

EXHIBIT 1

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
BLS-1

ALEX YOUSSEFI, on behalf of himself and all
others similarly situated,

Plaintiffs,

v.

DIRECT ENERGY SERVICES, LLC;
CREDICO (USA) LLC

Defendants.

Civ. No. 1884cv03809

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “Agreement”) is entered into by and among Plaintiff Alex Youssefi (“Named Plaintiff”), on the one hand, and Direct Energy Services, LLC (“Direct Energy”) and Credico (USA) LLC (“Credico”) (together, the “Defendants”), on the other. The Named Plaintiff and Defendants are each referred to as a “Party” or together “the Parties” to the above-captioned putative class action (the “Lawsuit”), pending before the Massachusetts Superior Court for Suffolk County, Business Litigation Session-1 (the “Court”).

RECITALS

WHEREAS, on December 10, 2018, the Named Plaintiff commenced the Lawsuit by filing a complaint in Court asserting claims that Defendants violated Massachusetts law by classifying him and Settlement Class Members (defined below) as independent contractors and failing to pay the them minimum wage, overtime, and certain benefits, in violation of the Massachusetts Wage Act, M.G.L. c. 149, § 148, and the Massachusetts Minimum Fair Wage Law, M.G.L. c. 151, §§ 1-1A (the “Complaint”);

WHEREAS, on March 5, 2020, the Court dismissed the overtime pay claims from the Lawsuit, finding that Named Plaintiff was exempt from overtime pay requirements as an exempt outside sales person;

WHEREAS, on January 4, 2023, the Named Plaintiff filed an amended complaint (the “Amended Complaint”) by adding Credico as a defendant, removing Direct Energy Business, LLC as a defendant, and adding a claim for breach of contract on a third-party beneficiary theory;

WHEREAS, in the Complaint and the Amended Complaint, the Named Plaintiff sought certification of a class of similarly situated individuals who sold Direct Energy products door-to-door in Massachusetts on a Credico-brokered campaign from July 1, 2015 through October 31, 2018 (the “Settlement Period”) (together, the “Settlement Class”);

WHEREAS, the Parties completed substantial discovery in the Lawsuit, including written discovery and depositions;

WHEREAS, the Parties engaged in arms-length comprehensive settlement negotiations over the course of fifteen months, overseen by an experienced and well-respected wage and hour mediator, D. Charles Stohler, Esq.;

WHEREAS, the Parties’ litigation and mediation efforts resulted in a Memorandum of Understanding that outlines the material terms and conditions of a settlement on a class-wide basis, as set forth further herein (the “Settlement”);

WHEREAS, in agreeing to the Settlement embodied in this Agreement, the Named Plaintiff and Settlement Class Counsel have considered: (i) the facts developed during their investigation of the Lawsuit and the law applicable thereto; (ii) the attendant risks of continued litigation and the uncertainty of the outcome of the Lawsuit; and (iii) the desirability of permitting the Settlement to be consummated according to the terms of this Agreement. The Named Plaintiff and Settlement Class Counsel have concluded that the terms and conditions of the Settlement and this Agreement are fair, reasonable, and adequate, and in the best interests of the Named Plaintiff and the Settlement Class, to settle the Lawsuit as set forth below; and

WHEREAS, Defendants have denied and continue to deny the material allegations of the Complaint, including all allegations of wrongdoing, fault, liability or damage to the Named Plaintiff or any Settlement Class Members (as defined below), deny that they committed any violation of law, deny that they acted improperly in any way, deny that the Named plaintiff is representative of any putative class, deny that the Named Plaintiff was a third party beneficiary of any contract, maintain that they acted properly at all times, and maintain the Lawsuit has no merit, but are entering into this Agreement solely because the proposed Settlement would eliminate the burden, risk, and expense of further litigation.

NOW THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all Parties,

IT IS HEREBY STIPULATED AND AGREED, by and among the Named Plaintiff, individually and on behalf of the Settlement Class Members (as defined below), and Defendants, that, subject to the approval of the Court and the other conditions set forth herein, the Lawsuit shall be settled, compromised and dismissed, on the merits and with prejudice, and that the Released Claims (as defined below) shall be finally and fully compromised, settled and dismissed as to the Releasees (as defined below), in the manner and upon the terms and conditions hereafter set forth.

TERMS AND CONDITIONS

DEFINITIONS

1. Capitalized terms used in this Agreement shall have the meanings ascribed to them herein. In addition, the following capitalized terms shall have the meanings specified below:

(a) “Administrator” is the third-party administrator who will be charged with administering this Agreement, at the direction of the Parties and their counsel. The Parties have selected Atticus Administration LLC, to act as Administrator. The Administrator shall be responsible for the tasks detailed herein, including but not limited to establishing and managing the Settlement Account, disseminating notice of the Settlement to Settlement Class Members and reviewing/collecting claim forms submitted in response thereto, distributing the Attorneys’ Fee Award and Service Awards as approved by the Court, distributing awards to Participating Class Members, and tax reporting related to the Settlement Payments.

(b) “Administrative Costs” means the amount to be paid to the Administrator for all fees and costs incurred connection with administering the terms of this Agreement.

