

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

In the Matter of the Application of SYSCO METRO,  
NY, LLC and PARKING SURVIVAL EXPERTS  
d/b/a parkingticket.com, on their own behalf and on  
behalf of all others similarly situated,

Petitioners,

For a Judgment Pursuant to Article 78 of the Civil  
Practice Law and Rules and for Other Legal and  
Equitable Relief,

-against-

THE CITY OF NEW YORK, THE NEW YORK  
CITY DEPARTMENT OF FINANCE  
COMMERCIAL ADJUDICATIONS UNIT a/k/a  
ADJUDICATION DIVISION, and JACQUES JIHA,  
Individually and as New York City Commissioner of  
Finance,

Respondents

Index No. 101637/2015

Justice Lucy Billings

**STIPULATION AND AGREEMENT OF SETTLEMENT**

This Stipulation and Agreement of Settlement (the “Settlement”), dated May 2, 2022, is made and entered into by and among the following Settling Parties (as defined below): Petitioner Sysco Metro NY, LLC (“Sysco” or “Class Representative”), on one hand, and Respondent The City of New York (the “City”) and Respondent The New York City Department of Finance Commercial Adjudications Division a/k/a Adjudications Division (“DOF”),<sup>1</sup> on the other hand (collectively, “Respondents” and with Sysco, “Settling Parties;” each Settling Party is a “Party”). This Settlement is subject to the approval of the Supreme Court for the State of New York, New

<sup>1</sup> The proceeding was previously dismissed as against Dr. Jacques Jiha in his individual capacity, and he is no longer the Commissioner of the New York City Department of Finance. Thus, Dr. Jiha is not a party to this settlement agreement.

York County (the “Court”), and is intended by the Settling Parties to fully, finally and forever resolve, compromise, discharge, and settle all claims asserted in the above proceeding (the “Proceeding”), including all motions filed therein, and the Released Claims (as defined below).

**WHEREAS**, by order entered September 20, 2017 (the “9/20/2017 Order”), the Court granted in part and denied in part the relief requested by Petitioner in the Petition filed herein and dismissed all claims against Respondent Jacques Jiha;

**WHEREAS**, on or about January 10, 2019, the New York Supreme Court, Appellate Division, First Department, affirmed the 9/20/2017 Order;

**WHEREAS**, Settlement Class Counsel (as defined below) have conducted sufficient discovery, have fully investigated the facts and law relevant to the subject matter of the Proceeding, and have concluded, based upon their investigation, and taking into account the risks, uncertainties, burdens, and costs of further prosecution of the Proceeding, and taking into account the substantial benefits to be received pursuant to this Settlement as set forth below, and for the purpose of putting to rest all controversies with the Respondents that were alleged in the Petition and Proceeding, that a resolution and compromise on the terms set forth herein is fair, reasonable, adequate, and in the best interests of Petitioner and the Settlement Class;

**WHEREAS**, the Parties now agree to settle the Proceeding in its entirety, without any admission of liability by any Respondent, with respect to all Released Claims (defined below) of Petitioner and the Settlement Class. The Parties intend this Settlement to bind Petitioner, Respondents, and all Settlement Class Members who do not timely and properly exclude themselves from the Settlement;

**NOW THEREFORE**, in light of the foregoing, the Parties agree, subject to approval by the Court, as follows:

## **1. DEFINITIONS**

In addition to the terms defined at various points within this Settlement, the following Defined Terms apply throughout this Settlement:

- 1.1. “Administrative Costs” means all costs and expenses associated with providing Notice of the Settlement to Settlement Class Members and administering and carrying out the terms of the Settlement.
- 1.2. “Approved Claim” is a Claim submitted by a Settlement Class Member for a refund with respect to a Body Type Summons, pursuant to the Settlement, and for which the Settlement Administrator determined that the Settlement Class Member fulfilled all requirements set forth in this Agreement.
- 1.3. “Approved Claim Amount” means, for each Approved Claim, the total amount paid by the Settlement Class Member with respect to the summons underlying the Approved Claim, including all fines, penalties and interest, multiplied by (a) 100% for summonses for which the Responsible Person Pursued All Administrative Remedies (b) 30% for summonses for which the Responsible Person Partially Pursued Administrative Remedies; and (c) 20% for summonses for which the Responsible Person did not pursue administrative remedies.
- 1.4. “Attorneys’ Fees and Expense Award” means such funds as may be awarded by the Court to Settlement Class Counsel to compensate Settlement Class Counsel for their time and reimburse Expenses in connection with the Proceeding.
- 1.5. “Body Type Summons” means a summons issued during the Class Period to a vehicle that is a Tractor but that contains a description of the vehicle’s body type as something other than a Tractor.

- 1.6. **“Claim”** means a written request, consistent with the provisions of this Settlement, seeking a refund with respect to a purported Body Type Summons in connection with the Settlement.
- 1.7. **“Claims Deadline”** means the deadline for submitting claims under the Settlement, which date shall be ninety (90) days after the Notice Date.
- 1.8. **“Claims Period”** means the period for submitting claims, which begins on the Notice Date and ends ninety (90) days after the postmark date on the Notice.
- 1.9. **“Class Period”** shall mean the period from January 1, 2014, to the date on which this Settlement is fully executed.
- 1.10. **“Class Releasing Parties”** means Petitioner, Settlement Class Members who do not timely and properly exclude themselves from the Settlement, and each of their respective heirs, executors, administrators, representatives, agents, partners, successors, attorneys, and assigns.
- 1.11. **“Confirmatory Data”** means the data concerning certain summonses provided by the City to Petitioner on or about November 20, 2020, April 12, 2021, and May 10, 2021, as supplemented.
- 1.12. **“Court”** refers to the Supreme Court of the State of New York, New York County.
- 1.13. **“DMV Body Type”** means the body type designation for a vehicle as appears in New York State Department of Motor Vehicle (“State DMV”) records.
- 1.14. **“Effective Date”** means the second business day following the date on which the Judgment entered pursuant to this Settlement becomes Final.

