

SETTLEMENT AND RELEASE AGREEMENT

Plaintiff Dmytro Martyniuk (“Plaintiff”), individually, and on behalf of all others similarly situated, and Defendant USKO Express, Inc. (“Defendant”) hereby enter into this Settlement and Release Agreement (the “Agreement”), as provided below.

I. DEFINITIONS

The terms of this Agreement are as follows:

1. “Action” refers to the lawsuit originally entitled *Hallowell, et al. v. USKO Express, Inc., et al.*, filed in the Superior Court of the State of California for the County of Los Angeles on February 26, 2020, Case No. 20STCV07379.
2. “Attorneys’ Fees and Costs” refers to the fees and litigation costs incurred by Class Counsel and means one-third (33-1/3%) of the Gross Settlement Amount and reimbursement of all approved litigation costs.
3. “Class Counsel” refers to The Kick Law Firm, APC.
4. “Class Period” refers to the period from February 26, 2016 through the sooner of the court granting preliminary approval of this proposed settlement or 90 days after full execution of the long-form settlement agreement.
5. “Class Representative” means the plaintiff Dmytro Martyniuk.
6. “Court” refers to the Los Angeles County Superior Court.
7. “Defense Counsel” refers to Alexander M. Medina of Medina McKelvey LLP.
8. “Effective Date” of the Settlement Agreement shall mean the date upon which both of the following have occurred: (i) final approval of the Settlement Agreement is granted by the Superior Court of California for the County of Los Angeles, or other court assuming jurisdiction of this matter, and (ii) the Court’s Judgment approving the Settlement Agreement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for review with the California Supreme Court; or, (ii) if a petition for review is filed, the date of denial of the petition, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration of the time for filing or noticing any appeal of the Judgment, as determined under Rule 8.104(a)(3) of the California Rules of Court.
9. “Fairness Hearing” refers to the hearing at which the Court will determine whether the terms of the Settlement are fair, reasonable, and adequate for the Class and meet all applicable requirements for Final Approval.
10. “Final Approval Order” refers to the order by the Court approving the Settlement Agreement following the Fairness Hearing and entering final judgment.

11. “Gross Settlement Amount” refers to the maximum settlement amount of One Million, Five Hundred and Fifty Thousand Dollars and Zero Cents (\$1,550,000.00) payable by Defendant.

12. “Individual Settlement Payment” shall mean the individual distribution from the Settlement Fund to each Participating Class Member, as defined in Section VIII(D), below.

13. “PAGA Award” means the amount allocated to penalties to settle claims alleged under the Private Attorneys General Act, which is \$60,000.

14. “Participating Class Members” refers to all members of the Settlement Class who do not timely and effectively opt out of the Settlement.

15. “Parties” collectively refers to Plaintiff and Defendant.

16. “Released Parties” refers to Defendant and all of its former or present parents, subsidiaries, successors, predecessors, affiliates, assigns, joint employers, officers, directors, employees, insurers, directors, executors, attorneys, shareholders, related corporations, profit sharing, savings, health, and other employee benefit plans of any nature, the successors of such plans, and those plans’ respective current or former trustees and administrators, agents, employees, fiduciaries, and the predecessors and successors, assigns, and legal representatives of all such entities and individuals.

17. “Service Award” means the \$10,000 paid to the Class Representative for his service to the Settlement Class.

18. “Settlement Administration Costs” refers to the costs and expenses incurred by the Settlement Administrator in the performance of its tasks and duties as provided by this Agreement.

19. Gross Settlement Amount (“GSA”) is \$1,550,000.00.

20. “Settlement Administrator” means Simpluris.

21. “Settlement Class” refers to the 623 current and former drivers to whom notice will be sent by the Claims Administrator.

22. “Settlement Fund” refers to the net settlement amount, or the Gross Settlement Amount minus court-approved attorneys’ fees and costs, Settlement Administration costs, Plaintiff’s Service Award, and the PAGA Award.

