

Exhibit 1

AMENDED SETTLEMENT AGREEMENT AND
RELEASE

Elite Logistics Corp., et al., v. MOL (America), Inc. et al.,

United States District Court of California,

Case No. CV11-02952 DDP (PLAx)

PREAMBLE

This Settlement Agreement and Release (the “Agreement”) is entered into by and among Plaintiff NGL Transportation, LLC and Plaintiff and Counter-Defendant Elite Logistics Corp. (“Plaintiffs” or “Elite” and “NGL”), by and through their counsel, on the one hand, and Defendant and Counter-Complainant MOL (America), Inc., and Third Party Plaintiff Mitsui O.S.K. Lines, Ltd. (“Defendants”), on the other hand, as of the date executed below. All references in this Agreement to a “party” or the “parties” shall refer to a party or the parties to this Agreement.

RECITALS

A. On April 7, 2011, Elite filed a putative class action complaint entitled *Elite Logistics Corp., et al., v. MOL (America), Inc.*, in the United States District Court for the Central District of California, Case No. CV11-02952 DDP (PLAx), alleging causes of action for Breach of Contract and Unlawful Business Practices (Cal. Bus. & Prof. Code §§ 17200 *et seq.*).

B. On November 1, 2012, Plaintiff Elite filed a Motion for Class Certification. At the hearing on the Motion, the Court did not rule, but suggested that Elite file a Motion for Partial Summary Judgment to resolve whether Bus. & Prof. Code § 22928 prohibits intermodal equipment providers from charging per diem fees to motor carriers for the use of equipment providers’ equipment on weekends and holidays in California.

C. On May 7, 2013, Elite filed a Motion for Partial Summary Judgment, seeking declaratory relief to resolve the legal issues of the interpretation of section 22928.

D. On August 29, 2013, the Court ruled that section 22928 prohibits the charging per diem fees on weekends and holidays when the terminal is closed.

E. On February 24, 2015, Plaintiffs filed a First Amended Complaint which added NGL as Plaintiff and putative class representative.

F. On March 2, 2015 MOL (America) Inc. filed a counterclaim against Elite and Third Party Plaintiff Mitsui O.S.K. Lines Ltd. joined as a Third Party Plaintiff.

G. On April 17, 2015, Plaintiffs filed a renewed Motion for Class Certification to enforce section 22928. The Court denied the motion on February 2, 2016, on the basis that Plaintiff Elite’s claims and defenses were not typical of those of the Class Members.

H. On May 21, 2018, Plaintiff NGL filed a renewed Motion for Class Certification. Defendants opposed the motion and Plaintiff filed a reply. On July 30, 2018, the Court took the matter under submission.

I. The parties have entered into this Agreement to resolve any and all controversies and disputes arising out of or relating to the allegations made in the First Amended Complaint and the Counter and Third Party-Complaint, and to avoid the burden, risk and expense of further litigation. Defendants do not in any way acknowledge, admit to, or concede any of the allegations made in the First Amended Complaint, and expressly disclaim and deny any fault or

liability, or any charges of wrongdoing that have been or could have been asserted in the First Amended Complaint. Likewise, Counter Defendant does not in any way acknowledge, admit to, or concede any of the allegations made in the Counterclaim, and expressly disclaims and denies any fault or liability, or any charges of wrongdoing that have been or could have been asserted in the Counterclaim. Nothing contained in this Agreement shall be used or construed as an admission of liability and this Agreement shall not be offered or received in evidence in any action or proceeding in any court or other forum as an admission or concession of liability or wrongdoing of any nature or for any other purpose other than to enforce the terms of this Agreement.

J. Plaintiffs have entered into this Agreement to liquidate and recover on the claims asserted in the First Amended Complaint, and to avoid the risk, delay, and uncertainty of continued litigation. Plaintiffs do not in any way concede the claims alleged in the First Amended Complaint lack merit or are subject to any defenses.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated into and are an integral part of this Agreement, and in consideration of the mutual promises below, the parties agree as follows:

1. **DEFINITIONS.** In addition to the definitions contained elsewhere in this Agreement, the following definitions shall apply:

(a) “Bar Date for Objections or Opt-Outs” (or “Bar Date” or “Objection Deadline”) will be the deadline for Class Members to file an Objection or to Opt-Out of the Settlement, and shall be fifteen (15) days or more before the filing of the Motion for Final Approval.

(b) “Class Counsel” shall mean David C. Wright of McCune Wright Arevalo, LLP, and Edward J. Chong of the Law Offices of Edward J. Chong and Associates.

(c) “Class Member” (or “Settlement Class Member”) shall mean all intermodal motor carriers who were charged and paid unlawful per diem charges to Defendants for weekend and holidays when the terminal was closed, in violation of California Business and Professions Code section 22928, from April 7, 2007, to the present. “Class Member” does not include any entity in which Defendants have a controlling interest, and Defendants’ officers or directors.

(d) “Court” shall mean the United States District Court for the Central District of California, located at 350 West 1st Street, Los Angeles, California 90012.

(e) “Defendants’ Counsel” shall mean Erich P. Wise of Flynn, Delich & Wise, LLP.

(f) “Effective Date” shall be thirty (30) days after the entry of the Final Approval Order (defined below) provided no objections are made to this Agreement. If there are objections to the Agreement, then the Effective Date shall be the later of: (1) thirty (30) days after entry of the Final Approval Order, if no appeals are taken from the Final Approval Order;

or (2) if appeals are taken from the Final Approval Order, then thirty (30) days after an Appellate Court ruling affirming the Final Approval Order; or (3) Thirty (30) days after entry of a dismissal of the appeal.