- 1.15. "Expenses" means reasonable costs and disbursements incurred by Settlement Class Counsel or other counsel for Petitioner in investigating and prosecuting the Proceeding.
- 1.16. "Fee Application" means any application by Settlement Class Counsel for an Attorneys' Fees and Expenses Award, as set forth in Paragraph 10.
- 1.17. "Final" means, with respect to any judicial ruling or order, that: (1) if no appeal, motion for re-argument, motion for rehearing, petition for *writ of certiorari*, or other writ has been filed, the time has expired to file such an appeal, motion for re-argument, motion for rehearing, petition for writ of certiorari, or other writ; or (2) if an appeal, motion for re-argument, motion for rehearing, motion for leave to appeal, petition for a writ of certiorari, or other writ has been filed, the judicial ruling or order has been affirmed with no further right of review, or such appeal, motion, petition, or writ has been denied or dismissed with no further right of review. Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any application for attorneys' fees or expenses will not in any way delay or preclude the Judgment from becoming Final.
- 1.18. "Final Approval Order" means the order finally approving the terms of this Settlement entered by the Court. In the event that the Court enters separate orders addressing the matters constituting final approval, then "Final Approval Order" includes all such orders.
- 1.19. "Judgment" means the judgment entered by the Court dismissing the Proceeding with prejudice.

- 1.20. "Net Settlement Fund" means the Settlement Fund less amounts awarded by the Court for Attorneys' Fees and Expenses and Administrative Costs.
- 1.21. "Notice" means the notice of proposed class action settlement that the Parties will ask the Court to approve in connection with preliminary approval of the Settlement.
- 1.22. "Notice Date" means the date upon which Notice is first disseminated to the Settlement Class, which shall be no later than sixty (60) days following the entry of an order granting Preliminary Approval of the Settlement.
- 1.23. "Notice Program" means the methods for providing Notice of this Settlement to the Settlement Class Members as approved by the Court.
- 1.24. "Objection Deadline" means the last day of the Objection Period.
- 1.25. "Objection Period" means the period during which a Settlement Class Member may file an objection to the Settlement or the Fee Application, which period shall expire forty-five (45) days following the postmark date on the Notice. The deadline for filing an objection to the Settlement or the Fee Application shall be set forth clearly in the Notice.
- 1.26. "Opt-Out Period" means the period during which a Settlement Class Member may file a request to be excluded from the Settlement Class, which period shall expire forty-five (45) days following the Notice Date. The deadline for filing a request for exclusion shall be set forth clearly in the Notice.
- 1.27. "Partially Pursued Administrative Remedies" means, for purposes of this settlement only, with respect to a Body Type Summons, that the Responsible Person challenged the Body Type Summons by filing a not guilty plea at an

initial New York City Department of Finance Parking Violations Bureau (“PVB”) hearing, on any ground, not necessarily on the ground that the vehicle’s body type was misdescribed, but did not pursue an appeal of an adverse ruling from a PVB Administrative Law Judge.

- 1.28. “Person” shall mean any individual, sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, business trust, not-for-profit corporation, unincorporated association, joint stock corporation, trust, joint venture or other entity, or any government or any agency or instrumentality or political subdivision thereof.
- 1.29. “Potential Class List” is the list of summonses that may be Body Type Summonses identified pursuant to the procedure set forth in paragraph 6.1.
- 1.30. “Preliminary Approval Order” means an order providing for, among other things, preliminary approval of the Settlement, notice to the Class, and setting a date for a hearing on final approval of the Settlement.
- 1.31. “Proceeding” means the Article 78 proceeding *Sysco Metro NY, LLC, et al., v. the City, et al.*, Index No. 101637/2015, and all motions and proceedings therein.
- 1.32. “Pursued All Administrative Remedies” means, for purposes of this Settlement only, with respect to a Body Type Summons, that the Responsible Person challenged the Body Type Summons on any ground, not necessarily on the ground that the vehicle’s body type was misdescribed, and either (a) as of the date of this Agreement has not been served with a determination from the PVB Administrative Law Judge, or the time to file an appeal from such decision has not lapsed, or (b) commenced an appeal from an initial adverse determination of

the PVB Administrative Law Judge, whether or not there has been a ruling on the appeal.

- 1.33. **“Reduced Fine Program”** means either the Program for Stipulated Fines set forth in Title 19 of the Rules of the City of New York (“RCNY”), § 39-03.1, or the Program of Commercial Abatements, set forth in 19 RCNY § 39-03.2.
- 1.34. **“Released Claims”** means all claims to be released as specified in Paragraph 9.
- 1.35. **“Released Parties”** means those persons or entities released as specified in Paragraph 9.
- 1.36. **“Releases”** means all of the releases specified in Paragraph 9.
- 1.37. **“Releasing Parties”** means Class Releasing Parties and Respondent Releasing Parties.
- 1.38. **“Respondent Releasing Parties”** means The City of New York and The New York City Department of Finance Commercial Adjudications Division a/k/a Adjudications Division, and each of their agents, partners, successors, attorneys, and assigns.
- 1.39. **“Responsible Person”** means a vehicle’s registered owner or lessor, as applicable, or such person’s agent.
- 1.40. **“Settlement Administrator”** means Kroll Settlement Administration.
- 1.41. **“Settlement Class”** means all Persons who are Responsible Persons with respect to a Tractor-Confirmed that was issued a Body Type Summons during the Class Period, except with respect to any vehicle that was enrolled in the Reduced Fine Program.
- 1.42. **“Settlement Class Member”** means any Person in the Settlement Class.



- 1.43. "Settlement Class Counsel" refers to Bragar Eagel & Squire, P.C., Glass Harlow & Hogrogian LLP, Joan Lebow, P.C., and Edelstein & Grossman.
- 1.44. "Settlement Class Representative" or "Petitioner" refers to Sysco Metro NY, LLC.
- 1.45. "Settlement Fund" means that \$2,450,000.00 (two million four hundred fifty thousand dollars) fund to be established pursuant to paragraph 4.1(a) hereof.
- 1.46. "Settlement Funding Date" means that date on which the City pays the Settlement Funds into the Settlement Fund pursuant to paragraph 4.1(a).
- 1.47. "Settlement Website" means an Internet website created and maintained by the Settlement Administrator to provide information about the Settlement to Settlement Class Members and to provide a mechanism for Settlement Class Members to submit Claims or opt out of the Settlement, the cost of which shall be Administrative Costs.
- 1.48. "Summons Body Type" means the body type description of a vehicle, if any, entered on a Summons.
- 1.49. "Tractor" means a motor vehicle designed and used as the power unit in combination with a semitrailer or trailer, or two such trailers in tandem. Any such motor vehicle shall not carry cargo except that a tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit. New York State Vehicle and Traffic Law ("VTL") § 151-a.

- 1.50. “Tractor—Attested” means a vehicle registered outside of the State of New York that the Responsible Person has, pursuant to this Settlement, attested under oath is a Tractor.
- 1.51. “Tractor—Confirmed” means both “Tractors—Recorded” and “Tractors—Attested.”
- 1.52. “Tractor—Recorded” means a vehicle that the City can confirm, through the State DMV records, is a Tractor, i.e., the State DMV data shows a vehicle body type code of TRAC.
- 1.53. “Tractor—Unrecorded” means a vehicle registered outside of the State of New York, identified in the Working Class List and for which the Working Class List provides owner information or for which the Settlement Administrator is able to obtain owner information through third party vendors.
- 1.54. “Working Class List” means the Potential Class List reduced by the categories of summonses identified in paragraph 8.2(a).