II. RECITALS

A. On February 26, 2020, Plaintiff filed a class action complaint against Defendant in Los Angeles County Superior Court, Case No. 20STCV07379 (the “Action”). The Action alleged that Defendant (1) failed to provide meal periods in violation of Labor Code sections 226.7, 510, 512, 1194, 1197, 1198, and IWC Wage Order No. 9-2001, section 11; (2) failed to provide rest periods in violation of Labor Code sections 226.7, 512, and IWC Wage Order No. 9-2001, section 12; (3) failed to pay minimum wages in violation of Labor Code sections 1194, 1197, and IWC

Wage Order No. 9-2001, section 4; (4) failed to pay all wages due to discharged or quitting employees in violation of Labor Code sections 201–203; (5) failed to furnish accurate itemized wage statements in violation of Labor Code section 226, and IWC Wage Order No. 9-2001, section 7; (6) failed to indemnify employees for necessary expenditures incurred in discharge of duties in violation of Labor Code section 2802; (7) unlawfully deducted wages in violation of Labor Code sections 221, 223, 400–410, and IWC Wage Order No. 9-2001, section 8; and (8) conducted unfair and unlawful business practices in violation of Labor Code section 17200 *et. seq.*

B. The Parties agreed to mediate this matter and engaged in discovery to prepare for that mediation. This discovery process included Defendant’s providing a redacted class list with hire and termination dates, a sampling of time and payroll records and copies of Defendant’s written policies.

C. The Parties engaged in a mediation session with the Hon. Lisa Cole (Ret.) on November 12, 2021. Additional information was exchanged during the mediation. With the assistance of Judge Cole, the Parties reached a settlement, which included the material terms contained in this Agreement.

D. At or about the time of the filing of the Motion for Preliminary Approval, Plaintiff will file a Motion for Leave to add Plaintiff Dmytro Martyniuk as a named proposed class representative in this matter.

E. Based on their investigation and evaluation of this case, Class Counsel have concluded that the Settlement is fair, reasonable, and adequate and is in the best interest of the Settlement Class in light of all known facts and circumstances, defenses asserted by Defendant, adverse findings regarding liability, and potential appealable issues.

F. Neither this Agreement nor any document referred to or contemplated herein, nor any action taken to carry out the terms of the Agreement, is, may be construed as, or may be used as an admission, concession, or indication by or against Defendant of evidence of any unlawful conduct, fault, wrongdoing, or liability with respect to the Action.

G. The Parties now desire to fully, finally, and forever settle, compromise, and discharge the claims released herein.

NOW, THEREFORE, in consideration of the mutual covenants, promises, and conditions set forth, the Parties agree as follows:

III. NON-ADMISSION OF LIABILITY

A. By entering into this Agreement, Defendant, on behalf of itself and all Released Parties, deny any liability for any of the claims alleged in the Action or any potential or unknown claims based on wage and hour violations during the Class Period under state or federal law.

B. Defendant specifically denies that it or any of the Released Parties have engaged in any unlawful or wrongful conduct against Plaintiff or the Settlement Class.

C. Defendant contends further that, for purposes other than settlement, the Action is not appropriate for class action treatment.

IV. STIPULATION TO CONDITIONAL CLASS CERTIFICATION SOLELY FOR PURPOSES OF THE SETTLEMENT

A. Defendant agrees for settlement purposes only to certification of this matter pursuant to California Code of Civil Procedure Section 382. Defendant does not waive, and expressly reserves, its right to challenge the propriety of class or collective action certification, or any other representative treatment of Plaintiff's claims, for any other purpose, should the Court not certify the Settlement Class.

B. The Parties stipulate to class and conditional certification for purposes of the Settlement only.

C. Evidence of this stipulation for settlement purposes only will not be deemed admissible for any other purpose in this or any other proceeding.

