has reasonable safeguards in place to secure the Electronic Information it receives from the TPSP and limits the access of the Electronic Information to authorized individuals who need to know the information in order to comply with applicable law, including Hours of Service Regulations.

5. Right to Review Electronic Information. Fleet Owner and any of Fleet Owner's drivers shall have the right, on request of Carrier, to review the collected Electronic Information that Carrier itself continues to have access to, but only Electronic Information relating to the requesting Fleet Owner (including that Fleet Owner's drivers), or the requesting driver, respectively. A written request for such review should be addressed to the Carrier.

6. Other. In the event of a conflict between any term or condition of this Appendix 4 and any term or condition of the Agreement, the terms and conditions of this Appendix 5 shall control.

SIGNING THIS FORM: By signing below, the Fleet Owner represents that he/she (1) has read and understood the privacy-related disclosures described above and authorizes Carrier to access the Electronic Information as described above and (2) assumes responsibility for all of its drivers as to the use and care of the ELDs.

IN WITNESS WHEREOF, Carrier and Fleet Owner hereby sign this Appendix 5 as of the Effective Date stated above.

URS Midwest, Inc.

FLEET OWNER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Date: _____

Exhibit 3