

SETTLEMENT AGREEMENT

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the United States Department of Homeland Security, Customs and Border Protection (collectively the “United States”), United Silica Products, Inc. (“USP”), Lynnmarie Boccuzzo (aka Lynn Kane, Lynnmarie Kane) (“Boccuzzo”), United Way International, Inc. (“United Way”), and Argos Express Ltd. (“Argos) (hereafter collectively referred to as “the Parties”), through their authorized representatives.

RECITALS

A. USP is a company based in Franklin, New Jersey engaged in the business of manufacturing quartz-based products for the semiconductor, fiber optic, and photovoltaic industries. Boccuzzo is an officer and shareholder of USP. United Way is a company based in Jamaica, New York and operates as a customs broker. Argos is a company based in Queens, New York and operates as a freight forwarder.

B. The United States contends that it has certain civil claims against USP, United Way, and Argos, arising from the facts and conduct described in this paragraph, for which USP, United Way, and Argos, admit, acknowledges, and accept responsibility for their respective conduct:

- (i) Between July 22, 2015 and October 6, 2020, Noble Brand Holdings, Ltd. (“Noble”¹) was the manufacturer of record for certain products that it sold to USP;
- (ii) Pursuant to a power of attorney, USP authorized United Way to act on its behalf as a customs broker;
- (iii) In connection with USP’s orders, Noble provided entry documents to Argos, and Argos then provided entry documents, including commercial invoices, to United Way;
- (iv) Argos should have known that the commercial invoices furnished by Noble to make entry into the United States contained false statements concerning the value of the products sold to USP;
- (v) United Way filed the entry documents, without verifying the accuracy thereof, with CBP for purposes of entering Noble’s products into the United States;
- (vi) USP should have known that the entry documents that United Way filed listed USP as the importer of record;
- (vii) The false statements in the entry documents resulted in the undervaluation of the merchandise sold by Noble to USP which, in turn, resulted in the loss of revenue to the United States in the form of customs duties and other fees

¹ For its role in the conduct described herein, Noble entered into a separate civil settlement agreement with the United States on or about June 14, 2022.

that should have been paid had the proper value been declared.

The conduct described in this paragraph is referred to below as the Covered Conduct.

C. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. USP shall pay to the United States twenty thousand dollars (\$20,000) and Boccuzzo shall pay to the United States five thousand dollars (\$5,000) (collectively, the “USP Settlement Amount”), none of which is restitution. United Way shall pay to the United States fifteen thousand dollars (\$15,000) (the “United Way Settlement Amount”), none of which is restitution. Argos shall pay to the United States fifteen thousand dollars (\$15,000) (“Argos Settlement Amount”), none of which is restitution. USP, Boccuzzo, United Way, and Argos shall make their respective payments by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney’s Office for the District of New Jersey no later than 10 days after the Effective Date of this Agreement.

2. Subject to the exceptions in Paragraph 3 (concerning reserved claims) below, and conditioned upon the United States’ receipt of the USP

Settlement Amount, the United Way Settlement Amount, and the Argos Settlement Amount, the United States releases USP, Boccuzzo, United Way, and Argos, respectively, from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; the Tariff Act of 1930, 19 U.S.C. §§ 1592 and 1595a, or any action under 19 U.S.C. § 1641, or the common law theories of breach of contract, payment by mistake, unjust enrichment, and fraud.

3. Notwithstanding the release given in Paragraph 2 of this Agreement, or any other term of this Agreement, the following claims and rights of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability or enforcement right, or any administrative remedy, including the suspension and debarment rights of any federal agency;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement; and

f. Any liability of individuals, other than the release of Boccuzzo for the Covered Conduct.

4. USP, Boccuzzo, United Way, and Argos waive and shall not assert any defenses USP, Boccuzzo, United Way, or Argos may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action.