(g) "Exclusion Letter" shall mean a letter by a Class Member who elects to opt out of this Agreement.

(h) "Final Approval Hearing Date" shall be the date set by the Court for the hearing on any and all motions for final approval of this Agreement.

(i) "Final Approval Order" shall mean the Order and Judgment approving this Agreement issued by the Court at or after the Final Approval Hearing Date.

(j) "Final Report" shall mean the report prepared by Class Counsel of all receipts and disbursements from the Settlement Fund, as described in Section 8, below.

(k) "Motion for Final Approval" shall mean the motion or motions filed by Class Counsel, as referenced in Section 6 below.

(l) "Named Plaintiffs" means Elite Logistics Corporation and NGL Transportation, LLC.

(m) "Net Settlement Fund" shall mean the net amount of the Settlement Fund after payment of any Court approved service award.

(n) "Notice" (or "Settlement Class Notice") shall mean the notice to Class Members of the settlement provided for under the terms of this Agreement, as ordered by the Court in its Preliminary Approval/Notice Order (defined below), and shall refer to the form of Notice attached hereto as Exhibit 1.

(o) "Preliminary Approval/Notice Order" shall mean the Order issued by the Court preliminarily approving this Agreement and authorizing the sending of the Notice to Class Members, as provided in Sections 4 and 5 below.

(p) "Settlement Fund" shall mean the seven hundred thousand dollars (\$700,000) to be paid by Defendants under the terms of this Agreement.

(q) "Unlawful Per Diem Charges" (or "Detention Charges") shall mean charges imposed by Defendants for weekend and holidays when the terminal was closed, in violation of California Business and Professions Code section 22928, from April 7, 2007 to the present.

2. CLASS ACTION SETTLEMENT

The Named Plaintiffs will propose and recommend to the Court that a settlement class be certified, which class shall be comprised of the Class Members. Defendants agree solely for purposes of the settlement provided for in this Agreement, and the implementation of such settlement, that this case shall proceed as a class action under Rule 23 of the Federal Rules of

Civil Procedure; provided, however, that if a Final Approval Order is not issued, then Defendants shall retain all rights to object to maintaining this case as a class action. The Named Plaintiff and Class Counsel shall not reference this Agreement in support of any subsequent motion relating to certification of a liability class.

3. DISMISSAL OF COUNTERCLAIM WITH PREJUDICE

Within two weeks of the Effective Date of this Settlement, Defendants' Counsel shall use reasonable efforts to file a motion seeking the dismissal of its counterclaim against Elite with prejudice pursuant to the Federal Rule of Civil Procedure 41(a).

4. PRELIMINARY SETTLEMENT APPROVAL.

Class Counsel shall file a motion seeking a Preliminary Approval/Notice Order pursuant to the Court's Scheduling Order. The Preliminary Approval/Notice Order shall provide for: preliminary approval of this Agreement, provisional certification of a class for settlement purposes, appointment of Class Counsel as counsel to the provisionally certified class, and the requirement that the Notice be given to the Class Members as provided in Section 5, below (or as otherwise determined by the Court).

5. NOTICE TO THE CLASS.

(a) Class Counsel shall send the Notice to all Class Members as specified by the Court in the Preliminary Approval/Notice Order.

(b) Class Counsel shall email the Notice to each Class Member's last known email address in a manner that is calculated to avoid being caught and excluded by spam filters or other devices intended to block mass email. For any emails that are returned undeliverable, Class Counsel shall use the best available databases to obtain current email address information for class members, update its database with these emails, and resend the Notice.

(c) For those Class Members for whom Defendants do not have contact information and/or email addresses, the Notice shall be mailed to these Class Members by first class United States mail to the best available mailing addresses. The addresses for such Class Members shall be taken from the data previously provided by Defendants regarding the use of MOL's intermodal equipment. For those addresses that are not current, Class Counsel will seek such addresses from the Intermodal Association of North America and run the names and addresses through the National Change of Address Registry and update as appropriate. If a mailed Notice is returned with forwarding address information, Class Counsel shall re-mail the Notice to the forwarding address. For all mailed Notices that are returned as undeliverable, Class Counsel shall use standard skip tracing devices to obtain forwarding address information and, if the skip tracing yields a different forwarding address, Class Counsel shall re-mail the Notice to the address identified in the skip trace, as soon as reasonably practicable after the receipt of the returned mail.

(d) The Notice shall also be posted on a settlement website created by Class Counsel and provided to the Intermodal Association of North America for posting on its website.

(e) Class Counsel shall maintain a database showing mail and email addresses to which each Notice was sent and any Notices that were not delivered by mail and/or email. A summary report of the Notice shall be provided to the parties at least five (5) days prior to the deadline to file the Motion for Final Approval. The database maintained by Class Counsel regarding the Notice shall be available to the parties and the Court upon request. It shall otherwise be confidential and shall not be disclosed to any third party.

(f) The Notice shall be in a form approved by the Court and, substantially similar to the notice form attached hereto as Exhibit 1. The parties may by mutual written consent make non-substantive changes to the Notice without Court approval.

(g) All costs associated with publishing, mailing and administering the Notice as provided for in this Section, and all costs of administration, shall be paid out of the Settlement Fund.

6. MOTION FOR FINAL APPROVAL

Within a reasonable time after the Bar Date, and provided the conditions in Section 15.(a)(i), below are satisfied, Class Counsel shall file a Motion for Final Approval of this Agreement so that same can be heard on the Final Approval Hearing Date.

