

# **EXHIBIT 1**

EXECUTION COPY

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<i>IN RE</i> NYC BUS TOUR ANTITRUST LITIGATION	Master Case File No. 13-CV-0711 (ALC)(GWG) <b>RELATED TO ALL CASES</b>  ECF Case  <b>JURY TRIAL DEMANDED</b>
---	--

**SETTLEMENT AGREEMENT**

This Settlement Agreement is made and entered into this 30th day of April 2014, by and between defendants Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., CitySights LLC and City Sights Twin, LLC (“Defendants”) and named class plaintiffs Natasha Bhandari and Tracey L. Nobel (“Class Plaintiffs”), for themselves and on behalf of each Class Member<sup>1</sup> in *In re NYC Bus Tour Antitrust Litigation*, 13-CV-0711. Subject to the approval of the Court, this Agreement is intended by the Settling Parties to fully, finally and forever compromise, resolve, release, discharge and settle all Released Claims as against the Releasees, upon and subject to the terms and conditions hereof.

WHEREAS, Class Plaintiffs have alleged, among other things, that (1) Defendants violated Section 1 of the Sherman Act, 15 U.S.C. § 1, by limiting competition and fixing prices in the alleged market for “hop-on, hop-off” bus tours in New York City, and these acts caused Class Members to incur monetary damages; (2) Defendants violated Section 2 of the Sherman Act, by possessing monopoly power in the alleged market for “hop-on, hop-off” bus

EXECUTION COPY

tours in New York City, and acquired that market by anticompetitive conduct; (3) Defendants violated Section 7 of the Clayton Act by creating a joint venture that lessened competition and tended to create a monopoly; and (4) Defendants violated the Donnelly Act, N.Y. Gen. Bus. Law § 340;

WHEREAS, Defendants have denied and continue to (1) deny that they have liability for the claims and allegations of wrongdoing made by Class Plaintiffs in the Action and maintain that they have meritorious defenses; (2) deny all charges of fault, liability and wrongdoing against them arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Action, and contend that the factual allegations made in the Action relating to them are materially inaccurate; (3) deny that Class Plaintiffs or Class Members have asserted any valid claims as to any of them; and (4) deny that the Class Plaintiffs or Class Members were harmed by any conduct of Defendants alleged in the Action or otherwise;

WHEREAS, Class Plaintiffs, for themselves and on behalf of each Class Member, acknowledge and agree that neither this Agreement nor the payment of the Settlement Amount nor any statement made in the negotiation of this Agreement shall be deemed or construed to be an admission or evidence of (1) any violation of any statute or law or of any fault, liability or wrongdoing by Defendants or any other Releasee whatsoever, (2) the truth of any of the claims or allegations alleged in the Action, or (3) any infirmity in the defenses that the Defendants have, or could have, asserted;

---

<sup>1</sup> All capitalized terms shall have the meaning set forth herein in the text or in ¶ 1 of this Agreement.

EXECUTION COPY

WHEREAS, arm's length settlement negotiations have taken place, through counsel, between Defendants and Class Plaintiffs, with the assistance of a respected and neutral third party mediator, and this Agreement embodies all of the terms and conditions of the Settlement between Defendants and Class Plaintiffs, both individually and on behalf of each Class Member;

WHEREAS, Defendants have agreed to pay a Settlement Amount of \$19,000,000 in exchange for the release of the claims asserted in the Action against them and of the other consideration provided by Class Plaintiffs as specified herein, pursuant to the terms and subject to the conditions set forth below;

WHEREAS, Class Plaintiffs' Counsel have concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Action, the legal and factual defenses thereto and the applicable law, that (1) it is in the best interests of the Class to enter into this Agreement in order to avoid the uncertainties of litigation and to assure that the benefits reflected herein are obtained for the Class and (2) the Settlement set forth herein is fair, reasonable and adequate and in the best interests of Class Members; and

WHEREAS, the Defendants, without any admission or concession whatsoever and despite believing that they are not liable for the claims asserted against them in the Action and that they have good and meritorious defenses thereto, have nevertheless agreed to enter into this Agreement to avoid further expense, inconvenience, and the distraction of burdensome and protracted litigation, and thereby to put to rest this controversy and avoid the risks inherent in complex litigation.

EXECUTION COPY

NOW, THEREFORE, IT IS HEREBY AGREED by and among the Class Plaintiffs (for themselves and each Class Member) and Defendants, by and through their respective counsel or attorneys of record, that, subject to the approval of the Court, the Action as against Defendants shall be dismissed with prejudice and all Released Claims as against all Releasees shall be fully, finally and forever compromised, settled, released, resolved, relinquished, waived and discharged, as set forth below.

1. **Definitions.** As used in this Agreement and any exhibits attached hereto the following capitalized terms have the meanings specified below.

(a) “Action” means *In re NYC Bus Tour Antitrust Litigation*, Master Docket No. 13-cv-0711(ALC)(GWG), which is currently pending in the U.S. District Court for the Southern District of New York.

(b) “Agreement” means this Settlement Agreement, together with any exhibits attached hereto, which are incorporated herein by reference.

(c) “Authorized Claimant” means any Class Member who, in accordance with the terms of this Agreement, is entitled to a distribution from the Net Settlement Fund pursuant to any Distribution Plan established by the Court.

(d) “Claims Administrator” means the firm or firms retained by Class Plaintiffs’ Counsel on behalf of the Class Plaintiffs, subject to approval by the Court, to provide all notices approved by the Court to potential Class Members and to administer the Settlement.

(e) “Class” means, for purposes of this Settlement only, all persons who, or entities that, purchased Defendants’ “hop-on, hop-off” bus tours in New York City from February 1, 2009, until the date of the Preliminary Approval Order (the “Class Period”).

EXECUTION COPY

Excluded from the Class are Defendants, their present and former parents, subsidiaries, affiliates, and employees.

(f) “Class Member” means a Person who is a member of the Class and has not timely and validly excluded themselves from the Class in accordance with the procedure to be approved by the Court.

(g) “Class Plaintiffs” means Natasha Bhandari and Tracey L. Nobel.

(h) “Class Plaintiffs’ Counsel” means the law firm of Susman Godfrey LLP.

(i) “Court” means the U.S. District Court for the Southern District of New York, and the Honorable Andrew L. Carter, Jr. and the Honorable Gabriel W. Gorenstein, as well as their successors.

(j) “Defendants” means Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., CitySights LLC and City Sights Twin, LLC, as well as all current and former subsidiaries, affiliates, predecessors, and successors and their respective current and former employees, directors and officers.

(k) “Distribution Plan” means any plan or formula of allocation of the Gross Settlement Fund that is approved by the Court, whereby the Net Settlement Fund shall in the future be distributed to Authorized Claimants.

(l) “Effective Date” means the date on which this Agreement is executed by the last party to do so.