V. TERMS OF SETTLEMENT

A. Gross Settlement Amount

1. Defendant shall fund the settlement with a payment of \$1,550,000. This Gross Settlement Amount shall include all payments made to Participating Class Members for wages, penalties, interest, and liquidated damages, attorneys' fees and costs, Settlement Administration Costs, and Service Awards to the Class Representatives. All legally required employer side payroll taxes (*e.g.*, FICA, FUTA, etc.) shall be paid from outside, and in addition to, the Gross Settlement Amount. The Gross Settlement Amount, plus any applicable employer-side payroll taxes which shall be paid separately, shall be the maximum amount Defendant is required to pay under the Settlement. The Settlement Administrator shall provide the calculations for employer-side payroll taxes.

2. The Gross Settlement Amount as defined is based on Defendant's representations that, during the Class Period, there were approximately 623 members of the Settlement Class.

B. Attorneys' Fees and Costs

1. Class Counsel shall request that the Court approve an award of attorneys' fees in an amount of one-third (33-1/3%) of the Gross Settlement Amount plus all reasonable litigation costs, subject to Court approval. Defendant will not oppose these requests. Attorneys' fees and costs shall be paid out of the Gross Settlement Amount.

2. The Court's approval of fees and costs requested by Class Counsel is not a material term of the Agreement. If the Court does not approve the amount requested by Class Counsel for attorneys' fees or costs, or approves a lesser amount, the remaining terms of the Agreement shall remain in force and effect. A denial by the Court of Class Counsel's request for attorneys' fees or costs shall not be construed as a basis from which to abrogate the Agreement.

C. Service Awards To Class Representative

1. Subject to Court approval, Defendant will not oppose the Class Representative's request for a Service Award in an amount of \$10,000, to be paid from the Gross Settlement Amount, for his service to the Settlement Class. Any such Service Award shall be separate from, and in addition to, any payment to which Plaintiff may otherwise be entitled as a Participating Class Member. The Service Award shall be allocated as 1099 income, which shall not be subject to payroll taxes and withholdings and will be reported on an IRS 1099 Form.

2. The Class Representative will be responsible for characterizing this compensation correctly for tax purposes and for paying any taxes owing on said amount.

D. Settlement Administration Costs

The Parties have selected Simpluris to be the third-party Settlement Administrator, which will disseminate the Notice of Class Action Settlement ("Class Notice"), an initial draft of which is attached hereto as "**Exhibit A,**" and to perform the requisite tasks and duties, including, the formatting and printing of the Class Notice and other documents to be mailed to the Settlement Class (including Spanish translations thereof, if needed), processing and maintaining the Class Data, updating mailing addresses for members of the Settlement Class before the initial mailing of the Class Notice, calculating estimated Individual Settlement Payments, declarations regarding administration as may be required by the Court, providing weekly status reports, resolving disputed claims, issuing Individual Settlement Payment checks, tax reporting, calculating employer-side payroll taxes due, and managing uncashed checks.

E. Settlement Fund

After deducting the portion of the Court-approved amount for the Service Awards, Attorneys' Fees and Costs, and Settlement Administration Costs from the Gross Settlement Amount, the remaining balance will be distributed to Participating Class Members pro rata based on the total number of miles each drove during the Class Period.

VI. CLAIMS RELEASED BY THIS SETTLEMENT AGREEMENT

1. Upon the final approval by the Court of this Agreement, and except as to the right to enforce the terms and conditions of this Agreement, all members of the Settlement Class who do not timely and effectively opt out of the Settlement shall be deemed to have fully released the Released Parties from all claims, debts, liabilities, demands, obligations, penalties, interest, wages, compensation, premium pay, guarantees, costs, expenses, attorneys' fees, damages, claims for equitable relief, actions or causes of action that arise, or could have arisen, from the Action (the "Released Claims").

2. Upon the final approval by the Court of the Settlement, and except as to the right to enforce the terms and conditions this Agreement, all members of the Settlement Class who have not submitted a timely and effective request for exclusion shall be deemed to have fully released the Released Parties from the Released Claims.

3. The release shall cover Released Claims for the period of February 26, 2016, through the sooner of the court granting preliminary approval of the proposed settlement or ninety (90) days after execution of this Long Form Settlement Agreement.