7. ENTRY OF JUDGMENT

The Final Approval Order shall constitute the Court's final judgment in this action. The Court shall retain jurisdiction to enforce the terms of the Final Approval Order.

8. THE SETTLEMENT FUND AND DISTRIBUTION

(a) Payments to Class Members. Within 15 business days after the entry of the Final Approval Order, Defendants shall transfer the Settlement Fund to the designated bank account(s) provided by Class Counsel. The Settlement Fund shall be the total amount Defendants are obligated to pay under the terms of this Agreement and includes (a) Class Counsels' fees and costs, which includes costs associated with administering the Notice in accordance with Section 5, above, and (b) any Service Award (defined below) paid to the Named Plaintiffs. Defendants shall not make any additional or further contributions to the Settlement Fund, even if the total amount of all alleged Unlawful Per Diem and/or Detention Charges exceeds the value of the Net Settlement Fund. In the event a Final Approval Order is not issued, or this Agreement is terminated by either party for any reason, including pursuant to Section 15, below, the portion of the Settlement Fund paid to Class Counsel (including accrued interest, if any) shall be refunded to Defendants within two (2) business days.

(b) All funds held by Class Counsel pursuant to the administration of claims shall be deemed and considered to be in *custodia legis* of the Court, and shall remain subject to the jurisdiction of the Court, until distributed pursuant to this Agreement.

(c) All funds held by Class Counsel for the administration of claims at any time shall be deemed to be a Qualified Settlement Fund as described in Treasury Regulation §1.468B-1, 26 C.F.R. §1.468B-1.

(d) Payments shall be made from the Settlement Fund as follows:

(i) Plaintiffs' Fees and Costs. Plaintiffs' reasonable attorneys' fees and costs, as determined and approved by the Court, shall be paid from the Settlement Fund 15 business days after entry of the Final Approval Order. Class Counsel shall apply for an award of attorneys' fees and costs not to exceed four hundred thousand dollars (\$400,000) to be approved by the Court, and Defendants agree not to oppose an application up to that amount. This amount shall further include the costs associated with the notice and administration of the claims in this case.

(ii) Service Award. NGL may apply to the Court for a "Service Award" of up to five thousand dollars (\$5,000) for its services as a Named Plaintiff. Subject to the Court's approval, the Service Award shall be paid from the Settlement Fund ten (10) days after the Effective Date.

(iii) Payments to Class Members. The amount paid to each Class Member shall be calculated as follows:

$$\frac{\text{(Net Settlement Fund/ Total Improper Per Diem Charges) x Total Improper Charges}}{\text{Charge per Class Member}} = \text{Individual Payment}$$

(iv) Individual Payments shall be paid to Class Members ten (10) days after the Effective Date, by sending Class Members a check at the address used to provide the Notice, or at such other address as designated by the Class Member. The Class Member shall have one-hundred eighty (180) days to negotiate the check. Any checks uncashed after one-hundred eighty (180) days shall be distributed pursuant to Section 10.

(e) In no event shall any portion of the Settlement Fund revert to Defendants.

9. FINAL REPORT TO THE COURT

Within two hundred (200) days after the Effective Date, Class Counsel shall submit a Final Report to the Court, setting forth: (a) the amounts paid to Class Members by Class Counsel; (b) any checks not cashed or returned; (c) the efforts undertaken to follow up on uncashed and/or returned checks; and (d) the total amount of money unpaid to Class Members.

10. CLAIMS ADMINISTRATION.

(a) Class Counsel shall take responsibility for the administration of claims in this case.

(b) Class Counsel shall keep all information regarding Class Members confidential except as otherwise provided herein. All data created and/or obtained and maintained by Class Counsel pursuant to this Agreement shall be destroyed twelve (12) months after the Final Report is submitted to the Court, provided that Defendants' Counsel, at its own cost, shall receive a complete digital copy of the claims administration records, together with a

declaration establishing completeness and authenticity, which they may maintain consistent with their own document retention policies.

(c) Class Counsel also shall be responsible for timely and properly filing all tax returns necessary or advisable, if any, with respect to the Settlement Fund. Except as provided herein, Class Members shall be responsible for their own tax reporting of payments received under the terms of this Agreement.

(d) Class Counsel shall provide the data in its claims administration database to Defendants' Counsel in response to any written request, including an email request.

(e) Within one hundred-ninety (190) days after the Effective Date, Class Counsel shall prepare a declaration setting forth the total payments issued to Class Members, the total amount of any checks uncashed and/or returned, and the total amount of money being held by Class Counsel.

11. CY PRES PAYMENT

Thirty (30) days after the Final Report, the total amount of uncashed checks, and amounts held by Class Counsel at the time of the Final Report, shall be paid by Class Counsel to Public Citizen.

12. OPT-OUTS

(a) A Class Member who wishes to exclude himself or herself or itself from this Agreement, and from the release of claims and defenses provided for under the terms of this Agreement, shall submit an Exclusion Letter by mail to Class Counsel. For an Exclusion Letter to be valid, it must be postmarked on or before the Bar Date. Any Exclusion Letter shall identify the Class Member, state that the Class Member wishes to exclude himself or herself or itself from the Agreement, and shall be signed and dated.

(b) Class Counsel shall maintain a list of persons or entities who have excluded themselves and shall provide such list to Defendants' Counsel at least five (5) days prior to the date Class Counsel is required to file the Motion for Final Approval. Class Counsel shall retain the originals of all Exclusion Letters (including the envelopes with the postmarks).