(m) “Escrow Account” means an account invested consistent with the provisions of ¶ 9 herein opened by the Escrow Agent to hold the Settlement Fund, which account shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds therein are paid out as provided for

EXECUTION COPY

in this Agreement, and wherein the Settlement Amount shall be deposited and held in escrow.

(n) “Escrow Agent” means the entity jointly designated by Class Plaintiffs’ Counsel and Defendants, and any successor agent, to maintain the Settlement Fund.

(o) “Escrow Agents Costs” has the meaning set forth in ¶ 9, below.

(p) “Fee and Expense Application” has the meaning set forth in ¶ 21, below.

(q) “Fee and Expense Award” has the meaning set forth in ¶ 22, below.

(r) “Final” means, with respect to any order of a court, including, without limitation, the Judgment, that such order represents a final and binding determination of all issues within its scope and is not subject to further review on appeal or otherwise. An order becomes “Final” when: (i) no appeal has been filed and the prescribed time for commencing, filing or noticing any appeal has expired; or (ii) an appeal has been filed and either (1) the appeal has been dismissed and the prescribed time, if any, for commencing, filing or noticing any further appeal has expired, or (2) the order has been affirmed in its entirety and the prescribed time, if any, for commencing, filing or noticing any further appeal has expired. For purposes of this paragraph, an “appeal” includes appeals as of right, discretionary appeals, interlocutory appeals, proceedings involving writs of certiorari or mandamus, and any other proceedings of like kind. Any appeal or other proceeding pertaining solely to any order issued in respect of an application for attorneys’ fees and expenses shall not in any way delay or prevent the Judgment from becoming Final.

EXECUTION COPY

(s) “Final Approval Order” means the Court’s approval of the Settlement following preliminary approval thereof, Notice to the Class and a hearing on the fairness of the Settlement.

(t) “Gross Settlement Fund” means the Settlement Amount plus any interest that may accrue thereon.

(u) “Hop-on, hop-off bus tours” has the meaning set forth in ¶¶ 16-17 of the First Amended Class Action Complaint, filed November 14, 2013 in 13-cv-711 (Dkt. #83).

(v) “Judgment” means the order of judgment and dismissal of the Action with prejudice as to Defendants, the form of which shall be mutually agreed upon by the Settling Parties, and submitted to the Court for approval thereof.

(w) “Net Settlement Fund” means the Gross Settlement Fund, less the payments set forth in ¶ 16(a)-(f), below.

(x) “Notice” means the form of written notice of the proposed Settlement, the Settlement Hearing, the proposed Distribution Plan and the Fee and Expense Application to be provided to Class Members as provided in this Agreement and the Preliminary Approval Order, in each case as further described in ¶ 5, below.

(y) “Notice and Administrative Costs” has the meaning set forth in ¶ 9, below.

(z) “Person(s)” means an individual, corporation, limited liability corporation, professional corporation, limited liability partnership, partnership, limited partnership, association, joint stock company, estate, legal representative, trust, unincorporated association, and any spouses, heirs, predecessors, successors, representatives or assignees of any of the foregoing.



(aa) “Preliminary Approval Order” has the meaning set forth in ¶ 3, below.

(bb) “Proof of Claim and Release,” means the form to be sent to Class Members, upon order(s) of the Court, by which any Class Member may make a claim against the Net Settlement Fund.

(cc) “Released Claims” means any and all manner of claims, demands, rights, actions, suits, counterclaims, cross claims, set offs, causes of action of any type, whether class, individual or otherwise in nature, fees, costs, penalties, fines, debts, expenses, attorney fees, damages whenever incurred, and liabilities of any nature whatsoever (including joint and several), known or unknown, fixed or contingent, matured or unmatured, accrued or unaccrued, liquidated or unliquidated, suspected or unsuspected, asserted or unasserted, whether based on federal, state, local or foreign statutory law or common law, equity, rule or regulation or any other source which Releasers or any of them, whether directly, representatively, derivatively, or in any other capacity, ever had, now have or hereafter can, shall or may have against Releasees, relating in any way to (i) the claims that were asserted in the Action, and (ii) the claims that could have been asserted against any of the Releasees in any forum that arise out of, are based upon or are related to the allegations, transactions, facts (including allegations of anticompetitive conduct with respect to any acquisition of Defendants’ hop-on, hop-off bus tours by Class Members during the Class Period), matters or occurrences, representations or omissions involved, set forth, or referred to in the First Amended Consolidated Class Action Complaint in the Action (Dkt #83). Released Claims shall only be released against Releasees.

EXECUTION COPY

(dd) “Releasees” means each of the Defendants, their predecessors, successors and assigns, their current and former direct and indirect parents, subsidiaries, and affiliates, and their respective current and former officers, directors, employees, managers, members, partners, agents, vendors, resellers, wholesalers, shareholders (in their capacity as shareholders), insurers, attorneys, and legal representatives, and the predecessors, successors, heirs, executors, administrators and assigns of each of the foregoing. As used in this paragraph, “affiliates” means entities controlling, controlled by or under common control with a Releasee.

(ee) “Releasers” means Class Plaintiffs and each and every Class Member on their own behalf and on behalf of their respective predecessors, successors and assigns, their current and former direct and indirect parents, subsidiaries, divisions, groups, conduits for entering transactions, and affiliates, their respective current and former officers, directors, employees, agents, and legal representatives, and the predecessors, successors, heirs, executors, estates, administrators, representatives, trustees, and assigns of each of the foregoing. As used in this paragraph, “affiliates” means entities controlling, controlled by or under common control with a Releaser.

(ff) “Settlement” means the settlement of the Released Claims set forth herein.

(gg) “Settlement Amount” means nineteen million dollars (\$19,000,000).

(hh) “Settlement Fund” means the Escrow Account in which the Escrow Agent maintains the Settlement Amount after payment thereof by Defendants.

(ii) “Settlement Hearing” has the meaning set forth in ¶ 5, below.

(jj) “Settling Parties” means Defendants and the Class Plaintiffs (for themselves and on behalf of each Class Member).

(kk) “Summary Notice” has the meaning set forth in ¶ 6, below.

**B. Preliminary Approval Order, Notice Order, and Settlement Hearing**

**2. Reasonable Best Efforts to Effectuate this Settlement.** The Settling Parties agree to cooperate with one another to the extent reasonably necessary to effectuate and implement the terms and conditions of this Agreement and to exercise their reasonable best efforts to accomplish the terms and conditions of this Agreement.

**3. Motion for Preliminary Approval.** Within thirty (30) calendar days after the Effective Date, Class Plaintiffs’ Counsel shall submit this Agreement to the Court and shall apply for entry of an order (the “**Preliminary Approval Order**”) requesting, *inter alia*, preliminary approval of the Settlement, the scheduling of a Settlement Hearing, certification of the Class for purposes of the Settlement only, and for a stay of all proceedings in the Action against the Releasees until the Court renders a final decision on approval of the Settlement. The motion shall include the proposed form of an order preliminarily approving the Settlement, a copy of which is attached hereto as Exhibit A. Defendants shall be provided with an opportunity to review and comment on the Motion for Preliminary Approval, including all supporting materials such as a memorandum and exhibits (including, but not limited to, the proposed forms of notice), seven (7) calendar days before the Motion is submitted to the Court, and shall provide any comments to Class Plaintiffs’ Counsel no later than three (3) calendar days before the Motion is submitted to the Court.