VII. NOTICE TO MEMBERS OF THE SETTLEMENT CLASS

A. Defendant shall provide the Settlement Administrator a spreadsheet of all 623 class members within 30 days of execution of this settlement agreement, to include all categories of information relating to the entire class of drivers as was previously provided on the sampling of drivers.

B. Defendant shall provide the Settlement Administrator within thirty (30) calendar days of preliminary approval with a list containing the 623 names, employee identification numbers, last known addresses, telephone numbers, email address, mileage driven by each employee, inclusive dates of active employment during the Class Period, and Social Security numbers ("Settlement Class Data") for each of the members of the Settlement Class.

C. The Settlement Administrator will calculate the number of miles driven based upon the employment data provided. This information is being provided confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of the Settlement Class Data. The Settlement Administrator shall not share the Settlement Class Data with any other party or counsel for any of the Parties. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Agreement.

D. The Settlement Administrator will send a Class Notice to each member of the Settlement Class by First Class U.S. Mail within ten (10) calendar days of receipt of the Settlement Class Data.

E. No claim form is required to receive a proportionate share of the Settlement Fund. The Settlement Administrator will calculate and mail an Individual Settlement Payment to each Participating Class Member.

F. To provide the best notice practicable, any Class Notice returned to the Settlement Administrator as non-deliverable with an updated mailing address affixed shall be sent by First Class U.S. Mail to the forwarding address affixed thereto. If a Class Notice is returned as undeliverable without a forwarding address affixed thereto, the Settlement Administrator shall attempt to locate a current mailing address for the member of the Settlement Class by skip tracing and will mail the Class Notice to the updated address identified. If no current address can be located, the Class Notice for that individual will be deemed undeliverable.

G. On the remailing of Class Notices by the Settlement Administrator to an updated mailing address found through skip-tracing, provided by Class Counsel or as provided by the Settlement Class Member (on the submission of a Change of Address form), the Settlement Administrator shall keep a record of the postmark mailing dates for such re-mailed Class Notices, and record all undelivered Class Notices.

VIII. COMPUTATION AND DISTRIBUTION OF SETTLEMENT FUND AND ATTORNEYS' FEES AND COSTS

A. No Tax Advice & Circular 230 Disclaimer.

1. No provision of this Settlement Agreement or other communications or disclosures is, or was intended, to constitute tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R., Subtitle A, Part 10, as amended). The Parties further represent they: (1) shall be solely responsible for reporting and paying any applicable federal, state and/or local income tax, employment tax or any other withholding on all taxable income or other benefit they individually receive as consideration exchanged pursuant to this Settlement Agreement; (2) have relied exclusively upon their own, independent legal and tax advisors for tax advice in connection with this Settlement Agreement; and (3) in keeping with their individual rights to due process, shall not be entitled to rely upon any communication or disclosure by Plaintiffs, defendant or Parties' Counsel to avoid the payment of any assessment, penalty, tax, attorneys' fees, and/or other amounts based on the taxability of any consideration provided or exchanged pursuant to this Settlement Agreement.

2. The Long Form Class Notice will state that the Parties make no representations concerning the taxability, tax treatment, or legal effect of any tax laws on any consideration provided or exchanged pursuant to the Settlement Agreement including any Individual Settlement Payments or any Individual PAGA Payments and that Class Members should consult with their own tax advisors concerning the tax consequences of their receipt of any payment under the Settlement Agreement.