## **2. DENIAL OF WRONGDOING AND LIABILITY**

Nothing contained herein shall be deemed to be an admission by any Respondent or the City or any of its agents, successors, heirs, or assigns, that they have acted unlawfully or in any way violated any of Petitioner’s or any Settlement Class Member’s rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New York, or the City or any other rules, regulations or bylaws of any department or subdivision of the City.

**3. SETTLEMENT CLASS CERTIFICATION**

- 3.1. For purposes of settlement only, the Petitioner shall seek, and Respondents shall not oppose, certification of the Settlement Class pursuant to Article 9 of the New York Civil Practice Law and Rules ("CPLR").
- 3.2. For settlement purposes only, Petitioner shall also seek, and Respondents shall not oppose, appointment of Settlement Class Counsel and appointment of Petitioner as Settlement Class Representative to represent the Settlement Class.
- 3.3. Respondents do not consent to certification of the Settlement Class for any purpose other than to effectuate the settlement of this Proceeding. Respondents' agreement to this Stipulation does not constitute an admission of wrongdoing, fault, liability, or damage of any kind to Petitioner or any of the Settlement Class Members. Respondents reserve the right to contest any motion to certify a class for any purpose other than settlement of the Proceeding. Respondents' agreement to not oppose the appointment of Glass Harlow & Hogrogian LLP, Joan Lebow, P.C., and Edelstein & Grossman as Settlement Class Counsel is not an admission that such counsel are adequate class counsel in any other action or proceeding involving Respondents, and such counsel will not refer to their appointment herein as Settlement Class Counsel in any motion for appointment as class counsel in any other action or proceeding involving Respondent.
- 3.4. If this Settlement is terminated pursuant to its terms as set forth in paragraph 12, disapproved by any court (including any appellate court), and/or not consummated for any reason, or the Effective Date for any reason does not occur, the order certifying the Settlement Class for purposes of effectuating the Settlement, and all preliminary and/or final findings regarding that class

certification order, shall automatically be vacated upon notice of the same to the Court; the Proceeding shall proceed as though the Settlement Class had never been certified pursuant to this Settlement and such findings had never been made, and the Proceeding shall return to the procedural posture it was in prior to execution of this Settlement. Neither Party nor its counsel shall refer to or invoke the vacated findings and/or order relating to class settlement if this Settlement is not consummated and the Proceeding is later litigated and contested by Respondents under Article 9 and Article 78 of the CPLR.

#### **4. SETTLEMENT CONSIDERATION**

4.1. In consideration for the releases provided in this Settlement, the City will provide the following relief to the Settlement Class (which includes Petitioner) and to Petitioner to resolve Petitioner's non-class claims asserted in this Proceeding:

- a The City shall pay by check, to be received no later than ninety (90) days following the Effective Date, \$2,450,000.00 (two million four hundred fifty thousand dollars) into a Settlement Fund, administered by the Settlement Administrator, to be disbursed as set forth in this Settlement.
- b The City shall pay by check, to be received no later than ninety (90) days following the Effective Date, an additional \$400,000.00 (four hundred thousand dollars) to Petitioner to resolve all of Petitioner's individual claims asserted in the Proceeding, other than claims common to the Settlement Class.

4.2. The City represents and warrants that its internal STARS database, which maintains the official records concerning the status of summonses issued by the City, will reflect (a) for every Body Type Summons for which the Responsible Person Pursued All Administrative Remedies and received or is entitled to receive a 100% refund (i.e., the refund is not pro-rated pursuant to paragraph

5.1(a)), the summons will be marked as dismissed and the amount due will be \$0.00; (b) for all other Body Type Summonses for which a fine and/or penalty had been paid and an Approved Claim is filed, the amount of the fine and/or penalty paid will be reduced by the amount of any actual refund on such summons and the amount due for such summons will be \$0.00, but the summons will not be marked as dismissed; and (c) for all other Body Type Summonses for which the fine and/or penalty had not been paid or was partially paid and an Approved Claim is filed, the amount of the fine and/or penalty paid and the amount due will be reduced to reflect the amount of refund that would be due with respect to such summons under this agreement, *i.e.*, 30% reduction, or 20% reduction, and the summons will not be marked as dismissed.

- 4.3. The Parties agree that the Settlement Fund is intended to constitute a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1, et seq., and that the Settlement Administrator shall be the “administrator” within the meaning of Treasury Regulation § 1.468B-2(k)(3). The Parties further agree that the Settlement Fund shall be treated as a qualified settlement fund from the earliest date possible and agree to any relation-back election required to treat the Settlement Fund as a qualified settlement fund from the earliest date possible.
- 4.4. Upon or before establishment of the Settlement Fund, the Settlement Administrator shall apply for an employer identification number for the Settlement Fund utilizing IRS Form SS-4 and in accordance with Treasury Regulation § 1.468B-2(k)(4), and shall provide the Parties with that employer identification number on a properly completed and signed IRS Form W-9.

4.5. The Settlement Administrator shall file or cause to be filed on behalf of the Settlement Fund, all required federal, state, and local tax returns, information returns, including, but not limited to, any Form 1099-series return, and tax withholdings statements, in accordance with the provisions of Treasury Regulation § 1.468B-2(k)(1) and Treasury Regulation § 1.468B-2(1)(2). Any contract, agreement or understanding with the Settlement Administrator relating to the Settlement Fund shall require the Settlement Administrator or its agent to file or cause to be filed, on behalf of the Settlement Fund, all required federal, state, and local tax returns and information returns, including, but not limited to any Form 1099-series return, and tax withholdings statements, in accordance with the provisions of Treasury Regulation § 1.468B-2(k)(1) and Treasury Regulation § 1.468B-2(1)(2). The Settlement Administrator may, if necessary, secure the advice of a certified public accounting firm in connection with its duties and tax issues arising hereunder.

4.6. All taxes relating to the Settlement Fund shall be paid out of the Settlement Fund, shall be considered to be an Administrative Cost of the Settlement, and shall be timely paid by the Settlement Administrator without further order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties, the Settlement Administrator, and their counsel for taxes (including, without limitation, taxes payable by reason of any such indemnification payments) due and arising from the Settlement Fund.