**4. Stipulation to Certification of a Settlement Class.** The Settling Parties hereby stipulate for purposes of the Settlement only and for no other purpose, (a) certification of the Action as a class action pursuant to the requirements of Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure, and, subject to Court approval, (b) the description of the Class in ¶ 1(e) above shall be certified as to Defendants, and (c) the appointment of Class Plaintiffs’

EXECUTION COPY

Counsel as class counsel pursuant to Rule 23(g). If the Settlement as described herein is finally disapproved by any court, if this Agreement or the Settlement is terminated as provided herein, or if the Settlement is reversed or vacated following any appeal taken therefrom, then this stipulation that a class should be certified becomes automatically null and void *ab initio*, and Defendants reserve all rights to contest that the Class should be certified.

5. **Notice to Class.** In the event that the Court preliminarily approves the Settlement, Class Plaintiffs' Counsel shall, in accordance with Rule 23 of the Federal Rules of Civil Procedure and the Preliminary Approval Order, provide Class Members whose identities can be determined after reasonable efforts with notice of the date of the hearing scheduled by the Court under Rule 23(e)(2) of the Federal Rules of Civil Procedure to consider the fairness, adequacy and reasonableness of the proposed Settlement (the "**Settlement Hearing**"). The Notice shall also include the general terms of the Settlement set forth in this Agreement, the general terms of the proposed Distribution Plan, the general terms of the Fee and Expense Application, and a description of Class Members' rights to object to the Settlement, request exclusion from the Class, which must occur at least 45 days prior to the Settlement Hearing, and/or appear at the Settlement Hearing.

6. **Publication.** Class Plaintiffs' Counsel shall cause to be published a summary of the notice ("**Summary Notice**") in accord with the notice plan submitted to the Court by Class Plaintiffs' Counsel and approved by the Court.

7. **Motion for Final Approval and Entry of Final Judgment.** Thirty (30) days prior to the date for the Settlement Hearing set by the Court in the Preliminary Approval Order, Class Plaintiffs' Counsel shall submit a motion for final approval of the Settlement by the Court after Notice to Class Members of the Settlement Hearing, and the Settling Parties shall

EXECUTION COPY

jointly seek entry of the Final Approval Order and Judgment. Defendants shall be provided with an opportunity to review and comment on the Motion for Final Approval and Final Approval Order and Judgment seven (7) calendar days before the Motion is submitted to the Court, and shall provide any comments to Class Plaintiffs' Counsel no later than three (3) calendar days before the Motion is submitted to the Court. Except as described in ¶ 8, the obligations of the Defendants hereunder are contingent upon the entry of a Final Approval Order and Judgment that shall:

(a) fully and finally approve the Settlement contemplated by this Agreement and its terms as being fair, reasonable and adequate within the meaning of Rule 23 of the Federal Rules of Civil Procedure and direct its consummation pursuant to its terms and conditions;

(b) contain a finding that the Notice given to Class Members complies in all respects with the requirements of Rule 23 of the Federal Rules of Civil Procedure and due process;

(c) direct that the Action be dismissed with prejudice as to Defendants and, except as provided in ¶15 herein, without costs;

(d) contain a complete bar order that discharges and releases the Released Claims as to all of the Releasees;

(e) permanently bar, enjoin and restrain the institution and prosecution, by Class Plaintiffs and any Class Member, either directly, individually, representatively, derivatively or in any other capacity, by whatever means, of any other action against the Releasees in any court, or in any agency or other authority or arbitral or other forum wherever located, asserting any of the Released Claims;

(f) reserve continuing and exclusive jurisdiction over the Settlement, including all future proceedings concerning the administration and enforcement of this Agreement;

(g) contain a determination that there is no just reason for delay and directing entry of a Final Judgment as to Defendants; and

(h) contain such other and further provisions consistent with the terms of this Agreement to which the Settling Parties expressly consent in writing.

Sufficiently before the Settlement Hearing, Class Plaintiffs' Counsel also will request that the Court approve the application for attorneys' fees and expenses (as described below). Class Plaintiffs' Counsel also will timely request that the Court approve the proposed Distribution Plan.

**C. Settlement Fund**

**8. Payments made by Defendants.** In consideration of the full and complete settlement by the Releasors of the Released Claims and the other consideration specified herein, Defendants shall pay by wire transfer five million dollars (\$5,000,000) of the Settlement Amount into the Settlement Fund within thirty (30) business days after the entry of the Preliminary Approval Order having the terms specified in ¶ 3 by the Court. The balance of the Settlement Amount, fourteen million dollars (\$14,000,000), shall be paid into the Settlement Fund by Defendants within thirty (30) business days after the Court enters the Final Approval Order having the terms specified in ¶ 7. All interest earned by the Settlement Fund shall be added to, and become part of, the Gross Settlement Fund. The Settlement Amount shall not be subject to reduction, and upon the occurrence of the Final Judgment, no funds may be returned to Defendants, except as set forth in this Agreement.

**9. Disbursements Prior to Final Judgment.** No amount may be disbursed from the Gross Settlement Fund unless and until Final Judgment, except that upon written notice to the Escrow Agent by Class Plaintiffs' Counsel, with a copy to Defendants: (i) costs of the Notice actually incurred ("**Notice and Administrative Costs**") described in ¶¶ 5 and 6 above, may be paid from the Gross Settlement Fund as they become due; (ii) Taxes and Tax Expenses (as defined in below) may be paid from the Gross Settlement Fund as they become due; and (iii) costs of the Escrow Agent ("**Escrow Agent Costs**") may be paid from the Gross Settlement Fund as they become due. Class Plaintiffs' Counsel will attempt in good faith to minimize the amount of Notice and Administrative Costs. All funds held by the Escrow Agent shall be deemed to be in the custody of the Court and shall remain subject to the jurisdiction of the Court until such time as the funds shall be distributed or returned pursuant to the terms of this Agreement and/or further order of the Court. The Escrow Agent shall invest any funds in the Escrow Account in United States Treasury Bills (or a mutual fund invested solely in such instruments) and shall collect and reinvest all interest accrued thereon, except that any residual cash balances of less than \$250,000.00 may be deposited in any account that is fully insured by the FDIC. In the event that the yield on United States Treasury Bills is negative, in lieu of purchasing such Treasury Bills, all or any portion of the funds held by the Escrow Agent may be deposited in any account that is fully insured by the FDIC or backed by the full faith and credit of the United States.