(c) “Effective Date” means the latest of (1) the date that the Court’s judgment finally approving this Agreement becomes final and is no longer subject to appeal, (2) the date that the Lawsuit is dismissed with prejudice and with all rights of appeal waived, and (3) the final resolution of any appeal fully and finally approving the Agreement.

(d) “Gross Settlement Amount” means the cash amount of no more than Four Hundred Fifty Thousand Dollars (\$450,000.00) to be paid by Defendants in resolution of the Lawsuit. The Gross Settlement Amount shall be used for the payment of: the Settlement Payments (defined below); the Attorneys’ Fee Award (defined below); the Service Award (defined below); and the Administrative Costs. In no event shall Defendants’ financial obligation to settle all claims in the Lawsuit, in exchange for the General Release set forth in Paragraph 13, herein, exceed the Gross Settlement Amount. .

(e) “Net Settlement Amount” is that portion of the Gross Settlement Amount that remains after the Attorneys’ Fee Award, Service Award, and Administrative Costs are paid.

(f) “Prohibited Action” means any action or proceeding (regardless of jurisdiction or venue) seeking any form of relief, recovery, or remedy, whether legal, equitable or otherwise, brought on an individual basis, a group or collective basis, or on a class-wide basis or on any other putative or purported “representative” basis (including, but not limited to, any claims brought on a “representative,” “derivative” and/or “private attorney general” basis), against any of the Releasees in any way relating to, based upon, or arising out of the Released Claims.

(g) “Released Claims” means any and all claims that Named Plaintiff did or could have asserted against Defendants through October 31, 2018, and all claims under state or federal law that were or could have been asserted on behalf of the Settlement Class Members based on the allegations in the Complaint or Amended Complaint, as defined in Paragraphs 13-14, below.

(h) “Releasees” means Defendants and each of their parents, subsidiaries, affiliates, predecessors, successors, owners, directors, officers, members, employees, attorneys, representatives, heirs, and agents, as applicable.

(i) “Settlement Account” means the qualified settlement fund controlled by the Administrator at a federally insured bank, mutually acceptable to the Parties and to the Administrator, into which the Gross Settlement Amount is or will be deposited. No other funds shall be commingled within the Settlement Account.

(j) “Settlement Class” means the class, certified for settlement purposes only pursuant to Rule 23 of the Massachusetts Rules of Civil Procedure, of all individuals who sold Direct Energy products door-to-door in Massachusetts on a Credico-brokered campaign from July 1, 2015 through October 31, 2018. Individuals who are part of the Settlement Class are referred to herein as “Settlement Class Members.” The Named Plaintiff shall be designated as the “Settlement Class Representative.” Defendants’ stipulation is for settlement purposes only, and they reserve all rights to challenge the propriety of class certification should the Settlement not become final, including without limitation as a result of the Court declining to approve this Agreement, or this Agreement not becoming effective for any reason.

(k) “Settlement Period” is July 1, 2015, through October 31, 2018.

(l) “Participating Class Members” shall mean those Settlement Class Members who timely return a completed, unaltered Claim Form (which is attached as Exhibit A hereto).

(m) “Settlement Class Releasers” means the Named Plaintiff and all other Settlement Class Members and their respective heirs, administrators, executors, successors and assigns.

(n) “Settlement Payment” means the cash distribution from the Settlement Account to each of the Participating Class Members.

(o) “Settlement Class Counsel” means attorneys Hillary Schwab and Rachel Smit of Fair Work, P.C.

NO ADMISSION OF LIABILITY

2. By entering this Agreement, Defendants in no way admit any violation of law or any liability whatsoever to the Named Plaintiff and/or the Settlement Class Members, individually or collectively, all such liability being expressly denied by Defendants. Defendants have elected to enter into this Agreement solely to avoid further protracted litigation and to fully and finally resolve and settle all disputes with the Named Plaintiff and Settlement Class Members. Settlement of the Lawsuit, negotiation and execution of this Agreement, and all acts performed and documents executed pursuant to or in furtherance of this Agreement or the Settlement: (i) are not, shall not be deemed to be, and may not be used as an admission or evidence of any wrongdoing or liability on the part of Defendants, or of the truth of any of the factual allegations in any and all complaints or other papers filed by the Named Plaintiff in the Lawsuit; and (ii) are not, shall not be deemed to be, and may not be used as an admission or evidence of fault or omission on the part of Defendants

in any civil, criminal, administrative, or arbitral proceeding. The Parties understand and agree that this Agreement is a settlement document and shall be inadmissible in evidence in any proceeding, except an action or proceeding to approve, interpret, or enforce the terms of the Agreement.

SETTLEMENT AMOUNT

3. **Settlement Amount.** Defendants shall pay the Gross Settlement Amount as consideration for the dismissal of the Lawsuit with prejudice and waiver of the Released Claims. The Gross Settlement Amount shall be Defendants' total obligation to the Settlement Class Members, the Participating Class Members, the Named Plaintiff, and Settlement Class Counsel relating to the Settlement. Defendants shall not be required to pay more than the Gross Settlement Amount in connection with the Settlement for any reason or under any circumstance.