5. USP, Boccuzzo, United Way, and Argos fully and finally release the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorneys' fees, costs, and expenses of every kind and however denominated) that USP, United Way, and Argos have asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

6. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of USP, United Way, and Argos, and their respective present or former officers, directors, employees, shareholders, and agents in connection with:

(1) the matters covered by this Agreement;

- (2) the United States' audit(s) and civil and criminal investigation(s) of the matters covered by this Agreement;
- (3) USP, United Way, and Argos's investigations, defenses, and corrective actions undertaken in response to the United States' audit(s) and civil and any criminal investigation(s) in connection with the matters covered by this Agreement (including attorneys' fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payments USP, United Way, or Argos make to the United States pursuant to this Agreement,

are unallowable costs for government contracting purposes (hereinafter referred to as Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by USP, United Way, and Argos, and USP, United Way, and Argos shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, USP, United Way, and Argos shall identify and repay by adjustment to future

claims for payment or otherwise any Unallowable Costs included in payments previously sought by USP, United Way, and Argos or any of their respective subsidiaries or affiliates from the United States. USP, United Way, and Argos each agree that the United States, at a minimum, shall be entitled to recoup from USP, United Way, or Argos, respectively, any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine USP, United Way, or Argos's books and records and to disagree with any calculations submitted by USP, United Way, or Argos or any of their respective subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by USP, United Way, or Argos, respectively, or the effect of any such Unallowable Costs on the amount of such payments.

7. This Agreement is intended to be for the benefit of the Parties only.

8. Each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

9. Each Party and signatory to this Agreement represents that it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

10. This Agreement is governed by the laws of the United States. The exclusive venue for any dispute relating to this Agreement is the United States District Court for the District of New Jersey. For purposes of construing this Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

11. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

12. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

13. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

14. This Agreement is binding on the Parties hereto and USP's, United Way's, and Argos's respective successors, transferees, heirs, and assigns.

15. All Parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.


16. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of

signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

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THE UNITED STATES OF AMERICA

Dated: Dec. 13, 2022

By: 

DAVID V. SIMUNOVICH
Assistant United States Attorney
United States Attorney's Office
District of New Jersey

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

Dated: Dec. 6, 2022

BY: /s/ Patricia M. McCarthy

PATRICIA M. McCARTHY
Director


Dated: Dec. 6, 2022

BY: /s/ Stephen C. Tosini

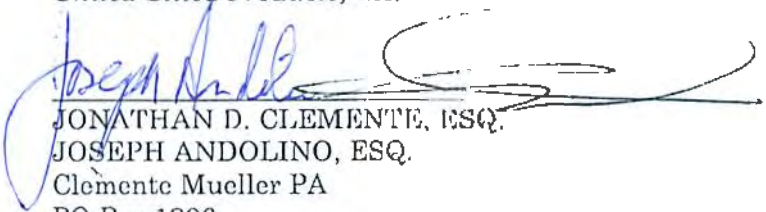
STEPHEN C. TOSINI
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
United States Department of Justice

UNITED SILICA PRODUCTS, INC.

Dated: 12-9-22


LYNNMARIE BOCCUZZO
President
United Silica Products, Inc.

Dated: 12/9/22

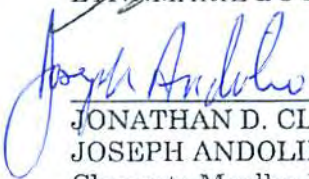

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Dated: 12-9-22

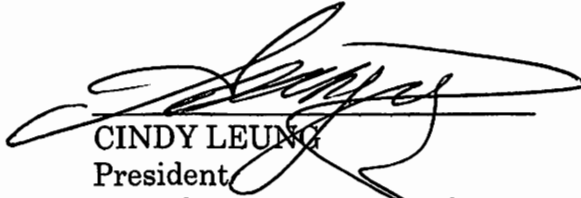

LYNNMARIE BOCCUZZO

Dated: 12/9/22



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UNITED WAY INTERNATIONAL, INC.

Dated: 12/6/22

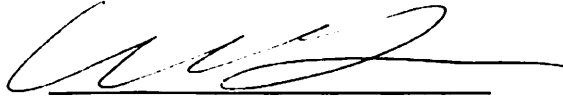

CINDY LEUNG
President
United Way International, Inc.

Dated: 12/9/22


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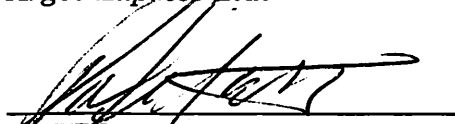
ARGOS EXPRESS LTD.

Dated: 12/7/2022



WILLIAM LI
Vice President
Argos Express Ltd.

Dated: 12/9/22



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