

EXHIBIT 1

AMENDED SETTLEMENT AGREEMENT AND RELEASE

This Amended Settlement Agreement and Release (“Settlement Agreement”) is entered into by and between (i) Marten Transport, Ltd. (“Marten” and “Defendant”) and (ii) Scott Linman, (“Plaintiff”) both individually and on behalf of the Class, in the case of *Linman v. Marten Transport, Ltd.*, Case No. 3:22-cv-00204, United States District Court, Western District of Wisconsin (the “Litigation”). Marten and Plaintiff are collectively referred to herein as the “Parties.”

I. FACTUAL BACKGROUND AND RECITALS

1. On April 11, 2022, Plaintiff Scott Linman filed a class action lawsuit against Marten in the Western District of Wisconsin based on a cyberattack on Marten’s network from September 30, 2021 to October 4, 2021 (the “Data Incident”), alleging claims of negligence, unjust enrichment, breach of confidence, invasion of privacy, and breach of implied contract. The Complaint alleged the Data Incident potentially impacted Plaintiff’s and Settlement Class Members’ full names and Social Security numbers (collectively referred to in this Settlement Agreement as “Private Information”). On March 17, 2023, the Court granted in part and denied in part Marten’s motion to dismiss Plaintiff’s Complaint thereby allowing only Plaintiff’s negligence claim to proceed. Doc. 23.

2. Following extensive arm’s-length negotiations culminating in a June 20, 2023 mediation with experienced data breach class action mediator Bennett G. Picker, the Parties negotiated a settlement by which the Parties agree and hereby wish to resolve all matters pertaining to, arising from, or associated in any way with the Litigation, including all claims Plaintiff and Class Members have, had, or may have against Marten and related persons and entities related to the Data Incident, as set forth herein.

3. The Parties have agreed to settle the Litigation on the terms and conditions set forth herein in recognition that the outcome of the Litigation is uncertain and that achieving a final result through litigation would require substantial additional risk, uncertainty, discovery, time, and expense for the Parties.

4. Marten denies all claims of wrongdoing or liability that Plaintiff, Class Members, or anyone else have asserted in this Litigation or may assert in the future. Despite Marten’s position that it is not liable for, and has good defenses to, the claims alleged in the Litigation, Marten desires to settle the Litigation, and thus avoid the expense, risk, exposure, inconvenience, uncertainty, and distraction of continued litigation of any action relating to the matters being fully settled and finally resolved and released in this Settlement Agreement. Neither this Settlement Agreement, nor any negotiation or act performed or document created in relation to the Settlement Agreement or negotiation or discussion thereof is, or may be deemed to be, or may be used as, an admission of, or evidence of, any wrongdoing or liability.

5. The Parties now enter into this Settlement Agreement. Plaintiff and Class Counsel have conducted an investigation into the facts and the law regarding the Litigation and have concluded that a settlement according to the terms set forth below is fair, reasonable, and adequate,

and beneficial to and in the best interests of Plaintiff and the Class, recognizing: (1) the existence of complex and contested issues of law and fact; (2) the risks inherent in litigation; (3) the likelihood that future proceedings will be unduly protracted and expensive if the proceeding is not settled by voluntary agreement; (4) the magnitude of the benefits derived from the contemplated Settlement in light of both the maximum potential and likely range of recovery to be obtained through further litigation and the expense thereof, as well as the potential of no recovery whatsoever; and (5) Plaintiff's determination that the Settlement is fair, reasonable, adequate, and will substantially benefit the Class Members.

6. Considering the risks and uncertainties of continued litigation and all factors bearing on the merits of settlement, the Parties are satisfied that the terms and conditions of this Settlement Agreement are fair, reasonable, adequate, and in their respective best interests.

7. In consideration of the covenants, agreements, and releases set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed by and among the undersigned that the Litigation be settled and compromised, and that the Releasors release the Released Parties of the Released Claims, without costs as to Released Parties, Plaintiff, Class Counsel, or the Class, except as explicitly provided for in this Settlement Agreement, subject to the approval of the Court, on the following terms and conditions.

II. DEFINITIONS

As used in this Settlement Agreement, the following terms have the meanings specified below:

8. “**Approved Claims**” shall mean complete and timely Claim Forms submitted by Class Members that have been approved by the Settlement Administrator.

9. “**CAFA Notice**” means a notice of the proposed Settlement in compliance with the requirements of the Class Action Fairness Act, 28 U.S.C. Sec. 1711, *et seq.* (“CAFA”), to be served upon the appropriate State official in each State where a Class Member resides and the appropriate federal official. Costs for preparation and issuance of the CAFA Notice will be paid by Marten separate and apart from the Settlement Fund.

10. “**Claim Form**” shall mean the form that Class Members may submit to obtain compensation under this Settlement Agreement, which is attached as **Exhibit A**.

11. “**Claims Deadline**” shall mean the date by which all Claim Forms must be postmarked (if mailed) or submitted (if filed electronically) to be considered timely and shall be set as a date ninety (90) days after the Notice Deadline is entered. The Claims Deadline shall be clearly set forth in the Preliminary Approval Order, as well as in the Notice and the Claim Form.

12. “**Class**,” or “**Class Member**” shall mean the individuals who received or were sent notice from Defendant Marten Transport, Ltd.’s September 30, 2021 to October 4, 2021 Data Incident. Excluded from the Class are: (1) the judge presiding over this Action, and members of his direct family; (2) Marten, its subsidiaries, parent companies, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and their current or former

officers and directors; and (3) Class Members who submit a valid Request for Exclusion prior to the Opt-Out Deadline.