4. **Distribution of Settlement Amount.** The Gross Settlement Amount shall be distributed by the Administrator in the following manner:

(a) Subject to Court approval and contingent on receipt by the Administrator of a completed IRS Form W-9 from Settlement Class Counsel, one-third of the Gross Settlement Amount (not to exceed \$150,000) will be paid for any attorneys' fees, costs and expenses incurred by Settlement Class Counsel (the "Attorneys' Fee Award").

(b) Subject to Court approval, all Administrative Costs associated with the Settlement will be paid to the Administrator, who will be responsible for effectuating the responsibilities set forth herein, including but not limited to: disseminating the Notice of Proposed Class Action Settlement (the "Notice"), appended hereto as Exhibit B, and Claim Form to all Settlement Class Members; collecting Claim Forms; responding to, and communicating with Defendants' Counsel and Settlement Class Counsel as necessary concerning questions from Settlement Class Members; compiling the record of Participating Class Members for the purpose of calculating the Settlement Payments; calculating and distributing the Settlement Payments to all Participating Class Members; distributing the Attorneys' Fees Award; distributing the Service Award; distributing any remaining Net Settlement Amount to the Cy Pres Fund; and performing all necessary tax reporting as a result of such distributions.

(c) Subject to Court approval and in addition to any distribution from the Net Settlement Amount, the Named Plaintiff will receive a service award not to exceed \$5,000 to compensate him for his efforts in retaining counsel, initiating the Lawsuit, and participating in discovery including a deposition, and in exchange for the General Release in Paragraph 13, below (the "Service Award").

(d) Any requested but unapproved amounts for Attorneys' Fee Award, Service Award, or Administrative Costs shall revert to the Net Settlement Amount. Any such amounts requested shall not be a material term of the Settlement and, if not approved by the Court, shall not constitute a basis upon which to terminate this Agreement.

(e) The Net Settlement Amount will be distributed to the Participating Class Members who timely return to the Administrator a completed Claim Form along with a completed IRS Form W-9. The Settlement Payments and Service Award shall be reported on an IRS Form

1099 as “other income” (Box 3). The Administrator will also provide IRS Form 1099s to Named Plaintiff and Settlement Class Counsel for the Attorneys’ Fee Award. The Administrator will prepare the IRS Forms 1099 and issue all such forms to the Named Plaintiff, Settlement Class Counsel, and Participating Class Members.

(f) Named Plaintiff and Participating Class Members acknowledge that they have not relied on any statements or representations by the Defendants or their attorneys with respect to the tax treatment of the payments described in this section. If any taxing body determines that the tax treatment was incorrect and that amounts should have been withheld from any payment above (or any part thereof), Named Plaintiff and Participating Class Members acknowledge and assume all responsibility for paying those amounts and further agree to indemnify and hold Defendants harmless for payment of any additional taxes and any interest and penalties arising from the tax treatment of the payments.

SETTLEMENT APPROVAL PROCEDURES

5. **Contingency of Agreement.** This Agreement will become final and effective on the Effective Date.

The Parties agree that these necessary approvals shall be sought and sequenced as follows:

(a) **Preliminary Approval.** Within thirty (30) days after the Parties execute this Agreement, Settlement Class Counsel shall prepare and file a Motion for Preliminary Approval of the Settlement, including an Unopposed Motion for Class Certification for settlement purposes only. The preliminary approval papers shall be submitted to Defendants for their review and input at least seven (7) days prior to filing. The preliminary approval papers shall include a proposed preliminary approval order to be entered by the Court (the “Preliminary Approval Order”) that will, among other things, provide for: (1) preliminary approval of the Settlement Class for settlement purposes only, including the designation of the Named Plaintiff as the Settlement Class representative and the designation of Settlement Class Counsel as the legal representatives thereof; (2) approval of the Notice and Claim Form to be distributed to Settlement Class Members, in substantially the form attached hereto as Exhibits A and B; and (3) requesting to set the date and time for the fairness hearing for final approval of the Settlement (“Fairness Hearing”) within thirty (30) days of the filing thereof.

(b) **Final Approval.** Settlement Class Counsel shall provide a draft of an Unopposed Motion for Final Approval of the Settlement, including a proposed Order of Approval (together, the “Motion for Final Approval”), to counsel for the Defendants for review no later than seven (7) days in advance of the date on which it must be filed. Defendants shall provide any comments within three (3) business days of receipt thereof. Settlement Class Counsel shall file the Motion for Final Approval with the Court no later than seven (7) calendar days in advance of the Fairness Hearing, or by such other date as the Court may direct. Provided that the Parties agree to the form and content of the Motion for Final Approval, at the Fairness Hearing, the Named Plaintiff will, with Defendants’ assent, request that the Court approve the Settlement and enter the Order of Approval. Upon final approval of the Agreement, the Parties shall file a joint stipulation of dismissal under Mass. R. Civ. P. 41(a)(2) requesting that the Lawsuit be dismissed with

prejudice, waiving all rights of appeal, and with the parties to bear their own attorneys' fees and costs, except as provided herein.