## **5. DISBURSEMENT OF THE NET SETTLEMENT FUND**

5.1. Beginning on the day after the date on which the City makes the payment into the Settlement Fund, as provided in paragraph 4.1(a), and such funds are

available for distribution, the Settlement Administrator shall, as soon as administratively feasible but no later than forty-five (45) days, disburse the Net Settlement Fund as follows:

- a To each Settlement Class Member, the total Approved Claim Amount with respect to all Approved Claims for such Settlement Class Member, as verified by the Settlement Administrator, provided that, if the Net Settlement Fund is not sufficient to pay the total Approved Claim Amount with respect to all Approved Claims for all Settlement Class Members, then each Settlement Class Member shall be paid the amount that is equal to: (a) the Member's total Approved Claim Amount multiplied by (b) the ratio of (i) the Net Settlement Fund, divided by (ii) the total Approved Claim Amount for all Settlement Class Members.
- b Any funds remaining in the Net Settlement Fund after payment of the amounts above in paragraph 5.1(a), payments of administrative expenses, as verified by the Settlement Administrator, and payment of any Attorneys' Fees and Expense Award, and after the expiration of any initial or reissued disbursement checks, shall be returned to the City within ninety (90) days.

5.2. All initial disbursements from the Settlement Fund must be completed within forty-five (45) days of the Settlement Funding Date. Initial disbursement checks shall be valid for ninety (90) days, and any reissued disbursement checks shall be valid for forty-five (45) days.

5.3. Disbursements from the Net Settlement Fund to Settlement Class Members shall be made directly to said Settlement Class Members.

5.4. The Settlement Administrator may make such disbursements by check, electronic or digital transfer, as determined in the Settlement Administrator's reasonable discretion, and shall maintain a searchable record of the date, type, amount, and payee for each such disbursement.

## **6. NOTICE, CLAIMS PROCESS AND REQUIREMENTS**

6.1. Within thirty (30) days of full execution of this Settlement, the City shall update the Confirmatory Data by providing Settlement Class Counsel with a list

(“Potential Class List”), in Microsoft Excel format, of all summonses issued during the Class Period to (a) any vehicle for which the City’s STARS database records a vehicle body type of either TR, TRA, TRAC, TRAK, TRCT, or TRT, and for which the Summons Body Type is something other than Tractor; and (b) any vehicle for which the City’s STARS database does not have a recorded vehicle body type, but the vehicle received at least one summons during the Class Period on which the Summons Body Type was listed as Tractor. The City shall use reasonable efforts to include the following information in the Potential Class List, where applicable and available, for each such summons: (i) summons number, (ii) date of summons, (iii) statutory fine, (iii) registered owner or lessor’s name, address, and email address, (iv) vehicle plate number, (v) amount of fine paid (including penalties and interest), (vi) the DMV Body Type for the vehicle, (vii) the Summons Body Type as described on the summons, and (viii) information disclosing all steps the Responsible Person took, if any, to challenge the Summons, including but not limited to whether the Responsible Person challenged the summons before a PVB Administrative Law Judge, received a ruling from an Administrative Law Judge, filed an appeal from an adverse ruling of an Administrative Law Judge, and received a ruling on such appeal.

- 6.2. The Parties agree that the Potential Class List will not necessarily identify all Potential Class Members and Body Type Summonses. For example, Tractors for which the State DMV does not have Body Type information may have received Body Type Summonses during the Class Period, but did not receive any



summonses with a Summons Body Type of Tractor, and as such will not be identified on the Potential Class List.

6.3. The City has provided Petitioner with certain Confirmatory Data as part of the confirmatory discovery in this Proceeding.

- a The City acknowledges that Petitioner's decision to enter into this Settlement on behalf of the Class was premised, in part, on the purported accuracy of the information contained in the Confirmatory Data;
- b The City agrees that, any vehicle registered in the State of New York that is identified in the Confirmatory Data as a Tractor, *i.e.*, has a DMV Body Type code of TRAC, will be deemed to be a Tractor for purposes of this Settlement only;
- c The City agrees that any vehicle registered in the State of Indiana for which the Confirmatory Data has a DMV Body Type code of "TR" will be deemed to be a Tractor for purposes of this Settlement only.
- d The City agrees that any vehicle registered in the State of Minnesota for which the Confirmatory Data has a DMV Body Type code of "TT" will be deemed to be a Tractor for purposes of this Settlement only.
- e The City agrees that any vehicle registered in the State of New Jersey for which the Confirmatory Data has a DMV Body Type code of "TT" or "TR" will be deemed to be a Tractor for purposes of this Settlement only.
- f The City agrees that any Summons identified in the Confirmatory Data with a Hearing Indicator Code of B, O, 1, 2, 3, 4, 5, or 7, will be deemed to have at least Partially Pursued all Administrative Remedies for purposes of this Settlement only; and
- g The City agrees that any Summons identified in the Confirmatory Data that has a Hearing Indicator code of "9" or any of the "Appeal-Request" Key Codes populated will be deemed to have Pursued All Administrative Remedies for purposes of this Settlement only.

6.4. Notice to the Settlement Class

- a With respect to Responsible Persons of Tractors-Recorded that received a Body Type Summons and of Tractors-Unrecorded to which at least one summons was issued describing the vehicle as a Tractor and for whom the City's records provide or for which the Settlement Administrator is able to obtain through reasonable effort the identity and address, the Settlement Administrator shall provide Notice of the Settlement in a form upon which the parties will make best efforts to agree providing, among other information required by the Court, a unique settlement identification number ("USIN") that such Responsible Person can use to obtain, on the Settlement Website, information from the City's records of all potential Body Type Summonses issued to vehicles owned by such Settlement Class Member;
  - b With respect to Settlement Class Members for whom the City's records do not provide the identity and address and the Settlement Administrator is unable to obtain such information through reasonable effort, the Settlement Administrator shall provide Notice of the Settlement by (i) placing an advertisement in a weekday edition of USA Today; (ii) issuing a press release, and (iii) paid search advertising on Google, Yahoo/Bing; Internet display banner advertising; and Facebook banner advertising with all costs for the notices described in (i), (ii) and (iii) to come out of the Settlement Fund.
  - c The Notice shall provide deadlines for submitting a Claim and for opting out of and objecting to the Settlement;
  - d The Notice shall direct potential Class Members to the Settlement Website for additional information and instructions; and
  - e The Notice shall provide any additional information required by the Court.
- 6.5. Settlement Class Members may submit Claims through the Settlement Website with respect to one or more purported Body Type Summons(es) issued to vehicles for which the Settlement Class Member is the Responsible Person:

- a Settlement Class Members provided with a USIN will be able to use the USIN to view on the Settlement Website a list of Body Type Summonses issued to vehicles registered to the Settlement Class Member, to the extent set forth in the City's records or determined by the Settlement Administrator, as well as information with respect to such vehicles including but not limited to (i) whether the vehicle(s) in question is a Tractor-Recorded or Tractor-Confirmed; and for each such potential Body Type Summons, (ii) the summons number; (iii) the date issued; (iv) whether and to what extent the City's records show that the Responsible Person pursued administrative remedies, (v) all fines, penalties and interest paid with respect to the summons and (vi) whether the Responsible Person must provide additional information to submit a Claim with respect to such summons;
- b Vehicles registered in the State of New York, for which the Confirmatory Data has a DMV Body Type code of TRAC, for purposes of this Settlement only are deemed Tractors and will not be required to provide any confirmatory documentation or attestation as to the vehicle body type;
- c Vehicles registered in the State of Indiana, for which the Confirmatory Data has a DMV Body Type code of "TR," are deemed Tractors for purposes of this Settlement only and will not be required to provide any confirmatory documentation or attestation as to the vehicle body type;
- d Vehicles registered in the State of Minnesota, for which the Confirmatory Data has a DMV Body Type code of "TT," are deemed Tractors for purposes of this Settlement only and will not be required to provide any confirmatory documentation or attestation as to the vehicle body type;
- e Vehicles registered in the State of New Jersey, for which the Confirmatory Data has a DMV Body Type code of "TR" or "TT," are deemed Tractors for purposes of this Settlement only and will not be required to provide any confirmatory documentation or attestation as to the vehicle body type;
- f For vehicles registered outside of the States of New York, Indiana, Minnesota or New Jersey, Responsible Persons can provide an attestation under oath, through the Settlement Website, that the vehicle is a Tractor, and no additional information will be required from the Responsible Person to confirm that the vehicle is a Tractor.
- g Summonses for which the Confirmatory Data has a Hearing Indicator Code of B, O, 1, 2, 3, 4, 5, or 7 will not be required to provide any confirmatory documentation with respect to whether the Responsible Person Partially Pursued All Administrative Remedies for such summonses;

- h Summonses for which the Confirmatory Data has a Hearing Code of 9 or an "Appeal Requested" Key Code that is populated will not be required to provide any confirmatory documentation with respect to whether the Responsible Person Pursued All Administrative Remedies for such summonses.
  - i Potential Class Members who are not provided a USIN will be able to identify Body Type Summonses issued to a particular vehicle by plate number;
  - j With respect to Body Type Summonses not identified on the Settlement Website, a Responsible Person will be able to submit Claims by providing, under penalty of perjury, a list of Body Type Summonses issued to such Responsible Person's Tractor(s) which describe each vehicle's body type as something other than a Tractor, identified by summons number, and an attestation under oath that: the vehicle is, in fact, a Tractor; the summons identified the vehicle as something other than a Tractor; whether and to what extent the Settlement Class Member challenged the summons, and the fine paid, if any, with respect to the summons.
  - k Petitioner may only submit claims for Body Type Summonses not previously refunded pursuant to this litigation.
- 6.6. A Settlement Class Member may challenge the information that appears on the Settlement Website with respect to specific purported Body Type Summonses by uploading to the Settlement Website documentation indicating that the information on the Settlement Website is incorrect, including but not limited to documentation indicating that (i) the potential Class Member challenged the summons; (ii) an appeal was filed from an adverse ruling of an Administrative Law Judge; or (iii) the amount of fines, penalties, or interest paid with respect to the purported Body Type Summons is different than what appears on the Settlement Website. All such challenges shall be determined by the Settlement Administrator pursuant to its reasonable judgment.
- 6.7. Either Party shall have the right, prior to the expiration of the Claims period, to review Claims made by Settlement Class Members and, in the event a Party has

documentation or other information showing that the information submitted and attested to by a Settlement Class Member is false or materially inaccurate, such Party may challenge the Claim by providing written notification to the Settlement Administrator and the other Party. In such event, the Settlement Administrator shall contact the relevant Settlement Class Member and request documentation in support of the facts challenged by the challenging Party. The Settlement Administrator shall review any documentation provided by the Settlement Class member and determine, in the Settlement Administrator's reasonable judgment, whether or not to approve the Claim. The Settlement Administrator's determination shall be final and binding on the Parties and the Settlement Class Member, subject to paragraph 8.3.

6.8. The Potential Class List shall be used only to provide Notice to the Settlement Class or as otherwise agreed by the Parties in writing.

**7. SUBMISSION OF THE SETTLEMENT TO THE COURT FOR REVIEW AND PRELIMINARY AND FINAL APPROVAL**

7.1. **Preliminary Approval.** As soon as practicable, but no later than fourteen (14) days after full execution of this Settlement Agreement, Settlement Class Counsel shall move the Court for entry of a Preliminary Approval Order.

7.2. **Final Approval.** By no later than 21 days prior to the Objection Deadline, Settlement Class Counsel shall file and post to the Settlement Website a motion for final approval of the Settlement and any Fee Application. By no later than 14 days prior to the Final Approval Hearing, the Parties shall file any responses to any objections and any reply memoranda in support of final approval of the Settlement and/or Settlement Class Counsel's Fee Application. In the Court's

discretion, the Court may hear argument at the Final Approval Hearing from any Settlement Class Member (or their counsel) who objects to the Settlement or to the Fee Application, provided that the objectors filed timely objections that meet all of the requirements listed in the Preliminary Approval Order.

7.3. At or following the Final Approval Hearing, the Court will:

- a Determine whether the Settlement is fair, adequate, and reasonable, and whether to approve the Settlement pursuant to Article 9 of the CPLR.
- b Determine whether the Notice provided satisfied Due Process requirements.
- c Determine whether to enter the Final Approval Order granting final approval of the Settlement and whether to approve Settlement Class Counsel's request for attorneys' fees, costs, expenses, and the Service Award, or award other amounts. The proposed Final Approval Order that will be filed with the motion for final approval shall be in a form agreed upon by Settlement Class Counsel and the City. Such proposed Final Approval Order shall, among other things:
  - i. Dismiss the Proceeding with prejudice;
  - ii. Bar and enjoin the Releasing Parties from asserting any of the Released Claims, as set forth in Paragraph 9, including during the pendency of any appeal from the Final Approval Order;
  - iii. Release the City and the Released Parties from the Released Claims, as set forth in Paragraph 9; and
  - iv. Reserve the Court's continuing and exclusive jurisdiction over Respondents and all Settlement Class Members (including all objectors) to administer, supervise, construe, and enforce this Settlement in accordance with its terms.