13. OBJECTIONS

(a) Any Class Member, other than a Class Member who timely submits an Exclusion Letter, who wishes to object to the fairness, adequacy, or reasonableness of this Settlement Agreement or the Settlement, or to the requested award of Attorneys' Fees and Expenses, must file a written notice of objection by the Objection Deadline, as well as a notice of intention to appear at the Final Approval Hearing ("Notice of Intention to Appear") if he/she wishes to appear and be heard at the Final Approval Hearing. To state a valid objection to the Settlement, an objecting Settlement Class Member must provide the following information in the Settlement Class Member's written objection: (1) his/her full name, current address, and current telephone number; (2) provide documentation that the objecting Settlement Class Member has been charged and paid Unlawful Per Diem and/or Detention Charges; (3) a statement of the position(s)

the objecting Settlement Class Member wishes to assert, including the factual and legal grounds for the position; and (4) any other documents that the objecting Settlement Class Member wishes to submit in support of its position.

(b) To be valid, an objection also must include a detailed statement of each objection asserted, including the grounds for objection. In addition, any Settlement Class Member objecting to the Settlement must provide a detailed statement of any objections to any other class action settlements submitted in any court, whether state, federal, or otherwise, in the United States in the previous five (5) years. If the Settlement Class Member has not objected to any other class action settlement in any court in the United States in the previous five (5) years, he/she must affirmatively so state in the written materials provided in connection with the objection to this Settlement. Upon the filing of an objection, of their own choosing, Class Counsel and/or Defendants' Counsel may take the deposition of the objecting Settlement Class Member pursuant to the California Code of Civil Procedure at an agreed-upon time and location, and to obtain any evidence relevant to the objection. Failure by an objecting Settlement Class Member to make himself of herself available for deposition or comply with expedited discovery may result in the Court striking the objection. The Court may tax the costs of any such discovery to the objecting Settlement Class Member or the objector's counsel if the Court determines that the objection is frivolous or is made for an improper purpose.

(c) Finally, subject to approval of the Court, any objecting Settlement Class Member may appear, in person or by counsel, at the Final Approval Hearing held by the Court, to show cause why the proposed Settlement should not be approved as fair, adequate, and reasonable, or object to any petitions for attorneys' fees and reimbursement of reasonable litigation costs and expenses. The objecting Settlement Class Member must file with the Clerk of the Court and serve upon all counsel designated in the Settlement Class Notice a Notice of Intention to Appear by the Objection Deadline or on such other date that may be set forth in the Settlement Class Notice. The Notice of Intention to Appear must include copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member (or his/her counsel) will present to the Court in connection with the Final Approval Hearing. Any Settlement Class Member who does not provide a Notice of Intention to Appear in complete accordance with the deadlines and other specifications set forth in the Settlement Class Notice, and who has not filed an objection in complete accordance with the deadlines and other specifications set forth in this Settlement and the Settlement Class Notice, will be deemed to have waived any objections to the Settlement and will be barred from speaking or otherwise presenting any views at the Final Approval Hearing.

(d) The agreed-upon procedures and requirements for filing objections in connection with the Final Approval Hearing are intended to ensure the efficient administration of justice and the orderly presentation of any Settlement Class Member's objection to the Settlement, in accordance with such Class Member's due-process rights. The Preliminary Approval Order and Settlement Class Notice will require all Settlement Class Members who have any objections to file such notice of objection or request to be heard with the Court, and serve by mail or hand delivery such notice of objection or request to be heard upon Settlement Class Counsel and Defendants' Counsel at the addresses set forth in the Settlement Class Notice, by no later than the Objection Deadline. The Preliminary Approval Order will further provide that objecting Settlement Class Members who fail properly or timely to file their objections with the Court, along with the required information and documentation set forth above, or to serve them as

provided above, will not be heard during the Final Approval Hearing, and their objections will be waived and will not be considered by the Court. Settlement Class Counsel will be responsible for addressing all objections.

(e) Any Settlement Class Member who objects to the Settlement will be entitled to all of the benefits of the Settlement if this Settlement Agreement and the terms contained herein are approved, as long as the objecting Settlement Class Member complies with all the requirements of this Settlement Agreement applicable to Settlement Class Members.

(f) Class Counsel shall file any objections and responsive pleadings at least seven (7) days prior to the Final Approval Hearing Date.

14. RELEASE

Except as to the rights and obligations provided for under the terms of this Agreement, Named Plaintiffs, on behalf of themselves and all of its respective past, present, and future predecessors, successors, assigns, devisees, relatives, heirs, legatees, and agents, and each of the Class Members, including their respective past, present and future predecessors, successors, assigns, devisees, relatives, heirs, legatees, insurers and agents, hereby release and forever discharge Defendants, and all of its past, present and future predecessors, successors, subsidiaries, divisions, employees, affiliates, assigns, officers, directors, shareholders, representatives, attorneys and agents (collectively, the "Defendants Releasees"), from any and all charges, complaints, claims, debts, liabilities, demands, obligations, costs, expenses, actions, and causes of action of every nature, character, and description, whether known or unknown, asserted or unasserted, suspected or unsuspected, fixed or contingent, which Named Plaintiffs and Class Members who do not opt out now have, own or hold against any of the Defendants Releasees that arise out of and/or relate to the facts and claims alleged in the First Amended Complaint.

15. CONDITIONS TO SETTLEMENT.

(a) This Agreement shall be subject to and is expressly conditioned on the occurrence of all of the following events:

(i) The Court has entered the Preliminary Approval/Notice Order, as required by Section 3 above;

(ii) The Court has entered the Final Approval Order as required by Sections 5 and 6 above, and all objections, if any, to such Order are overruled, and all appeals taken from such Order are resolved in favor of approval; and

(iii) The Effective Date has occurred.