(c) **Petition for Attorneys' Fees and Expense Reimbursement.** At the Fairness Hearing, Settlement Class Counsel shall request that the Court award them the Attorneys' Fee Award. This award shall compensate Settlement Class Counsel for all work performed and costs incurred from the inception of the Lawsuit to its conclusion, including all future work in connection with the implementation of this Settlement, seeking approval of this Agreement from the Court, responding to any objections to the Settlement and/or appeals of the Court's orders or judgments, working with the Administrator as needed to administer the Settlement, and filing all documents necessary to fulfill all terms and conditions of this Agreement, including those that occur after the Effective Date.

SETTLEMENT ADMINISTRATION PROCEDURES

6. **Provision of Class List to Administrator.** Within seven (7) business days after the Preliminary Approval Order is docketed by the Court, Defendants will provide to the Administrator a spreadsheet that contains (i) the names of the Settlement Class Members; and (ii) their last known addresses, e-mail addresses, and mobile phone numbers (all to the extent that such information is reasonably accessible, available and in Defendants' possession) (together, the "Class List"). Any information provided by the Defendants shall be "as is," meaning as such information has been maintained by the Defendants in their ordinary course of business. Defendants have no obligation to attempt to locate or identify contact information for Settlement Class Members that is not in their possession and reasonably accessible. The Named Plaintiff and Settlement Class Counsel acknowledge and understand that Defendants maintain that they do not possess records traditionally maintained by an employer in relation to members of the Settlement Class. To the extent that contact information for Settlement Class Members may be in possession of a non-party, Defendants will not object to Plaintiff's Counsel issuing third-party subpoenas to attempt to obtain such contact information, but Defendants assume no obligation to undertake any affirmative efforts to secure such information.

7. **Mailing of the Notice Package.** The Administrator will effectuate transmission of the Notice, Claim Form, and appropriate tax forms (together, the "Notice Package") by first class mail, e-mail, and text message (to the extent such contact information is available) to all Settlement Class Members within fourteen (14) calendar days after receiving the Class List. Email and text message notices will link to a website created for purposes of the settlement containing the Notice Package. Before sending the Notice Package, the Administrator will perform an address update on the Class List through a recognized address update database, and the Administrator will also perform updates of Settlement Class Members' e-mail and mobile phone information to the extent feasible. With regard to any Notice Package that is returned to the Administrator as undeliverable and for which the Administrator receives actual notice of a failure of delivery to the intended recipient, the Administrator will perform customary database searches or skip traces to locate a current address and, if current information is located, shall promptly re-send the Notice Package. The Administrator shall also promptly re-mail, re- email, or re-send via text message the Notice Package to a Settlement Class Member upon request by that individual or by Settlement Class Counsel (with provision of updated address, email address, or mobile phone number information).

8. **Claim Forms.** Only Settlement Class Members who timely submit a valid, unaltered, and complete Claim Form and IRS Form W-9 are eligible to receive a share of the Net Settlement Amount. Settlement Class Members will have sixty (60) calendar days from the date of distribution of the Notice Packages by the Administrator to return their completed Claim Form and completed IRS Form W-9 to the Administrator (the “Claim Deadline”). Claim Forms may be submitted by mail, email, facsimile, or online on a website created for purposes of the settlement. Those Settlement Class Members who submit all necessary forms before the Claim Deadline shall be considered “Participating Class Members.” Any Settlement Class Members who do not timely submit a Claim Form shall be ineligible to participate in the Settlement but shall be bound by the terms of this Agreement. The Parties may agree to treat late Claim Forms, on a case-by-case basis, as timely up until the date that settlement checks are issued. In order to be valid and effective, a Claim Form must be unaltered, signed, dated, and postmarked or otherwise returned to the Administrator on or before the Claim Deadline. Upon receipt of an unsigned, incomplete, or altered Claim Form, the Administrator shall apprise the individual who returned the form of its deficiency and provide such individual with a substitute form that the individual may use to cure the deficiency within five (5) calendar days or before the Claim Deadline, whichever time period is longer. A Claim Form that remains unsigned, incomplete, or altered after the time period set forth herein shall be void, absent a showing of good cause made more than seven (7) calendar days prior to the date of the Fairness Hearing. The Parties agree to allow the Administrator to resolve any challenges regarding the validity of any Claim Form made pursuant to this Paragraph and to make a final and binding determination on all issues presented by any such challenges without hearing or right of appeal.

9. **Objections.** Settlement Class Counsel and the Named Plaintiff agree that they will not object to this Settlement. Any Settlement Class Member who wishes to object to the Settlement must do so in writing, and include a statement of the objection, as well as the specific reasons that he or she is objecting to the Settlement. The objection also must include his or her full name, mailing address, email address, and phone number, along with the name of the entity (or entities) that hired the Settlement Class Member to sell Direct Energy products on a Credico-brokered campaign, and the dates when the Settlement Class Member performed work for that entity. In addition, the objecting Settlement Class Member must personally sign the objection. Any objections must be postmarked or otherwise returned to the Administrator prior to the Claim Deadline. The Administrator shall provide copies of each objection received to both Settlement Class Counsel and counsel for the Defendants within two (2) business days of receipt of such objection. To the extent any objections are directed to Settlement Class Counsel instead of the Administrator, Settlement Class Counsel will provide copies of any such objection to Defendants’ counsel with two (2) business days after receipt thereof.