**10. Refund by Escrow Agent.** If the Class Plaintiffs do not seek final approval of the Settlement at least thirty (30) calendar days prior to the Settlement Hearing date set by the Court in the Preliminary Approval Order, or the Settlement as described herein is finally disapproved by any court or the Agreement is terminated as provided herein, or the

Judgment is overturned on appeal or by writ, the Gross Settlement Fund, including all interest earned on such amount while held in the Escrow Account, excluding only (i) previously disbursed Notice and Administrative Costs, (ii) previously disbursed Taxes and Tax Expenses, and (iii) previously disbursed Escrow Agent Costs, will be refunded, reimbursed, and repaid by the Escrow Agent to Defendants within three (3) business days after receiving notice pursuant to the terms of this Agreement.

**11. No Additional Payments by Defendants.** Payment of the Settlement Amount by Defendants in accordance with the terms of this Agreement constitutes the entirety of Defendants' and Releasees' payment obligation with respect to this Agreement, and under no circumstances will Defendants be required to pay anything other than the Settlement Amount. The payment of any Fee and Expense Award, Escrow Agent Costs, the Notice and Administrative Costs, and any other costs associated with the implementation of this Agreement, shall be made exclusively from the Settlement Amount. Releasees shall have no responsibility for or liability whatsoever with respect to the allocation of any Fee and Expense Award.

**12. Taxes.** The Settling Parties and the Escrow Agent agree to treat the Gross Settlement Fund as being at all times a "qualified settlement fund" within the meaning of Treas. Reg. § 1.468B-1. The Escrow Agent shall timely make such elections as necessary or advisable to carry out the provisions of this paragraph, including the "relation-back election" (as defined in Treas. Reg. § 1.468B-1) back to the earliest permitted date. Such elections shall be made in compliance with the procedures and requirements contained in such regulations. It shall be the responsibility of the Escrow Agent to prepare and deliver timely and properly the necessary documentation for signature by all necessary parties, and thereafter to cause the appropriate filing to occur.



EXECUTION COPY

(a) For the purpose of § 468B of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder, the “administrator” shall be the Escrow Agent. The Escrow Agent shall satisfy the administrative requirements imposed by Treas. Reg. § 1.468B-2 by, *e.g.*, (i) obtaining a taxpayer identification number, (ii) satisfying any information reporting or withholding requirements imposed on distributions from the Gross Settlement Fund, and (iii) timely and properly filing applicable federal, state and local tax returns necessary or advisable with respect to the Gross Settlement Fund (including, without limitation, the returns described in Treas. Reg. § 1.468B-2(k)) and paying any taxes reported thereon. Such returns (as well as the election described in this paragraph) shall be consistent with this paragraph and in all events shall reflect that all Taxes on the income earned by the Gross Settlement Fund shall be paid out of the Gross Settlement Fund;

(b) All (i) taxes (including any estimated taxes, interest or penalties) arising with respect to the income earned by the Gross Settlement Fund, including, without limitation, any taxes or tax detriments that may be imposed upon Defendants or its counsel with respect to any income earned by the Gross Settlement Fund for any period during which the Gross Settlement Fund does not qualify as a “qualified settlement fund” for federal or state income tax purposes (collectively, “Taxes”), and (ii) expenses and costs incurred in connection with the operation and implementation of this paragraph, including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) the returns described in this paragraph (collectively, “Tax Expenses”), shall be paid out of the Gross Settlement Fund; in all events, neither Defendants nor its counsel shall have any liability

or responsibility for the Taxes or the Tax Expenses. With funds from the Gross Settlement Fund, the Escrow Agent shall indemnify and hold harmless Defendants and its counsel for Taxes and Tax Expenses (including, without limitation, Taxes payable by reason of any such indemnification). Further, Taxes and Tax Expenses shall be treated as, and considered to be, a cost of administration of the Gross Settlement Fund and shall timely be paid by the Escrow Agent out of the Gross Settlement Fund without prior order from the Court and the Escrow Agent shall be obligated (notwithstanding anything herein to the contrary) to withhold from distribution to Authorized Claimants any funds necessary to pay such amounts, including the establishment of adequate reserves for any Taxes and Tax Expenses (as well as any amounts that may be required to be withheld under Treas. Reg. § 1.468B-2(1)(2)); neither Defendants nor its counsel is responsible therefor, nor shall they have any liability therefor. The Settling Parties agree to cooperate with the Escrow Agent, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions of this paragraph.

**13. Releases.** Upon the entry of the Final Approval Order and Judgment, the Releasors, and any other Person claiming against the Gross or Net Settlement Fund (now or in the future) through or on behalf of any Releasor, shall be deemed to have, and by operation law and of the Judgment shall have fully, finally, and forever compromised, settled, released, relinquished, dismissed and discharged all Released Claims against Defendants and any and all of the other Releasees and shall have covenanted not to sue any Releasee with respect to any such Released Claim, and shall be permanently barred and enjoined from instituting, commencing, or prosecuting any such Released Claim against any of the Releasees. Each Releasor shall be deemed to have released all Released Claims against the Releasees regardless

EXECUTION COPY

of whether any such Releasor ever seeks or obtains by any means, including without limitation, by submitting a Proof of Claim and Release, any distribution from the Gross Settlement Fund or Net Settlement Fund. The Releases contained in this ¶ 13 were separately bargained for and are essential elements of the Settlement as embodied in this Agreement.

**14. Unknown Claims/California Civil Code Section 1542.** The release set forth in ¶ 13, above, constitutes a waiver of Section 1542 of the California Civil Code (to the extent it applies to the Action), which provides:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The release set forth in ¶ 13, above, also constitutes a waiver of any similar provision, statute, regulation, rule or principle of law or equity of any other state or applicable jurisdiction. The Releasors acknowledge that they are aware that they may hereafter discover facts in addition to, or different from, those facts which they know or believe to be true with respect to the subject matter of this Agreement, but that it is their intention to release fully, finally and forever all of the claims released in ¶ 13, above, including all unknown claims, and in furtherance of such intention, the release shall be and remain in effect notwithstanding the discovery or existence of any such additional or different facts. The waiver contained in this ¶ 14 was separately bargained for and is an essential element of the Settlement as embodied in this Agreement.

**15. Payment of Fees and Expenses.** Subject to Court approval, Class Plaintiffs and Class Plaintiffs' Counsel shall be reimbursed and paid solely out of the Gross Settlement Fund for all expenses including, but not limited to, attorneys' fees and past, current, or future litigation expenses. The Defendants shall not be liable for any costs, fees, or expenses

of any of Class Plaintiffs' or of any Class Member's respective attorneys, experts, advisors, agents, or representatives.

**D. Administration and Distribution of Gross Settlement Fund**

**16. Distribution of Gross Settlement Fund.** As part of the Preliminary Approval Order, Class Plaintiffs shall seek appointment of a Claims Administrator. The Claims Administrator, subject to such supervision and direction of the Court, shall administer the claims submitted by Class Members and shall oversee distribution of the Net Settlement Fund to Authorized Claimants pursuant to the Distribution Plan. Class Plaintiffs' Counsel shall provide Defendants notice of their intent to make distribution from the Net Settlement Fund at least twenty-one (21) days before making the first distribution from the Net Settlement Fund.