(b) If all of the conditions specified in Section 15(a) are not met, then this Agreement shall be cancelled and terminated.

(c) Defendants shall have the option to terminate this Agreement if ten (10%) percent or more of the Class Members opt out. Defendants shall notify Class Counsel and the

Court of its intent to terminate this Agreement pursuant to this Section 15 within fifteen (15) business days after the Bar Date, or the option to terminate shall be considered waived.

(d) In the event this Agreement is terminated, pursuant to Section 15(c) immediately above, or fails to become effective in accordance with Sections 15(a) and/or (b) immediately above, then the parties shall be restored to their respective positions in this case as they existed as of the date of the execution of this Agreement. In such event, the terms and provisions of this Agreement shall have no further force and effect with respect to the parties and shall not be used in this case or in any other action or proceeding for any other purpose, and any order entered by this Court in accordance with the terms of this Agreement shall be treated as vacated, *nunc pro tunc*.

16. REPRESENTATIONS.

(a) The parties to this Agreement represent that they have each read this Agreement and are fully aware of and understand all of its terms and the legal consequences thereof. The parties represent that they have consulted or have had the opportunity to consult with and have received or have had the opportunity to receive advice from legal counsel in connection with their review and execution of this Agreement.

(b) The parties have not relied on any representations, promises or agreements other than those expressly set forth in this Agreement.

(c) The Named Plaintiffs, on behalf of the Class Members, represents that they have made such inquiry into the terms and conditions of this Agreement as they deem appropriate, and that by executing this Agreement, they believe the Agreement and all the terms and conditions set forth herein, are fair and reasonable to all Class Members.

(d) The Named Plaintiffs represent that they have no conflicts or other personal interests that would in any way impact their representation of the class in connection with the execution of this Agreement.

(e) Defendants represent and warrant that they have obtained all corporate authority necessary to execute this Agreement.

17. FURTHER ASSURANCES. Each of the parties hereto agrees to execute and deliver all such further documents consistent with this Agreement, and to take all such further actions consistent with this Agreement, as may be required in order to carry the provisions of this Agreement into effect, subject to Class Counsel's obligation to protect the interests of the Class Members.

18. APPLICABLE LAW. This Agreement shall be governed by and interpreted, construed, and enforced pursuant to the laws of the State of California.

19. NO ORAL WAIVER OR MODIFICATION. No waiver or modification of any provision of this Agreement or of any breach thereof shall constitute a waiver or modification of any other provision or breach, whether or not similar. Nor shall any actual

waiver or modification constitute a continuing waiver. No waiver or modification shall be binding unless executed in writing by the party making the waiver or modification.

20. **ENTIRE AGREEMENT.** This Agreement, including the exhibit attached hereto, constitutes the entire agreement made by and between the parties pertaining to the subject matter hereof, and fully supersedes any and all prior or contemporaneous understandings, representations, warranties, and agreements made by the parties hereto or their representatives pertaining to the subject matter hereof. No extrinsic evidence whatsoever may be introduced in any judicial proceeding involving the construction or interpretation of this Agreement.

21. **BINDING ON SUCCESSORS.** This Agreement shall inure to the benefit of, and shall bind, each of the parties hereto and their successors.

22. **SEVERABILITY.** In the event any one or more of the provisions of this Agreement is determined to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in this Agreement will not in any way be affected or impaired thereby.

23. **COUNTERPARTS AND FACSIMILE SIGNATURES.** This Agreement may be executed and delivered in separate counterparts, each of which, when so executed and delivered, shall be an original, but such counterparts together shall constitute but one and the same instrument and agreement. Facsimile and pdf signature pages shall have the same force and effect as original signatures.

24. **NOTIFICATION.** Any notice to be given to Class Counsel and/or the Named Plaintiffs shall be sent by mail or email as follows:

David C. Wright
McCune Wright Arevalo LLP
3281 E. Guasti Road, Ste. 100
Ontario, CA 91761
Telephone: (909) 557-1250
dcw@mccunewright.com

Any notice to be given to Defendants under the terms of this Agreement shall be sent by mail or email as follows:

Erich P. Wise
Flynn, Delich & Wise, LLP
One World Trade Center Ste. 1800
Long Beach, CA 90831
Phone: (562) 435-2626
erichw@fdw-law.com

IN WITNESS WHEREOF, the parties have entered this Agreement as of the dates set forth below.


Dated: _____, 2020 Elite Logistics Corp.,

By: _____
Moon Chul Kang, President


Dated: _____, 2020 NGL Transportation, LLC, a corporation on behalf of itself and those it represents

By: _____
Sean Roh, President

Dated: May 27, 2020 MOL (America), Inc.,

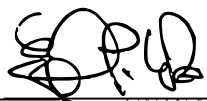
By: 
Kevin J. Hartmann
Counsel

Dated: May 25, 2020 Mitsui O.S.K. Lines, Ltd.

By: 
Masaaki Ishiro, General Manager
Secretaries & General Affairs Div.

APPROVED AS TO FORM:

Dated: May 27, 2020 Flynn, Delich & Wise, LLP
Erich Wise

By: 
Erich Wise
Attorneys for Defendant MOL (America), Inc. and
Counterclaim Plaintiff Mitsui O.S.K. Lines, Ltd.

IN WITNESS WHEREOF, the parties have entered this Agreement as of the dates set forth below.