SETTLEMENT FUNDING AND DISTRIBUTION OF PAYMENTS

10. **Funding of the Settlement.** Defendants shall deposit the Gross Settlement Amount into the Settlement Account within twenty-one (21) days after the Effective Date.

11. **Settlement Account.** With respect to the Settlement Account, the Administrator shall: (1) establish and administer the Settlement Account in such a manner as to qualify and

maintain the qualification of the Settlement Account as a “Qualified Settlement Fund” under Section 468B of the Code and Treas. Reg. § 1.468B-1; (2) satisfy all tax reporting, return and filing requirements with respect to the Settlement Account and any interest or other income earned by the Settlement Account; and (3) satisfy out of the Settlement Account all taxes (including any estimated taxes, interest, or penalties) with respect to the interest or other income earned by the Settlement Account. Fees, expenses, and costs incurred in connection with the opening and administration of the Settlement Account shall be treated as, and included in, the Administrative Costs. The Parties and the Administrator shall elect to treat the Settlement Account as coming into existence as a Qualified Settlement Fund on the earliest date permissible under 26 C.F.R. § 1.468B-1(j)(2)(i), and such election statement shall be attached to the appropriate returns as required by 26 C.F.R. § 1.468B-1(j)(2)(ii). The Parties agree to cooperate with the Administrator and one another as necessary to effectuate the terms of this Agreement. In no event shall the Administrator withdraw, transfer, pledge, impair, or otherwise make use of the funds in the Settlement Account except as expressly provided in this Agreement.

12. **Calculation and Disbursement of Settlement Payments.** Settlement Payments shall be calculated and disbursed by the Administrator as follows:

(a) Within seven (7) business days after the Preliminary Approval Order is docketed by the Court, Defendants will provide to the Administrator, and to Settlement Class Counsel on an anonymized basis using individual identification numbers, records of each Settlement Class Member’s sales made and estimated days worked based on sales data in accordance with Defendants’ records, as provided to Settlement Class Counsel on May 24, 2023, in furtherance of the Parties’ mediation efforts.

(b) Defendants’ records shall be dispositive with respect to the total sales made and estimated days worked for all members of the Settlement Class during the Settlement Period.

(c) Defendants’ counsel, subject to review and approval by Settlement Class Counsel, shall calculate the amount of each Settlement Class Member’s *pro rata* share of the Net Settlement Amount to Plaintiff and Participating Class Members, based on sales made and estimated days worked based on sales data in accordance with Defendants’ records, except that all Participating Class Members shall receive minimum payments of at least \$100. Following approval by Settlement Class Counsel, the parties shall provide those calculations to the Administrator.

(d) **Timing of Payments to Participating Class Members.** All Settlement Payments shall be mailed by the Administrator within fourteen (14) calendar days after the Gross Settlement Amount is deposited into the Settlement Account.

(e) **Timing of Payment of Service Awards to Named Plaintiff.** The Service Award, if any, shall be mailed by the Administrator to the Named Plaintiff contemporaneously with the mailing of his Settlement Payment.

(f) **Timing of Payment of Attorneys’ Fee Award.** Assuming the Administrator has received a completed IRS Form W-9 from Settlement Class Counsel, the Attorneys’ Fee Award shall be mailed by the Administrator to Settlement Class Counsel within

fourteen (14) calendar days after the Gross Settlement Amount is deposited into the Settlement Account.

(g) **Expiration of Settlement Checks.** All checks issued by the Administrator shall expire sixty (60) days after they are issued and shall include a statement to this effect on the face of the checks. At the close of the 60-day period, the Administrator will issue a stop payment order on all uncashed or returned checks. In the event a Participating Class Member reports a lost or destroyed check within the 60-day period, the Administrator shall issue a stop payment order on the original check and issue a new check. Any stop payment fee will be paid from the Net Settlement Fund and will not be deducted from the reissued check. If a check is reported as lost or stolen during the final fifteen (15) days of the 60-day period, the Participating Class Member will receive an additional 15-day grace period to cash the check, but in no event will a check issued remain valid beyond seventy-five (75) days after the date the original check was issued. Failure by a Participating Class Member to deposit or cash a check within the time period allotted shall have no effect on that individual's release of claims.

(h) **Dispute Fund.** Any residual funds remaining in the QSF after the expiration of the 60-day period shall be held for an additional sixty (60) days to resolve any disputes that may have arisen during the settlement administration and claims process.

(i) **Cy Pres Fund.** Subject to Settlement Class Counsel giving notice to the Massachusetts IOLTA Committee for the limited purpose of allowing the Committee to be heard on whether it ought to be a recipient of any or all residual funds, and subject to Court approval, any residual funds remaining in the QSF more than one-hundred twenty (120) days after payments to Participating Class Members, if any, shall be distributed to a *cy pres* fund for the benefit of Massachusetts IOLTA Committee (the "Cy Pres Fund"). The Cy Pres Fund shall be distributed no later than thirty (30) calendar days after the expiration of the last settlement check issued.