Subject to the terms of this Agreement and any order(s) of the Court, the Gross Settlement Fund shall be applied as follows:

- (a) to pay any Fee and Expense Award that is allowed by the Court;
- (b) to pay Notice and Administrative Costs;
- (c) to pay Escrow Agent Costs;
- (d) to pay all costs and expenses actually incurred by the Claims Administrator or Class Plaintiffs' Counsel in assisting Class Members with the filing and processing of claims against the Net Settlement Fund;
- (e) to pay the Taxes and Tax Expenses; and
- (f) the costs incurred in distributing the Net Settlement Fund to Authorized Claimants as allowed by the Agreement, the Distribution Plan, and order of the Court.

**17. Distribution of Net Settlement Fund.** Upon Final Judgment and thereafter, and in accordance with the terms of this Agreement, the Distribution Plan, or such further order(s) of the Court as may be necessary or as circumstances may require, the Net

Settlement Fund shall be distributed to Authorized Claimants, subject to and in accordance with the following:

(a) Unless otherwise ordered by the Court in an approved Distribution Plan, each Class Member who claims to be an Authorized Claimant shall be required to submit to the Claims Administrator a completed Proof of Claim and Release signed under penalty of perjury and supported by such documents as specified in the Proof of Claim and Release that are reasonably available to such Class Member.

(b) Except as otherwise ordered by the Court in an approved Distribution Plan, each Class Member who fails to submit a Proof of Claim and Release within such period as may be ordered by the Court, or otherwise allowed, shall be forever barred from receiving any payments pursuant to this Agreement and the Settlement set forth herein, but shall in all other respects be subject to and bound by the provisions of this Agreement, the releases contained herein, and the Judgment;

(c) The Net Settlement Fund shall be distributed to Authorized Claimants in accordance with the Distribution Plan to be approved by the Court upon such further notice to the Class as may be required. Subject to approval of the Court, Class Plaintiffs' Counsel shall have full discretion over the Distribution Plan, and Defendants shall have no control over the Distribution Plan. The Distribution Plan may include a minimum amount of the Net Settlement Fund that will be distributed to Authorized Claimants, which may include a minimum amount of the Net Settlement Fund to be distributed to Authorized Claimants regardless of the number of claims submitted. No funds from the Net Settlement Fund shall be distributed to Authorized Claimants until the Final Judgment; and

(d) All Class Members shall be subject to and bound by the provisions of this Agreement, the releases contained herein, and the Judgment with respect to all Released Claims, regardless of whether such Class Members seek or obtain by any means, including, without limitation, by submitting a Proof of Claim and Release or any similar document, any distribution from the Net Settlement Fund.

**18. No Authority or Liability for Distribution of Settlement Funds.**

Neither the Releasees nor their counsel shall have any responsibility for, interest in, or liability whatsoever with respect to the investment, disbursement or distribution of the Gross Settlement Fund, the Distribution Plan, the determination, administration, or calculation of claims, the payment or withholding of Taxes or Tax Expenses, the distribution of the Net Settlement Fund, or any losses incurred in connection with any of the foregoing matters. Releasors hereby fully, finally, and forever release, relinquish, and discharge the Releasees and their counsel from any and all such liability. No Person shall have any claim against Class Plaintiffs' Counsel or the Claims Administrator based on the distributions made substantially in accordance with the Agreement and the Settlement contained herein, the court-approved Distribution Plan, or further orders of the Court.

**19. Balance Remaining in Net Settlement Fund.** Within two hundred and ten days (210) days after the Claims Administrator has distributed the Net Settlement Fund to Authorized Claimants following Final Judgment, if there is any balance remaining in the Net Settlement Fund (whether by reason of tax refunds, uncashed checks, undistributed funds, or otherwise), the Claims Administrator shall provide notice to the Settling Parties of the balance remaining in the Net Settlement Fund and fifteen (15) days thereafter shall distribute the entire

balance to the Department of Justice, Antitrust Division, and/or the New York Attorney General's Office. This is a material term of this Settlement Agreement.

**E. Discovery**

**20. Stay of Discovery.** The Settling Parties agree to a stay of all discovery upon entry of the Preliminary Approval Order. The stay will automatically be dissolved if (i) the Court does not enter the Final Approval Order or the Judgment, or (ii) the Court enters the Final Approval Order and the Judgment and appellate review is sought and, on such review, the Final Approval Order or the Judgment is finally vacated or reversed.

**F. Attorneys' Fees and Reimbursement of Expenses**

**21. Fee and Expense Application.** Defendants shall have no interest or right in or to any portion of the Gross Settlement Fund based on any ruling the Court makes on any application by Class Plaintiffs' Counsel for fees, costs or expenses. Class Plaintiffs' Counsel may, at their discretion and election, choose to submit an application or applications to the Court (the "**Fee and Expense Application**") for distributions to them from the Gross Settlement Fund, for an award of attorneys' fees or reimbursement of expenses incurred in connection with prosecuting the Action, and for an award of an incentive compensation to the Class Plaintiffs, not to exceed \$20,000 for each Class Plaintiff, for their efforts in prosecuting this case. Defendants and the Releasees will take no position on any Fee and Expense Application.

**22. Payment of Fee and Expense Award.** Any amounts that are awarded by the Court pursuant to ¶ 21 above (the "**Fee and Expense Award**") shall be paid from the Gross Settlement Fund, as provided in ¶ 16 above, following Final Judgment.

**23. Award of Fees and Expenses not Part of Settlement.** A Fee and Expense Award or award of other attorneys' fees and expenses is not a necessary term of this Agreement and is not a condition of the Settlement embodied herein. The allowance or

disallowance by the Court of the Fee and Expense Application are not part of the Settlement set forth in this Agreement, and are to be considered by the Court separately from the Court's consideration of the fairness, reasonableness and adequacy of the Settlement set forth in this Agreement. Any order or proceeding relating to the Fee and Expense Application, or any appeal from any Fee and Expense Award or any other order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Agreement or the Releases set forth herein, or affect or delay the finality of the Judgment and the Settlement of the Action as set forth herein. No order of the Court or modification or reversal on appeal of any order of the Court concerning any Fee and Expense Award shall constitute grounds for termination of this Agreement.

**24. No Liability for Fees and Expenses of Class Plaintiffs' Counsel.** The Releasees shall have no responsibility for, and no liability whatsoever with respect to, any payment(s) to Class Plaintiffs' Counsel pursuant to ¶¶ 21-22, above, and/or to any other Person who may assert some claim thereto, or any Fee and Expense Award that the Court may make in the Action.

**G. Conditions of Settlement, Effect of Disapproval or Termination**

**25. Effective Date.** The Effective Date of this Agreement is set forth in ¶ 1(l).

**26. Occurrence of Final Judgment.** Upon the Judgment becoming Final, any and all remaining interest or right of Defendants in or to the Gross Settlement Fund, if any, shall be absolutely and forever extinguished, and the Gross Settlement Fund (less any Notice and Administrative Costs, Taxes or Tax Expenses, Escrow Agent Costs or any Fee and Expense Award paid) shall be transferred from the Escrow Agent to the Claims Administrator at the written direction of Class Plaintiffs' Counsel.