## **8. SETTLEMENT ADMINISTRATOR**

- 8.1. The Settlement Administrator shall administer various aspects of the Settlement as described in this Settlement and the Preliminary Approval Order and perform such other functions as are specified for the Settlement Administrator elsewhere in this Settlement and the Preliminary Approval Order, including, but not limited to, providing the Notice to Settlement Class Members; establishing and

operating the Settlement Website and toll-free number; administering the Claims process; and distributing payments according to the processes and criteria set forth herein or in the Final Approval Order.

8.2. The duties of the Settlement Administrator, in addition to others that are described in this Stipulation of Settlement, include the following:

- a Obtaining from the City the Potential Class List and preparing a list of summonses and supporting information to be used for purposes of sending Notice to the Settlement Class and to be included in the Settlement Website. Such list shall be obtained from the Potential Class List by eliminating therefrom summonses that (i) have a hearing code of "1" (not guilty) or "Z" (Guilty-Fraud Hearing); (ii) have an Abatement-Summons code of "Y" (Stipulated Fines Program); (iii) have a Summons Body Type of "TRAC"; and (iv) were previously refunded to Sysco pursuant to this litigation. The resulting data set will be the "Working Class List."
- b Obtaining from the Working Class List the name, physical mailing address, email address, or other address information for potential Settlement Class Members (to the extent it is reasonably available) and verifying and updating the mailing addresses received, through the National Change of Address database or other similar data source, for the purpose of sending the notice to potential Class Members;
- c Using reasonable efforts to obtain from one or more third-party vendors, as agreed upon by the Parties, the owner information for summonses identified on the Working Class List for which no owner information is given. The Parties acknowledge that this process may take approximately eight (8) weeks to complete;
- d Assigning a USIN to each owner or lessor of one or more vehicles appearing on the Working Class List, where such information can reasonably be obtained;
- e Preparing the notice to each potential Settlement Class Member for whom address information is obtained;
- f Establishing and maintaining a post office box for mailed written notifications of exclusion from the Settlement Class;
- g Establishing and maintaining a toll-free telephone line for potential Settlement Class Members to call with Settlement-related inquiries, and answering the questions of potential Settlement Class Members who call with or otherwise communicate such inquiries;

- h Establishing and maintaining a Settlement Website that:**
- i. Provides each potential Settlement Class Member who was issued a USIN information concerning the potential Body Type Summonses issued to it, according to the Working Class List, including the (A) Summons number, (B) date of Summons, (C) statutory fine, (D) vehicle plate number, (E) amount of fine paid (including penalties and interest), (F) the DMV Body Type, (G) the Summons Body Type, (H) whether and to what extent the Potential Class Member pursued or exhausted remedies to challenge each Body Type Summons, and (I) whether the vehicle is a Tractor—Confirmed;**
  - ii. Ensures that potential Settlement Class Members assigned a particular USIN will not be able to view information concerning summonses issued to vehicles owned by other potential Settlement Class Members;**
  - iii. Provides potential Settlement Class Members with a mechanism to make a Claim with respect to each summons listed on the Settlement Website;**
  - iv. Provides Responsible Persons that received Body Type Summonses not identified in the Working Class List a mechanism to make a claim with respect to such Body Type Summonses as set forth in paragraph 6.5(j).**
  - v. Provides potential Settlement Class Members with a mechanism to challenge the information provided by the City, including without limitation, uploading evidence that the potential Settlement Class Member received additional Body Type Summonses not listed, paid different fines with respect to any Body Type Summons, or took additional steps to challenge the Body Type Summons;**
  - vi. Provides potential Settlement Class Members with a mechanism to submit a Claim with respect to any Body Type Summons, whether or not listed on the Settlement Website;**
  - vii. Provides potential Settlement Class Members with a mechanism to opt out of the Settlement;**
  - viii. Provides information and relevant dates for any Fee Application and objections thereto; and**
  - ix. Provides an additional means for potential Settlement Class Members to obtain notice of and information about the Settlement through and including hyperlinked access to this Settlement; the Notice; the order preliminarily approving the Settlement; the Final Approval Order; Reimbursement Claim forms, and such other**



documents as Settlement Class Counsel and Respondents agree to post or that the Court orders posted. These documents shall remain on the Settlement Website at least until expiration of the Claims Deadline. The URL of the Settlement Website will be agreed upon in writing by the City and Settlement Class Counsel. The Settlement Website shall not include any advertising and shall not bear or include a logo.

- i Responding to any potential Settlement Class Member inquiries;
  - j Maintaining a list of all written notifications of exclusion from the Settlement Class;
  - k Providing reports upon request and, no later than 10 days after the Opt-Out Deadline, a final report to Settlement Class Counsel and Counsel for the City that summarizes the total number of written notifications of exclusion received (complete documentation to be provided upon request);
  - l Providing reports upon request to Settlement Class Counsel and the City that set forth the number and dollar amount of Claims received to date, and the total amount of Claims rejected.
  - m In advance of the Final Approval Hearing, preparing a declaration to submit to the Court that: (i) attests to implementation of the Notice Program in accordance with the Preliminary Approval Order; (ii) identifies each Settlement Class Member who timely and properly provided written notification of exclusion from the Settlement Class; and (iii) provides information on the number of Settlement Class Members who submitted Claims;
  - n Reviewing, determining the validity of, and responding to Claims submitted by potential Settlement Class Members, and evidence uploaded or submitted by potential Class Members with respect to Body Type Summonses based on criteria set forth herein, as ordered by the Court or agreed upon in writing by the Parties;
  - o After the close of the Claims Period, processing and transmitting distributions to Settlement Class Members;
  - p Performing any other function related to Settlement administration at the agreed-upon instruction of both Settlement Class Counsel and the City, and/or as ordered by the Court.
- 8.3. The Settlement Administrator's determination regarding potential Class Members' eligibility for Claims shall be final subject to paragraph 6.7, provided that Settlement Class Counsel and Counsel for the City may review such

determinations or a sample thereof for the purposes of confirming the accuracy of the Settlement Administrator's determinations and conferring in good faith with respect to any disagreements as to such determinations. Any party that believes the Settlement Administrator is improperly approving or rejecting Claims may submit the matter to the Court for resolution.

8.4. The Parties, the Released Parties, and their respective counsel shall have no responsibility or liability whatsoever for the Settlement Administrator's conduct, omissions, or actions.

8.5. The Settlement Administrator shall be paid from the Settlement Fund for its settlement administration services related to the Settlement, including the costs of notice set forth in paragraph 6.4(b) and shall not look to Petitioner, Settlement Class Counsel, or the City for payment of its fees or costs. If the Settlement is not given Final Approval by the Court, the payment to the Settlement Administrator to the date of such denial will be made by Petitioner.