Dated: May 28, 2020

Elite Logistics Corp.,

By: 
Moon Chul Kang, President

Dated: _____, 2020

NGL Transportation, LLC, a corporation on behalf of itself and those it represents

By: _____
Sean Roh, President

Dated: May 27, 2020

MOL (America), Inc.,

By: 
Kevin J. Hartmann
Counsel

Dated: May 25, 2020


Mitsui O.S.K. Lines, Ltd.

By: 
Masaaki Ishiro, General Manager
Secretaries & General Affairs Div.

APPROVED AS TO FORM:

Dated: May 27, 2020

Flynn, Delich & Wise, LLP
Erich Wise

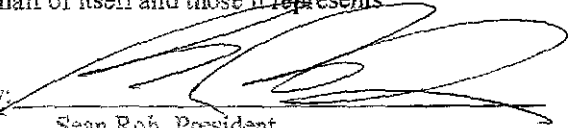
By: 
Erich Wise
Attorneys for Defendant MOL (America), Inc. and
Counterclaim Plaintiff Mitsui O.S.K. Lines, Ltd.

IN WITNESS WHEREOF, the parties have entered this Agreement as of the dates set forth below.

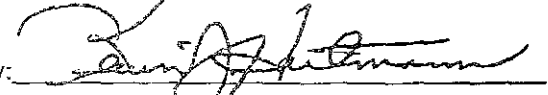
Dated: _____, 2020 Elite Logistics Corp.,

By: _____
Moon Chul Kang, President


Dated: May 28, 2020 NGL Transportation, LLC, a corporation on behalf of itself and those it represents

By: 
Sean Roh, President

Dated: May 27, 2020 MOL (America), Inc.,


By: 
Kevin J. Hartmann
Counsel

Dated: May 25, 2020 Mitsui O.S.K. Lines, Ltd.

By: 
Masasaki Ishiro, General Manager
Secretaries & General Affairs Div.

APPROVED AS TO FORM:


Dated: May 27, 2020 Flynn, Delich & Wise, LLP
Erich Wise

By: 
Erich Wise
Attorneys for Defendant MOL (America), Inc. and
Counterclaim Plaintiff Mitsui O.S.K. Lines, Ltd.

Dated: May 28, 2020

McCUNE WRIGHT AREVALO, LLP
David C. Wright

EDWARD D. CHONG AND ASSOCIATES
Edward D. Chong

By: 

David C. Wright
Attorneys for Plaintiffs ELITE LOGISTICS
CORPORATION, NGL TRANSPORTATION,
LLC, and the putative class

Exhibit 1

Elite Logistics Corp., *et al.*
v.
MOL (America), Inc., *et al.*

NOTICE OF PENDING CLASS ACTION AND PROPOSED SETTLEMENT

**READ THIS NOTICE FULLY AND CAREFULLY; THE PROPOSED SETTLEMENT
MAY AFFECT YOUR RIGHTS!**

**IF YOU ARE A CALIFORNIA INTERMODAL MOTOR CARRIER AND
YOU WERE CHARGED AND PAID A PER DIEM OR DETENTION
CHARGE(S) FOR WEEKEND AND/OR HOLIDAY TIME WHEN THE
TERMINAL WAS CLOSED TO MOL (AMERICA), INC. ("MOL")
BETWEEN APRIL 7, 2007, TO THE PRESENT YOU MAY BE ENTITLED
TO A PAYMENT FROM A CLASS ACTION SETTLEMENT**

The United States District Court Central District of California has authorized this Notice;
it is not a solicitation from a lawyer.

SUMMARY OF YOUR OPTIONS AND THE LEGAL EFFECT OF EACH OPTION	
APPROVE THE SETTLEMENT AND RECEIVE A PAYMENT; YOU NEED NOT DO ANYTHING	Unless you exclude yourself from the settlement (see the next paragraph), then you will receive a check. The approximate amount of the payment you will receive and when you will receive it is described below.
EXCLUDE YOURSELF FROM THE SETTLEMENT; RECEIVE NO PAYMENT BUT RELEASE NO CLAIMS	You can choose to exclude yourself from the settlement or "opt out." This means you choose not to participate in the settlement. You will keep your individual claims against MOL but you will not receive a payment. If you want to recover against MOL, then you will have to file a separate lawsuit or claim.
OBJECT TO THE SETTLEMENT	You can file an objection with the Court explaining why you believe the Court should reject the settlement. If your objection is overruled by the Court, then you <u>will</u> receive a payment and you <u>will not</u> be able to sue MOL for the claims asserted in this litigation. If the Court agrees with your objection, then the settlement may not be approved.

These rights and options – *and the deadlines to exercise them* – along with the material terms of the settlement are explained in this Notice.

BASIC INFORMATION

1. What is this lawsuit about?

The lawsuit that is being settled is entitled *Elite Logistics Corp., et al., v. MOL (America), Inc., et al.* The case is a “class action.” That means that the “Named Plaintiffs,” Elite Logistics Corp. (“Elite”) and NGL Transportation, LLC (“NGL”) are individual business entities acting on behalf of all persons (or entities) who were charged per diem or detention charges by MOL on weekends and/or holidays when the terminal was closed from April 7, 2007, to the present. This group is called the “Class Members.” The Named Plaintiffs are asserting claims for breach of contract, and violations of the California Unfair Competition Law. The Named Plaintiffs seek a refund of alleged improper per diem or detention fees charged to Class Members. MOL does not deny it charged per diem or detention fees but contends it did so properly and in accordance with the terms of its agreements and applicable law, and therefore denies that its practices give rise to claims for damages by Elite, NGL, or any Class Member.