13. “**Class Counsel**” shall mean Terence R. Coates of Markovits, Stock & DeMarco, LLC; Nate D. Prosser and Anne T. Regan of Hellmuth & Johnson, PLLC; and M. Anderson Berry of Clayco C. Arnold, a Professional Corp.

14. “**Class List**” means a list of each Class Member’s full name, current or last known address which Marten or Marten’s agent shall provide to the Settlement Administrator within fourteen (14) days of the entry of the Preliminary Approval Order.

15. “**Class Member**” means an individual who falls within the definition of the Class.

16. “**Counsel**” or “**Parties’ Counsel**” means both Class Counsel and Marten’s Counsel, collectively.

17. “**Court**” shall mean Judge James D. Patterson of the United States District Court for the Western District of Wisconsin.

18. “**Defendant**” shall mean Marten Transport, Ltd.

19. “**Defendant’s Counsel**” shall mean Paulyne Gardner and Jordan S. O’Donnell of Mullen Coughlin, LLC.

20. “**Effective Date**” shall mean the date when the Settlement Agreement becomes Final, which is 35 days after the Court’s grant of the Final Approval Order assuming no appeals have been filed. If an appeal is filed, the Effective Date will become 35 days from when the appeal is finalized and a final judgment is entered in this case.

21. “**Fee and Expense Application**” shall mean the motion to be filed by Class Counsel, in which they seek approval of an award of attorneys’ fees and litigation expenses.

22. “**Fee Award and Expenses**” means the amount of attorneys’ fees and reimbursement of litigation expenses awarded by the Court to Class Counsel.

23. “**Final**” means the Final Approval Order has been entered on the docket, and (1) the time to appeal from such order has expired and no appeal has been timely filed; (2) if such an appeal has been filed, it has been finally resolved and has resulted in an affirmation of the Final Approval Order; or (3) the Court following the resolution of the appeal enters a further order or orders approving settlement on the material terms set forth herein, and either no further appeal is taken from such order(s) or any such appeal results in affirmation of such order(s).

24. “**Final Approval Hearing**” means the hearing before the Court where the Plaintiff will request a judgment to be entered by the Court approving the Settlement Agreement, Fee Award, Service Award, Administrative Expenses, and allocation of the Settlement Fund.

25. “**Final Approval Order**” shall mean an order entered by the Court that:

- i. Certifies the Class pursuant to Federal Rule of Civil Procedure 23;
- ii. Finds that the Settlement Agreement is fair, reasonable, and adequate, was entered into in good faith and without collusion, and approves and directs consummation of this Settlement Agreement;
- iii. Dismisses Plaintiff’s claims pending before it with prejudice and without costs, except as explicitly provided for in this Settlement Agreement;
- iv. Approves the Release provided in Section VIII and orders that, as of the Effective Date, the Released Claims will be released as to Released Parties;
- v. Reserves jurisdiction over the Settlement and this Settlement Agreement; and
- vi. Finds that there is no just reason for delay of entry of Final Approval Order with respect to the foregoing.

26. “**Frequently Asked Questions**” or “**FAQs**” are questions and answers to those questions that are frequently posed by Class Members about class action settlements and specifically about this Settlement.

27. “**Litigation**” shall mean the action captioned *Linman v. Marten Transport, Ltd.*, Case No. 3:22-cv-00204, United States District Court, Western District of Wisconsin.

28. “**Long Form Notice**” is the content of the notice substantially in the form as **Exhibit B** is the detailed, long form notice that will be posted on the Settlement Website that will include robust details about the Settlement.

29. “**Net Settlement Fund**” means the amount remaining in the Settlement Fund after the deduction of Notice and Administrative Expenses (expected to be \$44,000), litigation expenses of up to \$15,000, and Service Award of up to \$5,000, including any interest accrued thereon after payment to the Settlement Administrator.

30. “**Notice**” means the direct notice of this proposed Settlement, which is to be provided substantially in the manner set forth in this Settlement Agreement and **Exhibits B and D**, and is consistent with the requirements of Due Process. The Notice Deadline in this case will be 30 days after the Court enters the Preliminary Approval Order.

31. “**Notice Deadline**” means the last day by which Notice must be issued to the Class Members, and will occur thirty (30) days after the Court enters the Preliminary Approval Order.

32. “**Notice and Administrative Expenses**” means all of the expenses incurred in the administration of this Settlement, including, without limitation, all expenses or costs associated with providing Notice to the Class, locating Class Members, processing claims, determining the

eligibility of any person to be a Class Member, and administering, calculating, and distributing the Settlement Fund to Class Members. Administrative Expenses also includes all reasonable third-party fees and expenses incurred by the Settlement Administrator in administering the terms of this Settlement Agreement. Notice and Administrative Expenses, other than the cost for the CAFA Notice, shall be paid through and using the Settlement Fund.

33. “**Objection Deadline**” means the date by which a written objection to this Settlement Agreement must be postmarked and/or filed with the Court and sent to the Settlement Administrator, which shall be designated as a date approximately sixty (60) days after Notice Deadline, or such other date as ordered by the Court.

34. “**Opt-Out Deadline**” is the last day on which a Class Member may file a request to be excluded from the Class, which will be sixty (60) days after the Notice Deadline. This Deadline will also be known as the Exclusion Deadline. Class Members opt-out requests may also be referred to herein as a Request for Exclusion.