(j) **No Additional Benefits.** All Settlement Payments shall be deemed to be paid to Participating Class Members solely in the year in which such payments actually are received by Participating Class Members. It is expressly understood and agreed that the receipt of a Settlement Payment will not entitle any Participating Class Member to additional compensation or benefits under any company compensation or benefit plan or agreement in place during the period covered by the Settlement or at any other time, nor will it entitle any Participating Class Member to any compensation related to health care benefits, vacation, or sick time. The Settlement Payments provided for in this Agreement are the sole consideration to be provided by Defendants to any of the Settlement Class Members in relation to the Settlement.

RELEASE AND WAIVER

13. **General Release.** In addition to the Released Claims, and in exchange for the Service Award, the Named Plaintiff hereby fully, forever, irrevocably, and unconditionally releases, discharges, and agrees and covenants not to sue or bring any complaints, charges, or claims against the Releasees with respect to, any and all claims, charges, complaints, demands, actions, causes of action, sums of money, costs, losses, contracts, agreements, damages, obligations, liabilities, and expenses (including attorneys' fees and costs), of every kind and nature whatsoever, whether known or unknown, either at law, in equity, or mixed, accruing from July 1,

2015 through October 31, 2018, arising out of any matter or thing that has happened, developed, or occurred with respect to his work selling Direct Energy products door-to-door in Massachusetts on a Credico-brokered campaign including, without limitation any claims, asserted or unasserted, that the Named Plaintiff may have under any federal, state, county, or local labor, employment, or discrimination laws including statutes, public policies, orders, or regulations, including but not limited to (all as may have been amended): all claims that were raised or that could have been raised in the Lawsuit; claims for unpaid wages of any kind, overtime, commissions or incentive compensation of any kind, meal or rest breaks, paid or unpaid leave of any kind, or deductions for pay; claims pursuant to the Massachusetts Wage Payment Statute, G.L. c. 149, §§ 148, 148A, 148B, 149, 150, 150A-150C, 151, 152 *et seq.*; the Massachusetts Minimum Fair Wages Law, G.L. c. 151, §1 *et seq.*; the Fair Labor Standards Act; the federal Worker Adjustment Retraining Notification Act (“WARN Act”); Title VII of the Civil Rights Act of 1964; the Civil Rights Act of 1991; the Equal Pay Act of 1963; the Occupational Safety and Health Act of 1970; the Rehabilitation Act of 1973; the National Labor Relations Act of 1935; the Americans with Disabilities Act of 1990; the Family and Medical Leave Act of 1993; Chapter 151B of the Massachusetts General Laws pertaining to discrimination; the Massachusetts Sexual Harassment Statute, G.L. c. 214, § 1C; the Massachusetts Civil Rights Act, G.L. c. 12, §11H; the Massachusetts Equal Rights Act, G.L. c. 93, § 102; and claims at common law, including but not limited to breach of an oral or written contract, wrongful discharge, misrepresentation, defamation, interference with prospective economic advantage, interference with contractual relationship, intentional and negligent infliction of emotional distress, negligence, breach of the covenant of good faith and fair dealing, and loss of consortium by family members. It is expressly agreed and understood that this release is a GENERAL RELEASE.

14. **Release Language on Claim Forms.** Pursuant to the Settlement, each Settlement Class Member agrees to release and forever discharge the Releasees from the Released Claims. The Claim Form shall include a release of claims in the form set forth below:

I further agree that in consideration for my receipt of a share of settlement funds, I am releasing Credico (USA), LLC and Direct Energy Services, LLC and their respective parents, subsidiaries, affiliates, predecessors, successors, owners, directors, officers, members, employees, attorneys, representatives, heirs, and agents, as applicable to each of them, from all actions, claims, demands or causes of action, whether known or unknown, contingent or absolute, that have been or could have been raised in the Lawsuit, arising at any time between July 1, 2015 through October 31, 2018, inclusive, including but not limited to claims under M.G.L. c. 149, M.G.L. c. 151, M.G.L. c. 136, the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, or any other statutory or common law claims under federal, state, or local law for unpaid wages, unpaid overtime wages, off-the-clock work, meal and rest breaks, commissions or incentive pay of any kind, paid or unpaid leave, deductions from pay, travel time, work-related transportation expenses, and any other pay practices, benefits, and all related or derivative claims, claims or suits relating to breach of an oral or written contract, interest on such claims, liquidated damages, penalties, attorney’s fees and costs related to such claims, and all other available remedies and relief of any kind of nature whatsoever.

I also expressly understand and agree that my receipt of a share of the settlement funds will not entitle me to additional compensation or benefits under any company benefit plan or policy including, but not limited to, medical insurance, dental insurance, vacation pay, sick time, retirement benefits or any other benefit. This Release shall be given the broadest possible interpretation allowable by law.