2. Why did I receive this Notice of this lawsuit?

You received this Notice because MOL’s records indicate that you were charged per diem or detention fee(s) on weekends and/or holidays when the terminal was closed between April 7, 2007, and the present. The Court directed that this Notice be sent to all Class Members because each Class Member has a right to know about the proposed settlement and the options available to him or her or it before the Court decides whether to approve the settlement.

3. Why did the parties settle?

In any lawsuit, there are risks and potential benefits that come with a trial versus settling at an earlier stage. It is the Named Plaintiffs’ lawyers’ job to identify when a proposed settlement offer is good enough that it justifies recommending settling the case instead of continuing to trial. In a class action, these lawyers, known as Class Counsel, make this recommendation to the Named Plaintiffs. The Named Plaintiffs have a duty to act in the best interests of the class as a whole and, in this case, it is Elite’s and NGL’s beliefs, as well as Class Counsel’s opinion, that this settlement is in the best interest of all Class Members for at least the following reasons:

There is legal uncertainty about whether a judge or a jury will find that MOL was contractually and otherwise legally obligated not to assess per diem and/or detention fees on weekends and holidays when the terminal was closed, and even if it was, there is uncertainty about whether the claims are subject to other defenses that might result in no or less recovery to Class Members. Even if the Named Plaintiffs were to win at trial, there is no assurance that the Class Members would be awarded more than the current settlement amount and it may take years of litigation before any payments would be made. By settling, the Class Members will avoid these and other risks and the delays associated with continued litigation.

WHO IS IN THE SETTLEMENT

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

If you received this notice, then MOL's records indicate that you are a Class Member who is entitled to receive a payment.

YOUR OPTIONS

5. What options do I have with respect to the Settlement?

You have three options: (1) do nothing and automatically participate in the settlement; (2) exclude yourself from the settlement ("opt out" of it); or (3) participate in the settlement but object to it. Each of these options is described in a separate section below.

6. What are the critical deadlines?

To participate in the settlement, you need not do anything; so long as you do not opt out or exclude yourself (described in Questions 15 through 20, below), a payment will be made to you by mailing a check to you at the last address on file with MOL (or any other address you provide).

The deadline for sending a letter to exclude yourself from or opt out of the settlement is [30 days after notice is sent].

The deadline to file an objection with the Court is also [30 days after notice is sent].

7. How do I decide which option to choose?

If you do not like the settlement and you believe that you could receive more money by pursuing your claims on your own (with or without an attorney that you could hire) and you are comfortable with the risk that you might lose your case or get less than you would in this settlement, then you may want to consider opting out.

If you believe the settlement is unreasonable, unfair, or inadequate and the Court should reject the settlement, then you can object to the settlement terms. The Court will decide if your objection is valid. If the Court agrees, then the settlement will not be approved and no payments will be made to you or any other Class Member. If your objection (and any other objection) is overruled, and the settlement is approved, then you will still get a payment.

8. What has to happen for the Settlement to be approved?

The Court has to decide that the settlement is fair, reasonable, and adequate before it will approve it. The Court already has decided to provide preliminary approval of the settlement, which is why you received this Notice. The Court will make a final decision regarding the settlement at a "Fairness Hearing" or "Final Approval Hearing", which is currently scheduled for [first Monday 90 days after Notice is sent].

THE SETTLEMENT PAYMENT

9. How much is the Settlement?

MOL has agreed to create a Settlement Fund of \$700,000. As discussed separately below, Attorneys' fees, litigation costs, and a Service Award to the Named Plaintiff will be paid out of the Settlement Fund. The balance of the Settlement Fund will be divided among all Class Members based on the amount of eligible per diem or detention fees they paid.

10. How much of the settlement fund will be used to pay for attorney fees and costs?

Class Counsel has requested that the Court award up to \$400,000 as attorneys' fees. Approximately \$50,000 of the \$400,000 will be used to cover litigation costs incurred in prosecuting the case, and administering claims. The Court will decide the amount of the attorneys' fees and costs based on a number of factors, including the risk associated with bringing the case on a contingency basis, the amount of time spent on the case, the amount of costs incurred to prosecute the case and administer claims, the quality of the work, and the outcome of the case.

11. How much of the settlement fund will be used to pay the Named Plaintiff a Service Award

Class Counsel on behalf of Named Plaintiff NGL Transportation, LLC has requested that the Court award it \$5,000 for its role in acting as the Named Plaintiff and securing this settlement on behalf of the class. The Court will decide if a Service Award is appropriate and if so, the amount of the award.

12. How much will my payment be?

After payment of attorneys' fees and costs of litigation, and the Service Award payment to Named Plaintiff NGL Transportation, LLC, there will be approximately \$295,000 in the Net Settlement Fund. The amount you receive will be determined by the following formula:

$$(\text{Net Settlement Fund} / \text{Total Improper Per Diem/Detention Charges}) \times \text{Total Improper Charges} \\ \text{Charge per Class Member} = \text{Individual Payment}$$

13. Do I have to do anything if I want to participate in the Settlement?

No. As long as you do not opt out, a check will be mailed to you at the last known address MOL has for you. If your address has changed, you should provide your current address to Class Counsel at the address set forth in Question 18, below.

14. When will I receive my payment?

The Court will hold a Fairness Hearing (explained below in Questions 21-23) on [] to consider whether the settlement should be approved. If the Court approves the settlement, then payments should be made should be issued within about 10 days. However, if someone objects to the settlement, and the objection is sustained, then there is no settlement. Even if all objections are overruled and the Court approves the settlement, an objector could appeal and it might take months or even years to have the appeal resolved, which would delay any payment.