35. “**Out-of-Pocket Losses**” means out-of-pocket costs or expenditures that a Class Member actually incurred that are supported by reasonable documentation. “Out-of-Pocket Losses” include things such as the purchase of identity protection services, credit monitoring services, or ID theft insurance different than the services and benefits offered by Defendant, are fairly traceable to the Data Incident, and such expenses have not already been reimbursed by a third party.

36. “**Parties**” shall mean Plaintiff and Defendant, collectively.

37. “**Plaintiff**,” “**Class Representative**,” or “**Class Plaintiff**” shall mean the named class representative, Scott Linman.

38. “**Preliminary Approval Order**” shall mean the Court’s Order preliminarily approving the Settlement Agreement, certifying the Class for settlement purposes, and directing notice of the Settlement to the Class substantially in the form of the Notice set forth in this Settlement Agreement. Attached as **Exhibit C**.

39. “**Private Information**” means Class Members’ names and Social Security numbers, also known as personally identifiable information (“PII”).

40. “**Reminder Notice**” means the reminder notice that the Settlement Administrator will send to Class Members with sixty (60) days after the Notice Deadline who have not yet submitted a claim under the Settlement.

41. “**Released Claims**” shall have the meaning ascribed to it as set forth in Section VIII of this Settlement Agreement.

42. “**Released Parties**” shall have the meaning ascribed to it as set forth in Section VIII of this Settlement Agreement.

43. “**Releasors**” shall refer, jointly and severally, and individually and collectively, to Plaintiff, the Class Members, and to each of their predecessors, successors, heirs, executors, administrators, and assigns of each of the foregoing, and anyone claiming by, through, or on behalf of them.

44. “**Remainder Funds**” means any funds that remain in the Settlement Fund after all deductions from the Settlement Fund and for settlement payments to Class Members. Often in class actions settlements, some number of class members submitting valid claims and who are then issued a settlement check fail to cash and/or deposit their settlement payments. The funds remaining in the Settlement Fund after settlement payments have been distributed and the time for cashing and/or depositing checks has expired will be Remainder Funds. The Remainder Funds will be sent to one or more court-approved charitable organizations as a *cy pres* distribution. The Parties will jointly recommend the entity or entities to the Court that will be the recipient(s) of the *cy pres* distribution.

45. “**Service Award**” shall have the meaning ascribed to it as set forth in Section IX of this Settlement Agreement. The Service Award requested in this matter will be \$5,000 to the Plaintiff, subject to court approval.

46. “**Settlement Administrator**” means, subject to Court approval, Analytics Consulting, LLC, an entity jointly selected and supervised by Class Counsel and Defendant to administer the settlement.

47. “**Settlement Fund**” means to be paid by, or on behalf of Defendant, five-hundred twenty thousand dollars (\$520,000.00) including any interest accrued thereon after payment to the Settlement Administrator, this being the full and complete limit and extent of Defendant’s obligations with respect to the Settlement.

48. “**Settlement Payment**” means the payment to be made via mailed check and/or electronic payment to a Class Members who submitted valid Claim Forms from the Settlement Administrator from the Settlement Fund.

49. “**Settlement Website**” means a website established and administered by the Settlement Administrator, which shall contain information about the Settlement, including electronic copies of **Exhibits A-D** (or any forms of these notices that are approved by the Court), this Settlement Agreement, and all Court documents related to the Settlement. The Settlement Website, www.martendatasettlement.com, will be publicly viewable and contain broad information about the Settlement, including but not limited to, copies of the Complaint filed in this matter, a copy of the Long Form Notice, Short Form Notice, FAQs, Claim Form that may be submitted online through the Settlement Website or mailed to the Settlement Administrator, and the deadlines for filing a Claim, Objection, Exclusion requests, and the date of the Final Approval Hearing. The Settlement Website is viewed as an important piece of the notice plan to Class Members. The Settlement Website will remain active until 90 days after the Effective Date.

50. “**Short Form Notice**” is the postcard notice that will be mailed to each available Class Member attached as **Exhibit D**.

51. “**Taxes and Tax-Related Expenses**” means any and all applicable taxes, duties, and similar charges imposed by a government authority (including any estimated taxes, interest or penalties) arising in any jurisdiction, if any, with respect to the income or gains earned by or in respect of the Settlement Fund, including, without limitation, any taxes that may be imposed upon Defendant with respect to any income or gains earned by or in respect of the Settlement Fund for any period while it is held in the Settlement Fund.

III. SETTLEMENT FUND

52. **Establishment of Settlement Fund.** Within thirty (30) days of the entry of the Preliminary Approval Order, Defendant shall cause to be deposited the Notice and Administrative Expenses through the date of final approval, as estimated by the Settlement Administrator into an account established and administered by the Settlement Administrator at a financial institution agreed upon by the Settlement Administrator, Defendant, and Class Counsel, to cover the Settlement Administrator’s reasonable set-up costs, notice, and early administration costs. Defendant shall deposit the balance of the Settlement Fund into the same account within thirty (30) days of the Effective Date. The Settlement Administrator shall provide wiring instructions and a properly completed and duly executed IRS Form W-9, along with any other necessary forms, to Defendant within ten (10) days of the entry of the Preliminary Approval Order.