3. The Settlement Administrator will form a Qualified Settlement Fund, and the Parties understand and agree that the Settlement Fund will qualify and be characterized as a Qualified Settlement Fund ("QSF") under the provisions of the U.S. Treasury Regulations 1.468B-1 and 1.468B-5, and the QSF will be taxed as a separate entity for purposes of all federal, state, and local taxes, and further agree to treat the QSF on a basis consistent therewith, that the QSF will be characterized as the employer of all Final Settlement Class Members for purposes of determining all tax obligations associated with any and all payments under this Settlement Agreement. The QSF will bear full responsibility for all taxes associated with the QSF and individual settlement payments under this Settlement Agreement, with the exception of employer-side taxes, which shall be paid by Defendants. The Settlement Administrator shall be responsible for ensuring that all taxes associated with the Settlement are timely paid to the appropriate authorities. The Settlement Administrator's responsibilities include the following: (1) filing all federal, state, and/or local employment tax returns, income tax returns, and other tax returns associated with the taxes; (2) timely and proper filing of all required federal, state, and/or local information returns (e.g., 1099s, W-2s, etc.) with the appropriate taxing authorities, (3) informing Defendants of their obligations to pay employer-side taxes on the Settlement Payments; and (4) completion of any other steps necessary for compliance with any tax obligations of the QSF under federal, state, and/or local law. In addition, the Settlement Administrator shall timely make such elections as necessary or advisable to carry out the provisions of this section. Such elections shall be made in compliance with the procedures and requirements contained in the QSF regulations. It shall be the responsibility of the Settlement Administrator to timely and properly prepare and deliver all necessary documentation for

signature as may be required, and thereafter to cause the appropriate filing of such documentation to occur. To the extent that, for any period of time, the QSF is not treated as a “qualified settlement fund” within the meaning of the U.S. Treasury Regulations 1.468B-1 and 1.468B-5, the Settlement Administrator shall promptly notify Class Counsel and Defendants’ Counsel of such event. Defendant is not responsible for any interest payments on the QSF.

B. Deposit of Gross Settlement Amount

1. The Settlement Administrator shall establish a Settlement Fund for purposes of administering the Settlement. The Settlement Administrator shall furnish the Settlement Fund with its own Employer ID Number and calculate all settlement checks and payroll deductions and withholdings required under law based on information that will be confidentially furnished by Defendant.

2. Within twenty-one (21) calendar days following the Effective Date, Defendant will deposit the Settlement Payment equal to the Gross Settlement Amount into the QSF account established by the Settlement Administrator. At no time prior to the Effective Date shall Defendant be required to escrow any portion of the Settlement Amount. Defendant is not responsible for paying any interest on the amount deposited and it is the responsibility of the Settlement Administrator to select and administer the interest-bearing account.

C. PAGA Penalties.

1. The Parties agree to allocate Sixty Thousand Dollars (\$60,000) of the Gross Settlement Amount as PAGA Penalties. 75% of the PAGA Penalties (i.e., \$45,000) shall be paid directly to the LWDA. The remaining 25% the PAGA Penalties (i.e., \$15,000) shall be paid to PAGA Members on a *pro rata* basis, based on the total number of miles driven by each PAGA member during the PAGA Period.

D. Formula For Calculating Individual Settlement Payments

The portion of the Settlement Fund to pay Individual Settlement Payments to Participating Class Members shall be determined as follows:

1. The payment to each Participating Class Member will be based on the total number of miles each drove during the Class Period based on Defendant’s records. Absent evidence to the contrary, Defendant’s employment records shall be assumed correct for purposes of calculating the number of miles driven by each Settlement Class Member and any payments made pursuant to the Agreement.

2. The sum of the number of miles driven during the Class Period by Participating Class Members will be referred to as the “Total Miles.”

3. The class notice sent to each class member will state the number of miles driven by the class member for purposes of calculating the class member’s Individual Settlement Payment, and the Total Miles.

4. Defendant's payroll records for each Participating Class Member shall be determinative for purposes of calculating the Total Miles and each Individual Settlement Payment, absent proof to the contrary as presented through dispute process for challenging the number of miles assigned to the class member.

5. The amount to be paid per mile driven by a Participating Class Member will be calculated by dividing the value of the Settlement Fund by the Total Miles.