EXECUTION COPY

**27. When Settlement Becomes Final.** This Settlement shall become Final on the date that: (a) the Court has entered the Final Approval Order and Judgment, approving this Settlement Agreement, and all of its material terms and conditions, under Rule 23(e) of the Federal Rules of Civil Procedure and dismissing the Action against all Releasees with prejudice as to all Settlement Class Members and without costs; and (b) the time for appeal or to seek permission to appeal from the Court's approval of this Settlement Agreement and entry of the order of Judgment as described in clause (a) above has expired or, if appealed, approval of this Settlement Agreement and the Final Approval Order and Judgment has been affirmed in its entirety by the court of last resort to which such appeal has been taken and such affirmance is no longer subject to further appeal or review. The parties agree that neither the provisions of Rule 60 of the Federal Rules of Civil Procedure nor the All Writs Act, 28 U.S.C. 1651, shall be taken into account in determining the above-stated times.

**28. Rejection or Alteration of Settlement.** If the Court declines to grant either preliminary or final approval (as set forth in ¶¶ 3 and 7 above respectively); or if after the Court's approval, such approval is set aside on appeal; or if the Court does not enter the Final Approval Order and Judgment; or if the Court enters the Final Approval Order and Judgment and appellate review is sought, and on such review, the Final Approval Order and Judgment is not affirmed; or if the Court does not approve the distribution set forth in ¶ 19, then any Defendant, in its sole discretion, or Class Plaintiffs, at their sole discretion so long as the Class Plaintiffs each agree, shall have the option to rescind and terminate this Agreement in its entirety by providing written notice of their election to do so to Class Plaintiffs' Counsel or Defendants' Counsel, provided that such notification shall be given no later than ten (10) days after the occurrence of the event giving rise to the option to terminate.

**29. Consequences of Termination.** Unless otherwise ordered by the Court, in the event that this Agreement should terminate, or be cancelled, or otherwise fail to become effective for any reason, including but not limited to pursuant to ¶ 28, then:

(a) the Settlement and the relevant portions of this Agreement shall be canceled and terminated and any certification of the Action as a class action shall be vacated;

(b) within three (3) business days after written notification of such event is sent by counsel for Defendants and Class Plaintiffs' Counsel to the Escrow Agent, the Gross Settlement Fund, including the Settlement Amount and all interest earned in the Settlement Fund and all payments disbursed, including all expenses, costs, excluding only Notice and Administrative Costs that have either been properly disbursed or are due and owing, Taxes and Tax Expenses that have been properly paid or that have accrued and will be properly payable at some later date, and Escrow Agent Costs that have either been properly disbursed or are due and owing, will be refunded, reimbursed, and repaid by the Escrow Agent to Defendants;

(c) the Escrow Agent or its designee shall apply for any tax refund owed to the Gross Settlement Fund and pay the proceeds to Defendants, after deduction of any fees or expenses reasonably incurred in connection with such application(s) for refund;

(d) the Settling Parties shall be restored to their respective positions in the Action as of the Effective Date, with all of their respective legal claims and defenses, preserved as they existed on that date; and

(e) any Judgment or order entered by the Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

**H. No Admission of Liability**

**30. Final and Complete Resolution.** The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between them with respect to the Action, and it shall not be deemed an admission by any Settling Party as to the merits of any claim or defense or any allegation made in the Action.

**31. Use of Agreement as Evidence.** Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claims, of any allegation made in the Action, or of any fault, wrongdoing or liability of Releasees; (ii) shall be construed against any of Releasees as an admission, concession, or presumption that the consideration to be given hereunder represents the amount which could be or would have been recovered after trial; or (iii) is or may be deemed to be or may be used as an admission of, or evidence of, any liability, fault or omission of the Releasees in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither this Agreement nor the Settlement, nor any act performed or document executed pursuant to or in furtherance of this Agreement or the Settlement shall be offered or admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that the Releasees may file this Agreement and/or the Judgment in any action for any purpose, including, but not limited to, in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim. The limitations described in this paragraph apply whether or not the Court enters the Preliminary Approval Order, the Final Approval Order or the Judgment.

**I. Miscellaneous Provisions**

**32. Defendants' Right to Communicate.** Class Plaintiffs' Counsel acknowledges and agrees that Defendants have the right to communicate orally and in writing with, and to respond to inquiries from, Class Members, including (without limitation): (i) communications between Class Members and representatives of Defendants whose responsibilities include client relations to the extent such communications are initiated by Class Members; (ii) communications between Class Members who are ongoing clients of Defendants, or who seek to become clients of Defendants; and (iii) communications that might be necessary to conduct Defendants' business.

**33. Voluntary Settlement.** The Settling Parties agree that the Settlement Amount and the other terms of the Settlement as described herein were negotiated in good faith by the Settling Parties, and reflect a Settlement that was reached voluntarily after consultation with competent legal counsel.

**34. Consent to Jurisdiction.** Each Settling Party hereby irrevocably submits to the exclusive jurisdiction of the Court only for the specific purpose of any suit, action, proceeding or dispute arising out of or relating to this Agreement or the applicability of this Agreement.

**35. Resolution of Disputes; Retention of Exclusive Jurisdiction.** Any disputes between or among Defendants and any Class Member or Members (or their counsel) concerning matters contained in this Agreement shall, if they cannot be resolved by negotiation and agreement, be submitted to the Court. The administration and consummation of the Settlement as embodied in this Agreement shall be under the authority of the Court, and the Court shall retain exclusive jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and over the implementation and enforcement of this Agreement.

**36. Binding Effect.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the parties hereto and to all Releasees. Without limiting the generality of the foregoing, each and every covenant, undertaking and agreement herein by Class Plaintiffs and Class Plaintiffs' Counsel shall be binding upon all Class Members.

**37. Authorization to Enter Settlement Agreement.** The undersigned representatives of Defendants represent that they are fully authorized to enter into and to execute this Agreement on behalf of Defendants. Class Plaintiffs' Counsel, on behalf of the Class Plaintiffs, represent that they are, subject to Court approval, expressly authorized to take all action required or permitted to be taken by or on behalf of this Class pursuant to this Agreement to effectuate its terms and to enter into and execute this Agreement and any modifications or amendments to the Agreement on behalf of the Class that they deem appropriate.

**38. Notices.** All notices under this Agreement shall be in writing. Each such notice shall be given either by (i) e-mail; (ii) hand delivery; (iii) registered or certified mail, return receipt requested, postage pre-paid; (iv) FedEx or similar overnight courier; or (v) facsimile and first class mail, postage pre-paid, and, if directed to any Class Member, shall be addressed to Class Plaintiffs' Counsel at their addresses set forth on the signature page hereof, and if directed to Defendants, shall be addressed to their attorneys at the addresses set forth on the signature pages hereof or such other addresses as Class Plaintiffs' Counsel or Defendants may designate, from time to time, by giving notice to all parties hereto in the manner described in this paragraph.