## **9. RELEASES AND DISMISSAL OF PROCEEDING**

9.1. As of the Effective Date, the Class Releasing Parties, each on behalf of himself, herself, or itself, and on behalf of his, her, or its respective heirs, assigns, beneficiaries, and successors, shall automatically be deemed to have fully and irrevocably released and forever discharged Respondents and each of their present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, and the predecessors, successors, and assigns of

each of them (collectively, the “Respondent Released Parties”), of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys’ fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to each of said Class Releasing Party’s Body Type Summons, and conduct that was alleged or could have been alleged in the Proceeding (the “Respondent Released Claims”), provided that any release on behalf of the Petitioner shall not be effective unless and until Petitioner receives the \$400,000.00 payment pursuant to paragraph 4.1(b) hereof.

- 9.2. As of the Effective Date, the Respondent Releasing Parties, each on behalf of itself and on behalf of its respective assigns, beneficiaries, and successors, shall automatically be deemed to have fully and irrevocably released and forever discharged Petitioners and each Settlement Class Member and each of their present and former parents, subsidiaries, divisions, affiliates, predecessors, successors, and assigns, and the present and former directors, officers, employees, agents, insurers, shareholders, attorneys, advisors, consultants, representatives, partners, joint venturers, independent contractors, wholesalers, resellers, distributors, retailers, and the predecessors, successors, and assigns of each of them (collectively, the “Class Released Parties”), of and from any and all liabilities, rights, claims, actions, causes of action, demands, damages, penalties, costs, attorneys’ fees, losses, and remedies, whether known or unknown, existing or potential, suspected or unsuspected, liquidated or

unliquidated, legal, statutory, or equitable, that result from, arise out of, are based upon, or relate to each of said Class Released Party's Body Type Summons, where no balance is due on such Body Type Summons, and conduct that was alleged or could have been alleged in the Proceeding (the "Class Released Claims").

- 9.3. The Released Claims include any claims that a Releasing Party may have under the law of any jurisdiction. The Released Claims do not include any claims by the Parties hereto to enforce the terms of the Settlement.
- 9.4. Upon the Effective Date, and to the fullest extent permitted by law, each Releasing Party, including Petitioner, shall, either directly, indirectly, representatively, as a member of or on behalf of the general public, or in any capacity, be permanently barred and enjoined from commencing, prosecuting, or participating in any recovery in any action in this or any other forum (other than the participation in the Settlement as provided herein) in which any of the Released Claims is asserted or any challenge is made as to any of such Releasing Party's Body Type Summonses.
- 9.5. Petitioner and/or any Releasing Party may hereafter discover facts other than or different from those that he/she/it knows or believes to be true with respect to the subject matter of the claims released pursuant to the terms of Paragraph 9, or the law applicable to such claims may change. Nonetheless, each of those individuals expressly agrees that, as of the Effective Date, he/she/it shall have automatically and irrevocably waived and fully, finally, and forever settled and released any known or unknown, suspected or unsuspected, asserted or

unasserted, liquidated or unliquidated, contingent or noncontingent claims with respect to all of the matters described in or subsumed by Paragraph 9.

- 9.6. **Unknown Claims.** With respect to the Released Claims, Petitioner and each Settlement Class Member waive and release any and all provisions, rights, and benefits conferred either (a) by Section 1542 of the California Civil Code, or (b) by any law of any state or territory of the United States, or principle of common law, which is similar, comparable, or equivalent to Section 1542 of the California Civil Code. Section 1542 of the California Civil Code reads:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.**

- 9.7. In addition to any other defenses Respondents or Settlement Class Members may have at law, in equity, or otherwise, to the extent permitted by law, this Settlement may be pleaded as a full and complete defense to, and may be used as, the basis for an injunction against, any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Settlement or the Releases contained herein.

**10. ATTORNEYS' FEES, COSTS, AND EXPENSES, AND SERVICE AWARDS**

- 10.1. Settlement Class Counsel may file a Fee Application seeking an award of attorneys' fees of no more than thirty-three percent (33%) of the Settlement Fund (after payment of Administrative Costs) and reimbursement of reasonable Expenses incurred in connection with the Proceeding, inclusive of the cost of the Settlement Administrator, of no more than \$300,000, which shall, if approved

by the Court, be paid from the Settlement Fund. Respondents shall take no position with regard to any motion by Settlement Class Counsel for such award of attorney's fees and expenses. Respondents agree that they have no right to appeal the amount of any award of attorneys' fees and expenses so long as the amounts awarded do not exceed the above. Respondents reserve the right to object to a fee request that exceeds the terms outlined in this paragraph.

10.2. Settlement Class Counsel must file the Fee Application at least twenty-one (21) days prior to the Objection Deadline.

## **11. DISMISSAL OF THE PROCEEDING**

11.1. Petitioner, on behalf of itself and the Settlement Class Members, consents to the dismissal of the Proceeding with prejudice upon the Effective Date.

## **12. TERMINATION OF SETTLEMENT**

12.1. This Settlement may be terminated by either Petitioner or Respondents, by serving on opposing counsel and filing with the Court a written notice of termination within fourteen (14) days (or such longer time as may be agreed between Settlement Class Counsel and the counsel for the Respondents) after any of the following occurrences:

- a Settlement Class Counsel and counsel for the Respondents agree to termination before the Effective Date;
- b The Court refuses to grant Preliminary Approval of this Settlement in any material respect;
- c The Court refuses to grant Final Approval of this Settlement in any material respect;
- d The Appellate Division, Court of Appeals or any other appellate tribunal modifies the Final Judgment or reverses it in any material respect; or the Effective Date does not occur

### **13. MISCELLANEOUS PROVISIONS**

- 13.1. **Full Satisfaction of Claims.** This Stipulation is in full satisfaction of all claims made by Petitioner in connection with this matter, and Petitioner waives the right to any further administrative or judicial challenge to the claims herein.
- 13.2. **Non-Admissibility.** This Settlement shall not be admissible in, nor is related to, any other litigation or settlement negotiations.
- 13.3. **No Policy or Practice.** Nothing contained herein shall be deemed to constitute or create a policy or practice of the City.
- 13.4. **Entire Agreement.** This Settlement constitutes the entire agreement among the Parties and supersedes any prior agreements among the Parties with respect to the subject matter hereof. No representations, warranties, or inducements have been made to or relied upon by any Party concerning this Settlement, other than the representations, warranties, and covenants expressly set forth in such documents.
- 13.5. **Singular and Plurals.** As used in this Settlement, all references to the plural shall also mean the singular and to the singular shall also mean the plural whenever the context so indicates.
- 13.6. **Binding Effect.** This Settlement shall be binding upon, and inure to the benefit of, the successors and assigns of the Releasing Parties and the Released Parties.
- 13.7. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Settlement, and shall have exclusive jurisdiction over any suit, action, proceeding or dispute arising out of or relating to this Settlement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall also retain jurisdiction over all questions

and/or disputes related to the notice to class members and the Settlement Administrator. As part of its agreement to render services in connection with this Settlement, the Settlement Administrator shall consent to the jurisdiction of the Court for this purpose.