EXCLUDING YOURSELF FROM THE SETTLEMENT

15. How do I exclude myself from the settlement?

If you do not want to receive a payment, or if you want to keep any right you may have to sue MOL for the claims alleged in this lawsuit, then you must exclude yourself or “opt out.”

To opt out, you must send a letter to Class Counsel that you want to be excluded. Your letter can simply say “I hereby elect to be excluded from the settlement in the *Elite Logistics Corp. v. MOL (America), Inc.* class action.” Be sure to include your name, address, telephone number, and email address. Your exclusion or opt out request must be postmarked by [30 days after class notice is sent], and sent to:

CLASS COUNSEL
Elite Logistics Corp. v. MOL (America), Inc. David C. Wright McCune Wright Arevalo, LLP 3281 East Guasti Road, Suite 100 Ontario, CA 91761

16. What happens if I opt out of the settlement?

If you opt out of the settlement, you will preserve and not give up any of your rights to sue MOL for the claims alleged in this case. However, you will not be entitled to receive a payment from this settlement.

17. If I exclude myself, can I obtain a payment?

No. If you exclude yourself, you will not be entitled to a payment.

OBJECTING TO THE SETTLEMENT

18. How do I notify the Court that I do not like the settlement?

You can object to the settlement or any part of it that you do not like **IF** you do not exclude yourself or opt out from the settlement. (Class Members who exclude themselves from the settlement have no right to object to how other Class Members are treated.) To object, you must send a written document to Class Counsel at the address below. Your objection should say that you are a Class Member, that you object to the settlement, and the factual and legal reasons why you object, and whether you intend to appear at the hearing. In your objection, you must include your name, address, telephone number, email address (if applicable) and your signature.

All objections must be post-marked no later than [30 days after class notice is sent], and must be mailed to Class Counsel as follows:

CLASS COUNSEL
Elite Logistics Corp. v. MOL (America), Inc.

David C. Wright
McCune Wright Arevalo, LLP
3281 East Guasti Road, Suite 100
Ontario, CA 91761

19. What is the difference between objecting and requesting exclusion from the settlement?

Objecting is telling the Court that you do not believe the settlement is fair, reasonable, and adequate for the class, and asking the Court to reject it. You can object only if you do not opt out of the settlement. If you object to the settlement and do not opt out, then you are entitled to a payment if the settlement is approved, but you will release claims you might have against MOL. Excluding yourself or opting out is telling the Court that you do not want to be part of the settlement, and do not want to receive a payment or release claims you might have against MOL for the claims alleged in this lawsuit.

20. What happens if I object to the settlement?

If the Court sustains your objection, or the objection of any other Class Member, then there is no settlement. If you object, but the Court overrules your objection and any other objection(s), then you will be part of the settlement.

THE COURT'S FAIRNESS HEARING

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

The Court will hold a Final Approval or Fairness Hearing at Monday [1st Monday 90 days after notice is sent] on ___ at Courtroom 9C of the United States District Court for the Central District of California, located at 350 West 1st Street, Los Angeles, California 90012. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are objections, the Court will consider them. The Court may also decide how much to award Class Counsel for attorneys' fees and expenses and how much the Named Plaintiff should get as a Service Award for acting as the class representative.

22. Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. You may attend if you desire to do so. If you have submitted an objection, then you may want to attend.

23. May I speak at the hearing?

If you have objected, you may ask the Court for permission to speak at the Final Approval Hearing. To do so, you must include with your objection, described in Question 18, above, the statement, "I hereby give notice that I intend to appear at the Final Approval Hearing."

IF YOU DO NOTHING

24. What happens if I do nothing at all?

If you do nothing at all, and if the settlement is approved, then you will receive a payment that represents your share of the Settlement Fund net of attorneys' fees and the Named Plaintiff's Service Award. You will be considered a part of the class, and you will give up claims against MOL for the conduct alleged in this lawsuit. You will not give up any other claims you might have against MOL that are not part of this lawsuit.

THE LAWYERS REPRESENTING YOU

25. Do I have a lawyer in this case?

The Court ordered that the lawyers and their law firms referred to in this notice as "Class Counsel" will represent you and the other Class Members.

26. Do I have to pay the lawyer for accomplishing this result?

No. Class Counsel will be paid directly from the Settlement Fund.

27. Who determines what the attorneys' fees will be?

The Court will be asked to approve the amount of attorneys' fees at the Fairness Hearing. Class Counsel will file an application for fees and costs and will specify the amount being sought as discussed above. You may review the fee application at [WEBSITE] or view a physical copy at the Office of the Clerk of the United States District Court for the Central District of California, which is located at 350 West 1st Street, Los Angeles 90012.

GETTING MORE INFORMATION

This Notice only summarizes the proposed settlement. More details are contained in the settlement agreement, which can be viewed/obtained online at [WEBSITE] or at the Office of the United States District Court Central District of California by asking for the Court file containing the Motion for Preliminary Approval of Class Settlement (the settlement agreement is attached to the motion).

For additional information about the settlement and/or to obtain copies of the settlement agreement, or to change your address for purposes of receiving a payment, you should contact Class Counsel as follows:

Elite Logistics Corp. v. MOL (America) Inc. Class Counsel:

David C. Wright
McCune Wright Arevalo, LLP
3281 E. Guasti Road, Ste. 100
Ontario, CA 91761
Telephone: (909) 557-1250
dcw@mccunewright.com

PLEASE DO NOT CONTACT THE COURT OR ANY REPRESENTATIVE OF MOL CONCERNING THIS NOTICE OR THE SETTLEMENT