53. **Qualified Settlement Fund.** The Parties agree that the Settlement Fund is intended to be maintained as a qualified settlement fund within the meaning of Treasury Regulation § 1.468 B-1, and that the Settlement Administrator, within the meaning of Treasury Regulation § 1.468 B-2(k)(3), shall be responsible for filing tax returns and any other tax reporting for or in respect of the Settlement Fund and paying from the Settlement Fund any Taxes and Tax-Related Expenses owed with respect to the Settlement Fund. The Parties 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. Any and all funds held in the Settlement Fund shall be held in an interest-bearing account insured by the Federal Deposit Insurance Corporation. Funds may be placed in a non-interest bearing account as may be reasonably necessary during the check clearing process. The Settlement Administrator shall provide an accounting of any and all funds in the Settlement Fund, including any interest accrued thereon and payments made pursuant to this Settlement Agreement, upon request of any of the Parties.

54. **Custody of Settlement Fund.** The Settlement Fund 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 entirety of the Settlement Fund is distributed pursuant to this Settlement Agreement or the balance returned to those who paid the Settlement Fund in the event this Settlement Agreement is terminated in accordance with Paragraphs 78-79.

55. **Use of the Settlement Fund.** As further described in this Settlement Agreement and in **Exhibit B**, the Settlement Fund shall be used by the Settlement Administrator to pay for the following: (1) reimbursement for Out-of-Pocket Losses, Lost Time, and Pro Rata Cash Compensation; (2) Notice and Administrative Expenses; (3) Fee Award and Expenses as awarded

by the Court; and (4) transfer of Remainder Funds to the extent any exist following the preceding administration of payments. No amounts may be withdrawn from the Settlement Fund unless expressly authorized by this Settlement Agreement or approved by the Court. Responsibility for effectuating payments described in this Paragraph shall rest solely with the Settlement Administrator and neither Defendant nor Defendant's agents shall have any responsibility whatsoever with respect to effectuating such payments.

56. **Taxes and Representations.** Taxes and Tax-Related Expenses relating to the Settlement Fund, if any, shall be considered Notice and Administrative Expenses and shall be timely paid by the Settlement Administrator out of the Settlement Fund without prior order of the Court. Further, the Settlement Fund shall indemnify and hold harmless the Parties and their counsel for Taxes and Tax-Related Expenses (including, without limitation, taxes payable by reason of any such indemnification payments). The Parties and their respective counsel have made no representation or warranty, and have no responsibility, with respect to the tax treatment by any Class Representative or any Class Member of any payment or transfer made pursuant to this Settlement Agreement or derived from or made pursuant to the Settlement Fund. Each Class Representative and Class Member shall be solely responsible for the federal, state, and local tax consequences to him, her, or it of the receipt of funds from the Settlement Fund pursuant to this Settlement Agreement.

IV. **SETTLEMENT BENEFITS AND ADMINISTRATION**

57. The Settlement Administrator will agree to make the following compensation available to Class Members who submit valid and timely claim forms from the Settlement Fund. Claims will be subject to review for completeness and plausibility by a Settlement Administrator, and Claimants will have the opportunity to seek review by the Parties' counsel, if they dispute the Settlement Administrator's initial determination.

- i. **\$50 Cash Compensation (Pro Rata Cash Payment)**: After the distribution of any Notice and Administrative Expenses, the Fee Award and Expenses, Service Award, Compensation for Out-of-Pocket Losses, and Lost Time, the Settlement Administrator will make pro rata settlement payments of any remaining funds to each Class Member who submits a claim. This may pro rata increase or decrease the \$50.00 cash payment;
- ii. **Compensation for Out-of-Pocket Losses**: The Settlement Administrator, from the Settlement Fund, will provide compensation, up to a total of \$5,000.00 per person who is a member of the Class, upon submission of a claim and supporting documentation, for out-of-pocket monetary losses incurred as a result of the Data Incident, including, without limitation, unreimbursed losses relating to fraud or identity theft; professional fees including attorneys' fees, accountants' fees, and fees for credit repair services; costs associated with freezing or unfreezing credit with any credit reporting agency; credit monitoring costs that were incurred on or after the Data Incident through the date of claim submission; and miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges; and/or,

Class Members with Monetary Losses must submit documentation supporting their claims. This can include receipts or other documentation that document the costs incurred, but does not include documentation that is “self-prepared” by the claimant. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

- iii. **Compensation for Lost Time**: The Settlement Administrator, from the Settlement Fund, will provide compensation for up to 5 hours of lost time at \$25.00/hour (\$125 cap) for time spent mitigating the effects of the Data Incident. Class Members may submit claims for up to 5 hours of lost time with only an attestation demonstrating that they spent the claimed time responding to issues raised by the Incident. This attestation may be completed by checking a box next to the sentence: “I swear and affirm that I spent the amount of time noted in response to the Marten Transport Data Incident.” Claims for lost time can be combined with claims for out-of-pocket loss but are subject to the \$5,000.00 cap.
- iv. **Business Practices Changes**. Plaintiff has received assurances that Defendant either has undertaken or will undertake certain reasonable steps to further secure its systems and environments and will prepare a confidential declaration detailing same.

58. **Settlement Administration Fees**: The Settlement Fund amount provided by Defendant, or on behalf of Defendant, will pay the entirety of the Notice and Administrative Expenses, including the cost of Notice. The Parties agree to review competitive bids for the settlement administration fees and to rely upon postcard reminder notice, all in order to contain the administration costs while still providing effective notice to the Class. Notice and Administrative Expenses shall be paid through the Settlement Fund and are limited to the common fund amount.

59. Defendant will reasonably cooperate on establishing the appropriateness of the settlement terms as contemplated under Fed. R. Civ. P. 23, including, but not limited to, a full Class List that identifies each class member and their address.