6. The Class Notice will provide that Class Members who wish to dispute the number of miles credited to them must send a timely and valid Miles Dispute to the Settlement Administrator postmarked no later than the Response Deadline. The Settlement Administrator shall determine whether a Miles Dispute is timely based on the postmarked date on the mailing envelope. To be valid, a Miles Dispute must be in writing and must include: (1) the Class Member's full name; (2) the Class Member's current physical or mailing address; (3) the Class Member's current telephone number and email address; (4) a statement indicating that the Class Member disputes the number of miles credited to the Class Member and the number of miles that the Class Member contends should be credited to him or her; and (5) any documentation showing the affected Class Member should be credited with additional miles.

7. Within five (5) days after receipt of a Class Member's Miles Dispute, Notice of Objection, or Opt-Out Request, the Settlement Administrator shall send Parties' Counsel notice, via electronic mail, of its receipt of said submission, which will include the identity of the affected Class Member and may also include any additional relevant information. The Settlement Administrator may request additional information from Defendant for the resolution of any Miles Dispute. Within five (5) days after receiving the Settlement Administrator's written request for a response and additional information relating to any Miles Dispute, Defendant's Counsel shall send the Settlement Administrator, via electronic mail, a response to the Settlement Administrator's request including copies of any documents or other information regarding the merits of the dispute.

8. Within five (5) calendar days after receiving Defendant's response and additional information, the Settlement Administrator shall send further notice or a final written decision to the affected Class Member concerning the affected Class Member's Miles Dispute, which shall indicate the amount of Miles that the Settlement Administrator presently intends to credit the affected Class Member including the number of additional miles, if any, along with any revised estimated Individual Settlement Payment and/or Individual PAGA Payment amount. Prior to making a final written decision, the Settlement Administrator shall inform Parties' Counsel of its contemplated decision, so that the Parties may assess how the total miles contemplated under the Settlement are being impacted.

E. Distribution of the Settlement Fund to Participating Class Members

1. The Settlement Administrator shall distribute the Individual Settlement Payments by check within seven (7) calendar days after the funding of the QSF or within twenty-eight (28) calendar days of the Effective Date, whichever is sooner.

2. If any check remains uncashed after one hundred eighty (180) days from the date the check is issued, such check(s) will be voided by the Settlement Administrator. The

Parties agree that the Settlement Fund is non-reversionary, and 100% of the funds from the uncashed or undeliverable checks shall be distributed to the proposed recipient that receives Court approval, without further amendment to this Agreement. Accordingly, the funds represented by any uncashed or undeliverable checks shall be distributed the *cy pres* recipient Public Citizen Foundation, a section 501(c)(3) non-profit organization, subject to approval by the Court.

3. The Settlement Administrator shall furnish its own Employer Identification Number and calculate all Individual Settlement Payments and any payroll deductions based on confidential information that will be furnished by Defendant. The Settlement Administrator will prepare all necessary tax reporting and documentation with respect to payments made pursuant to this Agreement. The Settlement Administrator will provide the requisite IRS Forms 1099 and W2 to Participating Class Members with each Individual Settlement Payment. The tax documents shall reflect payment for the year in which payment is made pursuant to this Agreement.

4. Participating Class Members' individual settlement payments will be designated as 20% wages, 40% interest, and 40% penalties. The amounts paid as wages shall be subject to all tax withholdings customarily made from the employee's wages and all other authorized and required withholdings. The amounts paid as penalties and interest shall be subject to all authorized and required withholdings other than the tax withholdings customarily made from employees' wages. The Settlement Administrator will be responsible for issuing to Participating Class Members a form W-2 for amounts deemed "wages" and an IRS Form 1099 for the amounts deemed penalties and interest. For the portion of the Individual Settlement Payment allocated to wages, the Settlement Administrator shall be responsible for calculating and submitting the appropriate amount of the employees' share of payroll taxes and withholdings to the appropriate state and federal tax authorities.

5. The Settlement Administrator shall distribute the Service Award to the Class Representative within twenty (20) business days after the Effective Date.