CONFIDENTIALITY/NON-DISCLOSURE

15. **Prior to the Preliminary Approval Order.** Until the Motion for Preliminary Approval is filed with the Court, the Named Plaintiff and Settlement Class Counsel agree to maintain in strict confidence the fact and terms and conditions of this Settlement and this Agreement. Contact with the Administrator by Settlement Class Counsel is permitted as necessary to effectuate the terms of this Agreement, or as the Parties may otherwise agree.

16. **After the Motion for Preliminary Approval.** After the Motion for Preliminary Approval is filed, and except for communications expressly permitted pursuant to this Agreement, the Named Plaintiff and Settlement Class Counsel agree that they will not advertise or otherwise publicize, directly or indirectly, the Gross Settlement Amount or the Net Settlement Amount (or any breakdown thereof, including the Attorneys' Fee Award, the Service Award, or the Administrator Costs), the negotiations concerning this Agreement, or any drafts of the agreements resulting from such negotiations. This Paragraph shall not be construed in any way to impede Settlement Class Counsel from advising the Named Plaintiff or Settlement Class Members with respect to their rights and options relating to this Agreement.

OTHER PROVISIONS

17. **Governing Law.** This Agreement shall be governed and interpreted in accordance with the laws of the Commonwealth of Massachusetts, without regard to the conflict of law provisions thereof.

18. **Complete Agreement.** This Agreement, along with all exhibits hereto, constitutes the entire agreement and understanding of the Parties and supersedes any prior agreements or understanding between the Parties with respect to the Settlement. The Settlement is not subject to any term or condition not contained in this Agreement. There are no collateral or oral agreements between the Parties that are not stated in this Agreement. In entering into this Agreement, no Party is relying on any promise, warranty, inducement, or representation other than those set forth in this Agreement. All the exhibits hereto are incorporated in and constitute an integral part of this Agreement.

19. **Amendments.** This Agreement may be amended or modified only by a written instrument signed by all Parties hereto. No Party shall have any obligation whatsoever to proceed with the Settlement under any terms other than substantially in the form provided and agreed to in this Agreement.

20. **Beneficiaries of Agreement.** This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, executors, administrators, successors, transferees, and assigns, and upon any corporation or other entity with which any Party hereto may merge, consolidate, or reorganize.

21. **No Strict Construction.** This Agreement, together with the exhibits, shall be deemed to have been mutually prepared by the Parties and shall not be construed against any of them by reason of authorship. The Parties agree that the terms and conditions of this Agreement were negotiated at arm's length and in good faith by the Parties, and reflect a Settlement that was reached voluntarily based upon adequate information and sufficient discovery and after consultation with experienced legal counsel.

22. **Non-Waiver.** The waiver by one Party of any breach of the Agreement by any other Party shall not be deemed a waiver of any other prior or subsequent breach of this Agreement.

23. **Severability.** If any part of this Agreement, other than the release provisions in Paragraphs 13 and 14, is found to be illegal, invalid, inoperative, or unenforceable in law or equity, such finding shall not affect the validity of any other provisions of this Agreement, which shall be construed, reformed, and enforced to effect the purposes thereof to the fullest extent permitted by law. If one or more of the provisions contained in the Agreement, other than the release provisions in Paragraphs 13 and 14, shall for any reason be held to be excessively broad in scope, with respect to subject matter or otherwise, so as to be unenforceable at law, such provision(s) shall be construed to be limited or reduced by the minimum extent necessary to render it enforceable under the applicable law.

24. **Knowing and Voluntary Agreement.** The Named Plaintiff and Settlement Class Counsel each agree that they are entering into this Agreement knowingly, voluntarily, and with full knowledge of its significance. The Named Plaintiff further affirms that he has not been coerced, threatened, or intimidated into signing this Agreement; that he has been advised to consult with an attorney; and that he in fact has consulted with an attorney before signing this Agreement. Settlement Class Counsel represent that they have conducted a thorough investigation into the facts of the Lawsuit and have diligently pursued an investigation of the claims asserted on behalf of the Settlement Class Members against Defendants. Based on their own independent investigation and evaluation, Settlement Class Counsel state that they are of the opinion that the Settlement is fair, reasonable, and adequate, and is in the best interest of the Settlement Class Members, in light of all known facts and circumstances, including the risks of significant delay and defenses that could be asserted by Defendants.

25. **Notices.** Any notices issued pursuant to the terms of this Agreement shall be sent to the Parties at the addresses of their respective counsel as follows:

For the Named Plaintiff and Settlement Class
Members:

Rachel Smit
Fair Work P.C.
192 South St.
Boston, MA 02111
(617) 607-3260
rachel@fairworklaw.com

For Defendants:

Alison Silveira
Seyfarth Shaw LLP
2 Seaport Lane, Suite 1200
Boston, MA 02210
(617) 946-4800
asilveira@seyfarth.com

26. **Time Periods.** In the event that any time period described in this Agreement expires on a Saturday, Sunday, or state holiday, such time period shall be extended through the next subsequent business day. All dates herein are calendar days unless otherwise specified.