60. Upon the Effective Date, and receipt of payee instructions and a Form W-9 for the payee, Defendant or its insurer shall pay to the Settlement Administrator the Settlement Fund to satisfy the payments in Paragraphs 47 and 58. Provided that Final Approval of this Settlement Agreement is granted by the Court without material change, material amendment, or material modification, the Settlement Fund will be used to satisfy Approved Claims for Class Members in exchange for a full, fair, and complete release of all Released Parties from Released Claims, and dismissal of the Litigation with prejudice.

61. The Settlement Fund represents the total extent of Defendant’s monetary obligations under the Settlement Agreement, except that the CAFA Notice will be paid separately by Defendant

outside of the Settlement Fund. Defendant's contribution to the Settlement Fund shall be fixed under this Settlement Agreement and shall be final. Defendant shall have no obligation to make further payments into the Settlement Fund and shall have no financial responsibility or obligation relating to the Settlement beyond the Settlement Fund, except insofar as such obligations are explicitly provided for in this Settlement Agreement.

62. Once a Settlement Administrator is mutually agreed to by the Parties and after the Settlement is preliminarily approved by the Court, the Settlement Administrator will provide Notice via mail and email, or in a manner otherwise mutually agreed upon by the Parties.

63. After the Court enters an order approving the final Settlement Agreement, the Settlement Administrator shall provide the requested relief to all Class Members that made a valid timely claim, subject to the procedure set forth herein. The Settlement Administrator shall provide relief through checks mailed to all individuals for whom there is a known address, or through electronic payment to all individuals who opt for an electronic payment method in the submission of their claims. For those individuals who have neither a known address nor electronic payment information, the Settlement Administrator will use reasonable methods to discover a last known address, including the common practice of "skip-tracing" and through searching the National Change of Address Registry. Any settlement payments that are returned as undeliverable will attempt to be redelivered to the respective Class Member by utilizing "skip-tracing", the National Change of Address Registry or my aggregating publicly available contact information for the respective Class Member. Settlement Payments delivered via physical check will remain valid for 90 days after the date of check issuance. After the 90-day period has expired for all checks issued to Class Members, any unredeemed check amounts will become Remainder Funds that will be submitted to *cy pres*.

64. The Parties, Class Counsel, and Defendant's Counsel shall not have any liability whatsoever with respect to (1) any act, omission or determination of the Settlement Administrator, or any of its respective designees or agents, in connection with the administration of the Settlement or otherwise; (2) the management, investment or distribution of the Settlement Fund; (3) the formulation, design or terms of the disbursement of the Settlement Fund; (4) the determination, administration, calculation or payment of any claims asserted against the Settlement Fund; (5) any losses suffered by or fluctuations in the value of the Settlement Fund; or (6) the payment or withholding of any Taxes and Tax-Related Expenses.

65. Within ten (10) business days following the filing of the motion for preliminary approval of class action settlement, the Settlement Administrator, on behalf of the Defendant, shall cause a CAFA Notice to be served upon the appropriate State and Federal officials. All expenses incurred in connection with the preparation and service of the CAFA Notice shall be borne by Defendant and under no circumstances will be borne by Plaintiff, or Class Counsel, and will not be payable from the Settlement Fund.

V. CLASS NOTICE, OPT-OUTS, AND OBJECTIONS

66. **Notice.** Within fourteen (14) days after the date of the Preliminary Approval Order, Defendant shall provide the Class List to the Settlement Administrator. Within sixteen (16) days after receipt of Class List, the Settlement Administrator shall begin to disseminate Notice to the

Class Members. Notice shall be disseminated via U.S. mail to all Class Members and also via e-mail to Class Members whose personal e-mail addresses are known. Class Counsel may direct the Settlement Administrator to send reminder notices to Class Members at any time prior to the Claims Deadline. The process to issue Notice as described in this Paragraph and the creation and maintenance of the Settlement Website www.martendatasettlement.com shall constitute the “Notice Plan.”

67. **Final Approval Hearing.** The Notice must set forth the time and place of the Final Approval Hearing (subject to change) and state that any Class Member who does not file a timely and adequate objection in accordance with this Paragraph waives the right to object or to be heard at the Final Approval Hearing and shall be forever barred from making any objection to the Settlement.

68. **Opt-Outs.** The Notice shall explain the procedure for Class Members to exclude themselves or “opt-out” of the Settlement by submitting a Request for Exclusion to the Settlement Administrator postmarked no later than the Opt-Out Deadline. The Request for Exclusion must include the name of the proceeding, the individual’s full name, current address, personal signature, and the words “Request for Exclusion” or a comparable statement that the individual does not wish to participate in the Settlement in the communication. The Notice must state that any Class Member who does not file a timely Request for Exclusion in accordance with this Paragraph will lose the opportunity to exclude himself or herself from the Settlement and will be bound by the Settlement.

69. **Objections.** The Notice shall explain the procedure for Class Members to object to the Settlement or Fee Application by submitting written objections to the Court no later than the Objection Deadline. For an objection to be a valid objection under the Settlement, it must be in writing, postmarked by the Objection Deadline, filed with/or mailed to the Court and the Settlement Administrator and must include (1) the name of the proceedings; (2) the Class Member’s full name, current mailing address, and telephone number; (3) a statement of the specific grounds for the objection, as well as any documents supporting the objection; (4) the identity of any attorneys representing the objector; (5) a statement regarding whether the Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (6) a statement identifying all class action settlements objected to by the Class Member in the previous five (5) years; and (7) the signature of the Class Member or the Class Member’s attorney.