6. None of the payments made pursuant to this Agreement will be considered for purposes of determining eligibility for, vesting or participation in, calculation of, or contributions to any welfare or benefit plans, including, without limitation, all plans, subject to ERISA. The Parties agree that these payments do not represent any modification of any employee's previously-credited hours of service or other eligibility criteria under any employee pension benefit plan, employee welfare benefit plan, or other program or policy. These payments also will not be considered wages, compensation, or annual earnings for benefits in any year for purposes of determining eligibility for, or benefit accrual within, any employee pension benefit plan, employee welfare benefit plan, or other program or policy.

F. Settlement Administration Costs

Within twenty-eight (28) calendar days after the Effective Date, the Settlement Administrator shall deduct the Court-approved sum for payment of its fee and costs for administering the Settlement pursuant to its terms.

IX. OBJECTIONS TO AND OPTING OUT OF THE SETTLEMENT

A. Objections To The Settlement

1. Settlement Class Members who object to the Agreement should submit written objections using the procedures set forth in the Class Notice, postmarked no later than fifteen calendar days after the Motion for Final Approval is filed with the Court.

2. Participating Class Members may also appear at the Fairness Hearing to present any objections.

B. Exclusion From The Settlement

1. Members of the Settlement Class who wish to exclude themselves from the Settlement (“opt-out”) may use the procedure set forth in the Class Notice. A request to opt-out of the Settlement will be deemed timely if postmarked on or before the thirtieth (30th) day after the initial mailing of the Class Notice.

2. Members of the Settlement Class who timely opt-out may not submit an objection to the Agreement, as the Settlement no longer affects them.

3. In the event that five percent (5%) or more of the Class Members exercise their right to exclude themselves and opt out of the Settlement, Defendant retains the exclusive right, but not the obligation, to withdraw from and terminate the Settlement and return all parties back to their same position before the Settlement was reached and the Settlement Agreement was entered into. In the event that Defendant exercises such rights under this paragraph, Plaintiff and Defendant shall resume the Litigation through and until there is a final resolution of the Litigation. Defendant must notify Class Counsel and the Court in writing of such a decision to withdraw and terminate the Settlement no later than five (5) days prior to the date of the Final Approval Hearing. In the event of Defendant’s withdrawal, no party may use the fact that the Parties agreed to the Settlement for any reason, and Defendant shall pay all administration expenses incurred through the date of its termination of the Settlement.

X. SCHEDULE FOR PRELIMINARY AND FINAL APPROVAL

The following procedures for obtaining the Court’s approval shall be implemented with respect to the Settlement, notice to the Settlement Class, and all benefits provided under this Agreement:

A. Stay Of All Litigation

As of the filing of the Motion for Preliminary Approval, and pending preliminary and final approval of the Settlement, the Parties agree that there will be a stay of all litigation activity not reasonably necessary for approval by the Court of this Agreement and all terms herein.

B. Request For Approval By The Court

Class Counsel will prepare a motion for preliminary approval and a motion for final approval, which Class Counsel will file with the Court. Class Counsel will file the Motion for Final Approval approximately fifteen days after the Settlement Administrator sends class notice, unless ordered otherwise by the Court.

Prior to the Final Approval Hearing, the Settlement Administrator shall provide written reports or declarations to the Parties and Parties' Counsel describing, among other things, the process and results of the settlement administration process, the total number of Opt-Out Requests received (both timely and valid or otherwise), the total number of Notices of Objection received (both timely and complete or otherwise), the total number of Miles Disputes received (both timely and valid or otherwise), and the actual or projected costs of the Settlement Administration to date, which report or declarations Plaintiffs may file with the Court prior to the Final Approval Hearing.

C. Duties of the Parties Following Final Court Approval

Following final approval of the Settlement, Class Counsel will submit a mutually agreeable Final Order and Judgment approving the Agreement, adjudicating the terms thereof to be fair, reasonable, and adequate, directing consummation of all terms and provisions, and, without affecting the finality of the Order Granting Final Approval and Judgment, allowing the Court to retain jurisdiction of all matters relating to the interpretation, administration, implementation, effectuation, and enforcement of the Final Approval Order and the Agreement. The executed Final Order and Judgment shall be posted on the Settlement Administrator's website.