- 13.8. **Amendment.** This Settlement may be amended, modified, or waived only by a written instrument signed by counsel for all Parties hereto or their successors in interest or their duly authorized representatives.
- 13.9. **Obligation To Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Settlement, the Parties shall consult with each other and certify to the Court that they have consulted.
- 13.10. **Deadlines.** If any deadline set forth in this Settlement thereto falls on a Saturday, Sunday, or legal holiday, that deadline will be considered to be the next business day.
- 13.11. **No Conflict Intended.** Any inconsistency between the headings used in this Settlement and the text of the paragraphs of this Settlement shall be resolved in favor of the text.
- 13.12. **Confidentiality.** To the extent permitted by law and any applicable Court rules, all agreements made and orders entered during the course of the Proceeding relating to the confidentiality of documents or information shall survive this Settlement and the Effective Date.
- 13.13. **Waiver.** The waiver by any Party of any breach of this Settlement by any other Party shall not be deemed a waiver of that or any other prior or subsequent breach of any provision of this Settlement by any other Party.



**13.14. Correspondence.** Correspondence in relation to this Settlement shall be provided as follows:

a To Settlement Class Counsel: by email and first class mail to:

**BRAGAR EAGEL & SQUIRE, P.C.**

Lawrence P. Eagel  
Raymond Bragar  
810 Seventh Avenue, Suite 620  
New York, NY 10019  
eagel@bespc.com  
bragar@bespc.com  
stone@bespc.com

b To Respondents' Counsel: by email and first class mail to:

**NEW YORK CITY LAW DEPARTMENT**

100 Church Street  
New York, NY 10007  
Attention: Kerri Devine and Amy Weinblatt  
kdevine@law.nyc.gov  
aweinbla@law.nyc.gov

c The notice recipients and addresses designated above may be changed by written notice.

d The Parties agree to promptly provide each other with copies of objections, requests for exclusion, or other filings received as a result of the Notice Program.

**14. ADDITIONAL REPRESENTATIONS AND WARRANTIES**

**14.1. Parties Authorized to Enter into Settlement.** Petitioner represents and warrants that it is fully authorized to enter into this Settlement and to carry out the obligations provided for herein. Each person executing this Settlement on behalf of Petitioner or Respondents covenants, warrants and represents that he or she or it is and has been fully authorized to do so. Each Settlement Class Representative and Respondents further represent and warrant that they intend to be bound fully by the terms of this Settlement.

- 14.2. **Petitioner and Settlement Class Counsel** represent and warrant that Petitioner is a Settlement Class Member and that none of the Petitioner's claims or causes of action that is or could have been asserted in the Proceeding have been assigned, encumbered, or otherwise transferred in any manner in whole or in part.
- 14.3. **Arm's Length Negotiations.** The Parties represent and agree that the terms of the Settlement were negotiated at arm's length and in good faith by the Parties, and reflect a settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.
- 14.4. **Best Efforts.** The Parties and their respective counsel of record agree that they will use their reasonable best efforts to obtain all necessary approvals of the Court required by this Settlement (including, but not limited to, using their best efforts to resolve any objections raised to the Settlement).
- 14.5. **Receipt of Advice of Counsel.** Each Party acknowledges, agrees, and specifically warrants that he, she, or it has fully read this Settlement and the Releases contained in Paragraph 9, received independent legal advice with respect to the advisability of entering into this Settlement and the Releases, and the legal effects of this Settlement and the Releases, and fully understands the effect of this Settlement and the Releases.
- 14.6. **Time Periods.** The time periods and dates described in this Settlement with respect to the giving of notices and hearings are subject to Court approval and modification by the Court or by written agreement of Settlement Class Counsel and Respondent's Counsel.


- 14.7. **Governing Law.** This Settlement is intended to and shall be governed by the laws of the State of New York without regard to its choice of law principles.
- 14.8. **No Construction Against Drafter.** This Settlement shall be deemed to have been drafted by the Parties, and any rule that a document shall be interpreted against the drafter shall not apply to this Settlement.
- 14.9. **Press.** Except as required by law or any other disclosure obligations, the Parties, and the Parties' counsel, shall not issue any press releases or other affirmative public statement about this case or the Settlement; however, the parties may respond to press inquiries as they determine is necessary and appropriate.
- 14.10. **Settlement Binding on Successors in Interest.** This Settlement shall be binding upon and shall inure to the benefit of the Parties and the Settlement Class (and, in the case of the releases, all Released Parties) and the respective legal representatives, heirs, executors, administrators, transferees, successors, and assigns of all such foregoing Persons and upon any corporation, partnership, or other entity into or with which any party may merge, consolidate, or reorganize.
- 14.11. **Enforcement.** Any disagreement and/or action to enforce this Settlement shall be commenced and maintained only in the Courts of the State of New York located in the County of New York.
- 14.12. **Execution in Counterparts.** This Settlement shall become effective upon its execution by all of the Parties' attorneys. The signatories may execute this Settlement in counterparts. Each counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all signatories had signed the same instrument.

14.13. **Signatures.** Each person executing this Settlement warrants that such person has the full authority to do so. Signatures in typed or pdf format or by email will constitute sufficient execution of this Settlement.

**IN WITNESS WHEREOF**, each of the Parties hereto has caused this Settlement to be executed on its behalf by its duly authorized counsel of record, all as of the day set forth below:

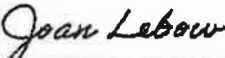
Dated: May 2, 2022

***Class Counsel***

  
Lawrence P. Eagel  
Raymond Bragar  
BRAGAR EAGEL & SQUIRE, P.C.


***Additional Counsel for Petitioner***

  
Bryan Glass  
GLASS HARLOW & HOGROGAN  
LLP

  
Joan LeBow  
JOAN LEBOW, P.C.

  
Jonathan Edelstein  
EDELSTEIN & GROSSMAN

***Counsel for Respondents***

  
Hon. SYLVIA HINDS-RADIX  
Corporation Counsel of the City of New York  
Attorney for Respondents  
100 Church Street  
New York, NY 10007

Amy J. Weinblatt  
Kerri A. Devine  
NEW YORK CITY LAW DEPARTMENT