70. **Claim Validation, Cure, and Deficiency Process.** After the Settlement Administrator reviews all claims submitted under this Settlement, it will send a summary to the Parties’ Counsel identifying the number of valid claims and invalid claims. For the invalid claims, Class Members submitting such claims will be sent a deficiency notice and be given 21 days to cure any deficiencies in those Class Members’ claims. The cost of the deficiency process is included in the Notice and Administrative Expenses. After all claims have been fully processed including reviewing all claims that have been cured through the deficiency process, the Settlement Administrator will send a list of all valid claims to the Parties’ Counsel.

VI. PRELIMINARY APPROVAL, FINAL APPROVAL, AND JURISDICTION

71. **Certification of the Class.** For purposes of this Settlement only, the Parties stipulate to the certification of the Class, which is contingent upon both the Court entering the Final Approval Order of this Settlement and the occurrence of the Effective Date.

72. **Preliminary Approval.** Following execution of this Settlement Agreement, Class Counsel shall file a motion for preliminary approval of the Settlement, in a form agreeable to the Parties, to be filed by December 8, 2023 as previously ordered by the Court.

73. **Final Approval.** Class Counsel shall move the Court for a Final Approval Order of this Settlement, to be issued following the Final Approval Hearing; within a reasonable time after the Notice Deadline, Objection Deadline, and Opt-Out Deadline; and at least 90 days after the Settlement Administrator notifies the appropriate government officials of this Settlement Agreement pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1715.

74. **Jurisdiction.** The Court shall retain jurisdiction over the implementation, enforcement, and performance of this Settlement Agreement, and shall have exclusive jurisdiction over any suit, action, proceeding, or dispute arising out of or relating to this Settlement Agreement that cannot be resolved by negotiation and agreement by counsel for the Parties. The Court shall retain jurisdiction with respect to the administration, consummation, and enforcement of the Settlement Agreement and shall retain jurisdiction for the purpose of enforcing all terms of the Settlement Agreement. The Court shall also retain jurisdiction over all questions and/or disputes related to the Notice Plan 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.

VII. MODIFICATION AND TERMINATION

75. **Modification.** The terms and provisions of this Settlement Agreement may be amended, modified, or expanded by written agreement of the Parties and approval of the Court; provided, however, that after entry of the Preliminary Approval Order the Parties may, by written agreement, effect such amendments, modifications, or expansions of this Settlement Agreement and its implementing documents (including all exhibits hereto) without further notice to the Class or approval by the Court if such changes are consistent with the Court's Preliminary Approval Order and do not materially alter, reduce, or limit the rights of Class Members under this Settlement Agreement.

76. **Settlement Not Approved.** If: (1) the Court does not issue the Preliminary Approval Order or Final Approval Order; (2) the Effective Date does not occur; or (3) the Final Approval Order is modified or reversed in any material respect by any appellate or other court, the Parties shall have sixty (60) days from the date of such non-occurrence during which the Parties shall work together in good faith in considering, drafting, and submitting reasonable modifications to this Settlement Agreement to address any issues identified by the Court or that otherwise caused the Preliminary Approval Order or Final Approval Order not to issue or the Effective Date not to occur. If such efforts are unsuccessful, either Party may at their sole discretion terminate this Settlement Agreement on seven (7) days written notice to the other Party. For avoidance of any

doubt, neither Party may terminate the Settlement Agreement while an appeal from an order granting approval of the Settlement is pending.

77. **Termination.** Defendant may also unilaterally terminate this Settlement Agreement on seven (7) days written notice to Class Counsel if more than the agreed-upon number of individuals (more than 500 Class Members) submit valid Requests for Exclusion, as agreed to by the Parties and as communicated to the Court *in camera*.

78. **Effect of Termination.** In the event of a termination as provided in Paragraph 77, this Settlement Agreement and the Settlement shall be considered null and void; all of the Parties' obligations under the Settlement Agreement shall cease to be of any force and effect and the Parties shall return to the status quo ante in the Litigation as if the Parties had not entered into this Settlement Agreement. Further, in the event of such a termination, the certification of the Class shall be void. Defendant reserves the right to contest class certification for all purposes other than this Settlement Agreement. This Settlement Agreement (and related documents) and any orders preliminarily or finally approving the certification of any class contemplated by the Settlement Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity in support of claims or defenses or in support or in opposition to a class certification motion. In addition: (1) the fact that Defendant did not oppose certification of a class under the Settlement shall not be used or cited thereafter by any person or entity, including in a contested proceeding relating to class certification and (2) in the event of such a termination, all of the Parties' respective pre-Settlement Agreement claims and defenses will be preserved.

VIII. RELEASES

79. Upon Final Approval of this Settlement Agreement, Class Members release, acquit, and forever discharge Defendant and its past or present agents, subsidiaries, parents, and affiliates, and their respective employees, officers, directors, shareholders, partners, members, managers, owners, heirs, executors, predecessors, successors, assigns, insurers (including excess insurers and reinsurers), vendors, attorneys, and/or sureties ("Released Parties") from any claims, demands, rights, actions, or causes of action, liabilities, damages, losses, obligations, judgments, suits, penalties, remedies, matters, and issues of any kind or nature, whether known or unknown, that each Class member has, had, or may ever have, now or in the future, known or unknown, arising out of or in any way related to the Data Incident whether or not those claims, demands, rights, actions, or causes of action have been pleaded or otherwise asserted, including any and all damages, losses, or consequences thereof ("Released Claims").