**39. No Conflict Intended.** The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement.

**40. No Party Deemed to Be the Drafter.** None of the parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

**41. Choice of Law.** This Agreement and the exhibit(s) hereto shall be considered to have been negotiated, executed and delivered, and to be wholly performed, in the State of New York, and the rights and obligations of the parties to this Agreement shall be construed and enforced in accordance with, and governed by, the internal, substantive laws of the State of New York without giving effect to that State's choice of law principles.

**42. Amendment; Waiver.** This Agreement shall not be modified in any respect except by a writing executed by all the parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving party. The waiver by any party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous, of this Agreement.

**43. Execution in Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument. Counsel for the parties to this Agreement shall exchange among themselves original signed counterparts and a complete set of executed counterparts shall be filed with the Court.

**44. Integrated Agreement.** This Agreement constitutes the entire agreement between the Settling Parties and no representations, warranties or inducements have been made to any party concerning this Agreement other than the representations, warranties and covenants

contained and memorialized therein. All provisions of this Agreement are contractual and not mere recitals.

**45. Optional Termination of Agreement.** The Settlement and this Agreement may be terminated under the following circumstances:

(a) If Class Plaintiffs do not seek preliminary approval of the Settlement within thirty (30) days of the Effective Date, Defendants, provided they unanimously agree, shall each have the right to terminate the Settlement and this Agreement by providing written notice of their election to do so (“Termination Notice”) to the Class Plaintiffs’ Counsel and upon receipt of such Termination Notice this Agreement shall be null and void, and the Escrow Agent shall return to Defendants the Gross Settlement Fund, less any reasonable expenses, as provided above.

(b) Pursuant to ¶ 28 above.

**46. Reservation of Rights.** This Agreement does not settle or compromise any claims by Class Plaintiffs or any Class Member asserted in the Action against any defendants or any potential defendants other than the Releasees. All rights of any Class Member against any other person or entity other than the Releasees are specifically reserved by Class Plaintiffs and the Class Members.

**47. Confidentiality of Negotiations.** Whether or not this Agreement is approved by the Court and whether or not the Settlement is consummated, the Settling Parties and their counsel shall use their best efforts to keep all negotiations, discussions, acts performed, agreements, drafts, documents signed and proceedings in connection with this Agreement confidential.

EXECUTION COPY

**48. Confidentiality of Settlement Agreement.** Unless Defendants otherwise consent, the confidentiality of the Settlement Agreement is to be maintained by the Class Plaintiffs and Class Plaintiffs' Counsel and not to be disclosed until Class Plaintiffs' Counsel submits the Motion for Preliminary Approval to the Court, the date of which Class Plaintiff Counsel will inform Defendants 48 hours in advance. After submission of the Motion for Preliminary Approval, the Class Plaintiffs and Class Plaintiffs' Counsel shall provide Defendants with 48-hour advance notice of the content of any public statements the Class Plaintiffs and/or Class Plaintiffs' Counsel intend to make regarding the Settlement Agreement.

IN WITNESS WHEREOF, the parties hereto, through their fully authorized representatives, have executed this Agreement as of the date set forth below.



EXECUTION COPY

DATED: April 30, 2014

Signed By,



---

William Christopher Carmody (WC8478)  
Arun Subramanian (AS2096)  
Seth Ard (SA1817)  
Mark Howard Hatch-Miller (MH4981)  
SUSMAN GODFREY LLP  
560 Lexington Avenue, 15th Floor  
New York, New York 10022-6828  
Telephone: (212) 336-8330  
Facsimile: (212) 336-8340  
Email: [bcarmody@susmangodfrey.com](mailto:bcarmody@susmangodfrey.com)  
[asubramanian@susmangodfrey.com](mailto:asubramanian@susmangodfrey.com)  
[mhatch-miller@susmangodfrey.com](mailto:mhatch-miller@susmangodfrey.com)

Drew D. Hansen (pro hac vice)  
SUSMAN GODFREY LLP  
1201 Third Avenue Suite 3800  
Seattle, WA 98101  
Telephone: (206) 516-3880  
Facsimile: (206) 516-3883  
Email: [dhansen@susmangodfrey.com](mailto:dhansen@susmangodfrey.com)

*Attorneys for Natasha Bhandari, on behalf of herself  
and all others similarly situated*

---

Thomas O. Barrett  
Andrew D. Lazerow  
Alan M. Wiseman  
Ashley E. Bass  
COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2401  
Telephone: (202) 662-6000  
Facsimile: (202) 662-6291  
Email: [tbarnett@cov.com](mailto:tbarnett@cov.com)  
[alazerow@cov.com](mailto:alazerow@cov.com)  
[awiseman@cov.com](mailto:awiseman@cov.com)  
[abass@cov.com](mailto:abass@cov.com)

*Attorneys for Coach USA, Inc. and*

DATED: April 30, 2014

Signed By,

---

William Christopher Carmody (WC8478)  
Arun Subramanian (AS2096)  
Seth Ard (SA1817)  
Mark Howard Hatch-Miller (MH4981)  
SUSMAN GODFREY LLP  
560 Lexington Avenue, 15th Floor  
New York, New York 10022-6828  
Telephone: (212) 336-8330  
Facsimile: (212) 336-8340  
Email: [bcarmody@susmangodfrey.com](mailto:bcarmody@susmangodfrey.com)  
[asubramanian@susmangodfrey.com](mailto:asubramanian@susmangodfrey.com)  
[mhatch-miller@susmangodfrey.com](mailto:mhatch-miller@susmangodfrey.com)

Drew D. Hansen (pro hac vice)  
SUSMAN GODFREY LLP  
1201 Third Avenue Suite 3800  
Seattle, WA 98101  
Telephone: (206) 516-3880  
Facsimile: (206) 516-3883  
Email: [dhansen@susmangodfrey.com](mailto:dhansen@susmangodfrey.com)

*Attorneys for Natasha Bhandari, on behalf of herself  
and all others similarly situated*



---

Thomas O. Barrett  
Andrew D. Lazerow  
Alan M. Wiseman  
Ashley E. Bass  
COVINGTON & BURLING LLP  
1201 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2401  
Telephone: (202) 662-6000  
Facsimile: (202) 662-6291  
Email: [tbarnett@cov.com](mailto:tbarnett@cov.com)  
[alazerow@cov.com](mailto:alazerow@cov.com)  
[awiseman@cov.com](mailto:awiseman@cov.com)  
[abass@cov.com](mailto:abass@cov.com)

*Attorneys for Coach USA, Inc. and  
International Bus Services, Inc.*

EXECUTION COPY



---

Michael P.A. Cohen  
PAUL HASTINGS  
875 15<sup>th</sup> Street, N.W.  
Washington, D.C. 20005  
Telephone: (202) 551-1700  
Facsimile: (202) 551-1705  
Email: [michaelcohen@paulhastings.com](mailto:michaelcohen@paulhastings.com)