XI. MISCELLANEOUS PROVISIONS

A. Mutual Full Cooperation

The Class Representative, Defendant, Class Counsel, and Defense Counsel agree to cooperate fully with each other to accomplish the terms of this Agreement, including execution of necessary documents and other such other action as may reasonably be necessary to implement the terms herein.

B. Parties' Authority

The signatories hereto represent that they are fully authorized to enter into this Agreement and bind the Class Representative, the Settlement Class, and Defendant to all terms stated herein.

C. Binding Nature of the Agreement

1. This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Released Parties. The Class Representative represents, covenants, and warrants that he has not directly or indirectly, assigned, transferred, encumbered, any of the Released Claims.

2. This Agreement shall be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding the mediation confidentiality provisions that

otherwise might apply under federal or state law. Notwithstanding the foregoing, this Agreement may not be admitted into evidence or used in any proceeding except an action, motion or proceeding to approve, interpret, or enforce the terms of this Agreement.

3. Material amendments to this Agreement may be made only by a written instrument signed by Class Counsel, the Class Representatives, Defense Counsel, and Defendant. The Class Representatives and Defendant authorize their respective counsel to make any ministerial amendments or modifications to this Agreement, including formatting changes, typographic corrections, and any necessary revisions to the draft Class Notice documents attached hereto, by way of written instrument signed by Class Counsel and Defense Counsel on their respective clients' behalf. No rights under this Agreement may be waived except in writing.

D. Joint Drafting of Settlement Documents

1. Class Counsel and Defense Counsel have arrived at this Agreement through a series of informed and arm's-length negotiations, including mediation, and taking into account all relevant factors, present and potential.

2. This Agreement has been drafted jointly by Class Counsel and Defense Counsel and, therefore, in any construction or interpretation of this Agreement, the same shall not be construed against any of the Parties.

E. Confidentiality of Documents

After the expiration of any appeals period, Plaintiff, the Settlement Administrator, and Class Counsel shall maintain the confidentiality of all documents, deposition transcripts, declarations and other information obtained in the Litigation, unless necessary for appeal or such documents are ordered to be disclosed by the Court or by a subpoena.

F. Execution of the Agreement

This Agreement may be executed in one or more counterparts and by facsimile. All executed copies of this Agreement, and photocopies thereof, shall have the same force and effect and shall be as legally binding and enforceable as the original.

G. No Third-Party Beneficiaries

Plaintiff, Settlement Class Members, and Defendant are direct beneficiaries of this Agreement, but there are no third-party beneficiaries.

H. Continuing Jurisdiction

The Court shall retain jurisdiction over the implementation of this Agreement and all matters arising out of, or related to, its implementation. The Court shall not have jurisdiction to modify the terms of the Agreement without the consent of all Parties in writing.

I. Severability

In the event that any one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendant's Counsel and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been included in this Agreement.

J. Disputes

Any dispute arising out of or relating to this Agreement that cannot be resolved by the Parties, other than a Miles Dispute by a class member, will be submitted to the Hon. Lisa Cole (Ret.) for resolution, including potential further mediation. If they cannot reach agreement, the Parties agree that Judge Cole is authorized to make a final and binding decision to resolve any dispute. The Parties will split the mediator's costs, and all Parties will bear their own attorneys' fees and other costs incurred. Nothing in this provision shall limit Class Counsel's ability to seek any such attorneys' fees and other costs incurred as part of the Gross Settlement Amount.

[Signatures On Next Page]

Dated: February ___, 2022

CLASS REPRESENTATIVE

By: _____
Dmytro Martyniuk

Dated: February ___, 2022

USKO EXPRESS, INC.

By: _____
Vlad Skots
President of USKO Express, Inc.

Dated: February ___, 2022

THE KICK LAW FIRM, APC

By: _____
Taras P. Kick
Jeffrey C. Bills
Attorneys for Plaintiff

Dated: February ___, 2022

MEDINA MCKELVEY LLP

By: _____
Alexander M. Medina
Kyle W. Owen
Attorneys for Defendant