80. Each Releasor waives any and all defenses, rights, and benefits that may be derived from the provisions of applicable law in any jurisdiction that, absent such waiver, may limit the extent or effect of the release contained in this Settlement Agreement.

81. **Mutual Understanding.** The Parties understand that if the facts upon which this Settlement Agreement is based are found hereafter to be different from the facts now believed to be true, each Party expressly assumes the risk of such possible difference in facts, and agrees that this Settlement Agreement, including the releases contained herein, shall remain effective notwithstanding such difference in facts. The Parties agree that in entering this Settlement Agreement, it is understood and agreed that each Party relies wholly upon its own judgment, belief,

and knowledge and that each Party does not rely on inducements, promises, or representations made by anyone other than those embodied herein.

82. **Release of Class Representative and Class Counsel.** Upon the Effective Date, Defendant and its representatives, officers, agents, directors, principals, affiliates, employees, insurers, and attorneys shall be deemed to have released, acquitted, and forever discharged the Class Representative and Class Counsel from any and all claims or causes of action of every kind and description, including any causes of action in law, claims in equity, complaints, suits or petitions, and any allegations of wrongdoing, demands for legal, equitable or administrative relief (including, but not limited to, any claims for injunction, rescission, reformation, restitution, disgorgement, constructive trust, declaratory relief, compensatory damages, consequential damages, penalties, exemplary damages, punitive damages, attorneys' fees, costs, interest or expenses), whether known or unknown, that arise out of, are based upon, or relate to prosecution of the Action, the Settlement Agreement, or the Settlement claims process (provided, however, that this release and discharge shall not include claims relating to the enforcement of the terms of the Settlement or this Settlement Agreement).

83. **Bar to Future Suits.** Upon entry of the Final Approval Order, the Class Representative and other Class Members shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against Defendant or based on any actions taken by any of the Released Parties that are authorized or required by this Settlement Agreement or by the Final Approval Order. Likewise, Defendant and its representatives, officers, agents, directors, principals, affiliates, employees, insurers, and attorneys shall be enjoined from prosecuting any claim they have released in the preceding paragraphs in any proceeding against Class Representative and Class Counsel or based on any actions taken by Class Representative and Class Counsel that are authorized or required by this Settlement Agreement or by the Final Approval Order. It is further agreed that the Settlement Agreement may be pleaded as a complete defense to any proceeding subject to this section.

IX. ATTORNEYS' FEES, EXPENSES, AND SERVICE AWARD

84. **Attorneys' Fees and Expenses.** Within forty-five (45) after the Notice Deadline, Class Counsel will file a Fee Application for an award of attorneys' fees to be paid from the Settlement Fund not to exceed one-third (33.33%) of the Net Settlement Fund, and the litigation expenses shall not exceed \$15,000.00. For example, if the Administrative Expenses are \$44,000, Class Counsel's litigation expenses are the full \$15,000 permitted under this Settlement Agreement, and the Class Representative Service Award is \$5,000, the Fee Application shall not exceed (\$152,000.00, which is 1/3 of \$456,000). Before the disbursement or payment of the Fee Award and Expenses under this Settlement Agreement to the IOLTA trust account of Markovits, Stock & DeMarco, LLC ("MSD"), MSD shall provide to the Settlement Administrator a properly completed and duly executed IRS Form W-9. Fee Award and Costs (plus any interest accrued thereon) shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than seven (7) days after the Effective Date.

85. **Service Award Payment.** At least fourteen (14) days before the Opt-Out and Objection Deadlines, Class Counsel will file a Fee and Expense Application that will include a

request for a Service Award Payment for the Class Representative in recognition for his contributions to this Litigation not to exceed \$5,000.00. Within three (3) days after filing the Fee and Expense Application, the Fee and Expense Application shall be posted on the Settlement Website. The Settlement Administrator shall make the Service Award payment to the Class Representative from the Settlement Fund. Such Service Award payment shall be paid by the Settlement Administrator, in the amount approved by the Court, no later than seven (7) days after the Effective Date.

86. **No Effect on Agreement.** In the event the Court declines to approve, in whole or in part, the payment of a Service Award and/or Attorneys' Fees and Expenses in the amounts requested, the remaining provisions of this Settlement Agreement shall remain in full force and effect. No decision by the Court, or modification or reversal or appeal of any decision by the Court, concerning the amount of the Service Award and/or Attorneys' Fees and Expenses shall constitute grounds for termination of this Settlement Agreement.

X. NO ADMISSION OF LIABILITY

87. **No Admission of Liability.** The Parties understand and acknowledge that this Settlement Agreement constitutes a compromise and settlement of disputed claims. No action taken by the Parties either previously or in connection with the negotiations or proceedings connected with this Settlement Agreement shall be deemed or construed to be an admission of the truth or falsity of any claims or defenses heretofore made, or an acknowledgment or admission by any Party of any fault, liability, or wrongdoing of any kind whatsoever.

88. **No Use of Agreement.** Neither the Settlement Agreement, nor any act performed or document executed pursuant to or in furtherance of it: (1) is or may be deemed to be, or may be used as, an admission of, or evidence of, the validity of any claim made by Plaintiff or on behalf of the class; or (2) is or may be deemed to be, or may be used as, an admission of, or evidence of, any fault or omission by Defendant in the Litigation or in any proceeding in any court, administrative agency or other tribunal.