*Attorneys Twin America, LLC, CitySights, LLC, and  
City Sights Twin, LLC*

**EXHIBIT A**

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

<i>IN RE</i> NYC BUS TOUR ANTITRUST LITIGATION	Master Case File No. 13-CV-0711 (ALC)(GWG) <b>RELATED TO ALL CASES</b>  ECF Case  <b>JURY TRIAL DEMANDED</b>
---	--

**[PROPOSED] ORDER PRELIMINARILY APPROVING  
CLASS ACTION SETTLEMENT AND  
APPROVING FORM OF NOTICE TO CLASS MEMBERS**

WHEREAS, Class Plaintiffs' Counsel (as defined in the Settlement Agreement, dated \_\_\_, 2014 ("Agreement")) have applied for an order preliminarily approving the terms and conditions of the Settlement with defendants Twin America, LLC, Coach USA, Inc., International Bus Services, Inc., CitySights LLC and City Sights Twin, LLC ("Defendants"), as set forth in the Agreement, together with the Exhibits annexed thereto;

WHEREAS, the Settlement requires, among other things, that all Released Claims against Releasees be settled and compromised;

WHEREAS, Defendants have joined in this application; and

WHEREAS, this Court having considered the Agreement and Exhibits annexed thereto, Class Plaintiffs' Motion for Preliminary Approval of the Settlement and all papers filed in support of such motion;

NOW, THEREFORE, pursuant to the Federal Rule of Civil Procedure 23, it is hereby ORDERED that:

1. The capitalized terms used herein shall have the meanings set forth in the Agreement.

2. The Court preliminarily approves the Settlement as set forth in the Agreement, including the releases contained therein, as being fair, reasonable and adequate to the Class, subject to the right of any Class Member to challenge the fairness, reasonableness or adequacy of the Agreement and to show cause, if any exists, why a final judgment dismissing the Action against Defendants, and ordering the release of the Released Claims against Releasees, should not be entered after due and adequate notice to the Class as set forth in the Agreement and after a hearing on final approval.

3. The Court finds that the Agreement was entered into at arm's length by highly experienced counsel and is sufficiently within the range of reasonableness that notice of the Agreement should be given as provided in the Agreement.

4. The Court conditionally certifies the Class (set forth herein) for purposes of the Settlement only as to Defendants:

All persons who, or entities that purchased Defendants' "hop-on, hop-off" bus tours in New York City from February 1, 2009, until the date of the Preliminary Approval Order (the "Class Period"). Excluded from the Class are Defendants, their present and former parents, subsidiaries, affiliates, and employees.

5. The Court finds that the certification of the Class for purposes of the Settlement as to Defendants is warranted in light of the Settlement because: (i) the Class is so numerous that joinder is impracticable; (ii) Class Plaintiffs' claims present common issues that are typical of the Class; (iii) Class Plaintiffs and Class Plaintiffs' Counsel will fairly and adequately represent the Class; and (iv) common issues predominate over any individual issues affecting the Class Members. The Court further finds that Class Plaintiffs' interests are aligned with the interests of all other Class Members. The Court also finds that resolution of this Action on a class basis for purposes of the Settlement as to Defendants is superior to other means of resolution.

6. The Court hereby appoints Class Plaintiffs' Counsel as counsel to the Class for purposes of the Settlement, having determined that the requirements of Rule 23(g) of the Federal Rules of Civil Procedure are fully satisfied by this appointment.

7. Class Plaintiffs will serve as representatives of the Class for purposes of the Settlement.

8. The Court appoints [\_\_\_\_\_], a competent firm, as the Claims Administrator. The Claims Administrator shall be responsible for receiving requests for exclusion from the Class Members.

9. The Court approves the form of Notice to the Class attached as Exhibits \_\_\_ and \_\_\_ to the Motion for Preliminary Approval of the Settlement and directs class-wide notice be given in accordance with ¶¶ 5-6 of the Agreement.

10. Any Class Member can request exclusion from the Class on or before the date set forth in the Notice (MONTH, DATE, YEAR). Each Class Member wishing to exclude itself from the Class must individually sign and submit timely written notice to the designated

address set forth in the Notice. The request for exclusion must clearly manifest an intent to be excluded from the Class and list the specific entities that shall be excluded. To be effective, written notice must be postmarked as set forth in the Notice (by MONTH, DATE, YEAR), which is 45 days prior to the Settlement Hearing.

11. As of the date this Order is entered, all proceedings in the Action as to Defendants shall be stayed and suspended until further order of the Court, except as may be necessary to implement the Settlement or comply with the terms of the Agreement.

12. All protective orders in force as of the date of this Order are hereby amended to apply to all materials and information provided by Defendants in connection with the Settlement (including but not limited to information with respect to the potential or actual Class Members).

13. The Court hereby schedules a hearing to occur on \_\_\_\_\_, 2014, at \_\_\_\_\_ a.m. in Courtroom \_\_\_\_\_ at \_\_\_\_\_ to determine whether (i) the proposed Settlement as set forth in the Agreement, should be finally approved as fair, reasonable and adequate pursuant to the Federal Rule of Civil Procedure 23; (ii) an order approving the Agreement and a Final Judgment should be entered; and (iii) the application of Class Plaintiffs' Counsel for an award of attorneys' fees and expenses in this matter should be approved. All papers in support of final approval of the Settlement shall be filed thirty (30) days before the fairness hearing. No later than twenty (20) days before the hearing, all papers shall be filed and served by objectors or persons other than the parties to the Action. No later than seven (7) days before the hearing, all relevant reply papers shall be filed and served by the parties to the Action.

EXECUTION COPY

14. Neither this Order, the Agreement, the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Agreement or Settlement is or may be used as an admission or evidence (i) of the validity of any claims, alleged fault, wrongdoing or liability of Defendants or (ii) of any fault or omission of Defendants in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

15. Neither this Order, the Agreement, the Settlement contained therein, nor any act performed or document executed pursuant to or in furtherance of the Agreement or Settlement is or may be used as an admission or evidence that the claims of Class Plaintiffs lacked merit in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal.

16. In the event that the Agreement is terminated in accordance with its provisions, the Settlement and all proceedings had in connection therewith shall be null and void, except insofar as expressly provided to the contrary in the Agreement, and without prejudice to the status quo ante rights of Class Plaintiffs, Defendants and the Class Members.

17. No later than ten (10) days after the Motion for Preliminary Approval of the Settlement has been filed with the Court, Defendants will serve the Class Action Fairness Act (“CAFA”) Notice on the Attorney General of the United States and the state attorneys general as required by 28 U.S.C. § 1715(b). Thereafter, Defendants will serve any supplemental CAFA Notice as appropriate.

ENTERED this \_\_\_ day of \_\_\_\_\_ 2014.

---

Hon. Andrew L. Carter