XI. MISCELLANEOUS

89. **Publicity.** The Parties agree that they shall not publicize this settlement, Settlement Fund or Settlement Payment, the amount or sum of individual Class Representative's or Class Members' shares or the events and negotiations surrounding this Settlement Agreement in any way except by joint pleadings or unopposed motions filed with the Court, if required. Subject to prior approval from Defendant, which shall not be unreasonably withheld, Class Counsel may post information on their law firm websites about the Settlement that is consistent with the notice program and Settlement. If any Party believes a statement is made in violation of this provision, the Parties shall meet-and-confer informally in an effort to resolve the dispute. If the dispute cannot be resolved informally, it shall be submitted to the Court for resolution.

90. **Integration of Exhibits.** The exhibits to this Settlement Agreement and any exhibits thereto are a material part of the Settlement and are incorporated and made a part of the Settlement Agreement.

91. **Entire Agreement.** This Settlement Agreement, including all exhibits hereto, shall constitute the entire agreement among the Parties with regard to the subject matter hereof and shall supersede any previous agreements, representations, communications, and understandings among the Parties. This Settlement Agreement may not be changed, modified, or amended except in writing signed by all Parties, subject to Court approval. The Parties contemplate that, subject to Court approval or without such approval where legally permissible and where such changes are non-material, the exhibits to this Settlement Agreement may be modified by subsequent agreement of counsel for the Parties prior to dissemination of the Class Notice to the Class.

92. **Deadlines.** If any of the dates or deadlines specified herein falls on a weekend or legal holiday, the applicable date or deadline shall fall on the next business day. All reference to “days” in this Settlement Agreement shall refer to calendar days unless otherwise specified.

93. **Construction.** For the purpose of construing or interpreting this Settlement Agreement, the Parties agree that this Settlement Agreement is to be deemed to have been drafted equally by all Parties hereto and shall not be construed strictly for or against any Party.

94. **Cooperation of Parties.** The Parties to this Settlement Agreement agree to cooperate in good faith to prepare and execute all documents, to seek Court approval, defend Court approval, and to do all things reasonably necessary to complete and effectuate the settlement described in this Settlement Agreement.

95. **Obligation to Meet and Confer.** Before filing any motion in the Court raising a dispute arising out of or related to this Settlement Agreement, the Parties shall consult with each other in good faith prior to seeking Court intervention.

96. **Governing Law.** The Settlement Agreement shall be construed in accordance with, and be governed by, the laws of the State of Wisconsin, without regard to the principles thereof regarding choice of law.

97. **Counterparts.** This Settlement Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument, even though all signatories do not sign the same counterparts. Original signatures are not required. Any signature submitted electronically through e-mail of an Adobe PDF shall be deemed an original.

98. **Notices.** All notices to Class Counsel provided for herein shall be sent by overnight mail and email to:

Terence R. Coates
MARKOVITS, STOCK & DEMARCO, LLC
119 East Court Street, Suite 530
Cincinnati, OH 45202
tcoates@msdlegal.com

All notices to Defendant provided for herein shall be sent by overnight mail and email to:

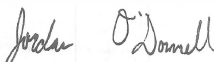
Jordan S. O'Donnell
Mullen Coughlin, LLC
426 West Lancaster Avenue, Suite 200
Devon, PA 19333
jsodonnell@mullen.law

The notice recipients and addresses designated above may be changed by written notice to the other Party.

99. **Authority.** Any person executing this Settlement Agreement in a representative capacity represents and warrants that he or she is fully authorized to do so and to bind the Party or Parties on whose behalf he or she signs this Settlement Agreement to all of the terms and provisions of this Settlement Agreement.

By:  CFO
Marten Transport
Defendant

Date: 12/6/23


By: 
Jordan S. O'Donnell
Mullen Coughlin LLC

Date: 12/6/2023

Counsel for Defendant

By:  CFO
Marten Transport, Ltd.
Defendant

Date: 12/6/23

By: 
Scott Linman
Plaintiff

Date: 12 / 07 / 2023

By: 
M. Anderson Berry

Date: 12/07/2023

Clayco C. Arnold, A Professional Corp.

Counsel for Plaintiff and the Class

SETTLEMENT TIMELINE

<u>Grant of Preliminary Approval</u>	
Settlement Administrator provides W-9 to Marten	+10 days after Preliminary Approval Order
Marten provides list of Class Members to the Settlement Administrator	+14 days after Preliminary Approval
Long Form and Short Form Notices Posted on the Settlement Website	+14 days after Preliminary Approval
Notice Deadline	+30 days after Preliminary Approval
Reminder Notice	+60 days after Notice Deadline
Class Counsel's Fee and Expense Application	+45 days after Notice Deadline
Objection Deadline	+60 days after Notice Deadline
Exclusion Deadline	+60 days after Notice Deadline
Claims Deadline	+90 days after Notice Deadline
Settlement Administrator Provide List of Objections/Exclusions to the Court and Class Counsel	+70 days after Notice Deadline
Initially Approved Claims List	+35 days after Claims Deadline
Initially Rejected Claims List	+35 days after Claims Deadline
Parties' Challenge to Any Claims	+ 35 days from Initially Approved Claims List
<u>Final Approval Hearing</u>	+150 days after Preliminary Approval Order (at minimum)
Motion for Final Approval	-14 days before Final Approval Hearing Date
Settlement Administrator Provide Notice of Opt-Outs and/or Objections	-14 days before Final Approval Hearing Date
<u>Final Approval</u>	
Effective Date	+35 days after Final Approval Order
Payment of Attorneys' Fees and Expenses, and Class Representative Service Award	+7 days after Effective Date
Settlement Website Deactivation	+180 days after Effective Date