27. **Execution in Counterparts.** This Agreement may be executed in two or more counterparts, all of which shall be considered one and the same agreement provided that counsel for the Parties shall exchange among themselves original signed counterparts.

28. **Electronic Signatures.** This Agreement may be executed using a secure electronic signature platform such as DocuSign. Signatures made in such fashion shall have the force and effect of an original ink signature.

Remainder of Page Left Intentionally Blank

IN WITNESS WHEREOF, the Parties, through their counsel, have voluntarily and without coercion, caused this Agreement to be signed and entered under seal effective as of November __, 2023.

NAMED PLAINTIFF / SETTLEMENT CLASS REPRESENTATIVE
(INDIVIDUALLY AND ON BEHALF OF THE SETTLEMENT CLASS)

Alex Youssefi

Date: _____

SETTLEMENT CLASS COUNSEL

Hillary Schwab, Esq.
Rachel Smit, Esq.
Fair Work, P.C.
192 South Street
Boston, MA 02111

Date: _____

DEFENDANTS

Neil Pandey

Credico (USA) LLC

Name: Neil Pandey

Title: Chief Legal Officer

Date: 11/17/2023

Mark Artlip

Direct Energy Services, LLC

Name: Mark Artlip

Title: Assistant General Counsel

Date: 11/15/2023

IN WITNESS WHEREOF, the Parties, through their counsel, have voluntarily and without coercion, caused this Agreement to be signed and entered under seal effective as of November __, 2023.

NAMED PLAINTIFF / SETTLEMENT CLASS REPRESENTATIVE
(INDIVIDUALLY AND ON BEHALF OF THE SETTLEMENT CLASS)

DocuSigned by:

Alex Youssefi

4F695F4C56E344D

Alex Youssefi

11/20/2023
Date: _____

SETTLEMENT CLASS COUNSEL

DocuSigned by:

Hillary Schwab

4CD9765214D2453...

Hillary Schwab, Esq.

Rachel Smit, Esq.

Fair Work, P.C.

192 South Street

Boston, MA 02111

11/15/2023
Date: _____

DEFENDANTS

Credico (USA) LLC

Name: _____

Title: _____

Date: _____

Direct Energy Services, LLC

Name: _____

Title: _____

Date: _____

EXHIBIT A

CLAIM FORM & RELEASE

In order to participate in the settlement that is described in the Notice and claim a share of the settlement's proceeds, you must complete, sign and submit this claim form and the enclosed tax forms by facsimile, electronic mail, or U.S. mail to:

Atticus Administration LLC

Fax:

E-mail:

You may also submit this claim form and tax forms online at *****

Your completed Claim Form & Release and tax form(s) must be received by no later than [DATE].

TO QUALIFY FOR A SHARE OF THE SETTLEMENT, YOU MUST (1) COMPLETE AND RETURN THE ENCLOSED TAX FORM(S), AND (2) SIGN ON THE LINE ON THE BACK OF THIS SHEET, SIGNIFYING THAT YOU AGREE TO BE BOUND BY THE RELEASE OF CLAIMS THAT APPEARS ON THE BACK OF THIS SHEET.

PLEASE TURN OVER AND SIGN AND DATE THE BACK OF THIS SHEET.

DO NOT ALTER THE LANGUAGE BELOW. If you alter this language, your claim form will not be valid and will not be accepted.

Release of Claims:

I attest, under penalty of perjury, that the information below is true and correct to the best of my memory. I further agree that in consideration for my receipt of a share of settlement funds, I am releasing Credico (USA), LLC and Direct Energy Services, LLC and their respective parents, subsidiaries, affiliates, predecessors, successors, owners, directors, officers, members, employees, attorneys, representatives, heirs, and agents, as applicable to each of them, from all actions, claims, demands or causes of action, whether known or unknown, contingent or absolute, that have been or could have been raised in the Lawsuit, arising at any time between July 1, 2015 through October 31, 2018, inclusive, including but not limited to claims under M.G.L. c. 149, M.G.L. c. 151, M.G.L. c. 136, the Fair Labor Standards Act, 29 U.S.C. § 201, *et seq.*, or any other statutory or common law claims under federal, state, or local law for unpaid wages, unpaid overtime wages, off-the-clock work, meal and rest breaks, commissions or incentive pay of any kind, paid or unpaid leave, deductions from pay, travel time, work-related transportation expenses, and any other pay practices, benefits, and all related / derivative claims, claims or suits relating to breach of an oral or written contract, interest on such claims, liquidated damages, penalties, attorney's fees and costs related to such claims, and all other available remedies and relief of any kind of nature whatsoever.

I also expressly understand and agree that my receipt of a share of the settlement funds will not entitle me to additional compensation or benefits under any company benefit plan or policy including, but not limited to, medical insurance, dental insurance, vacation pay, sick time, retirement benefits or any other benefit. This Release shall be given the broadest possible interpretation allowable by law.

By signing below, I declare and verify that I have read this Claim Form, and that I agree to participate in the Settlement on the terms described herein, including the Release of Claims set forth above.

_____ Dated: _____
(Signature)

Personal Information (please print clearly):

Name: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Home or Mobile Phone: _____

E-mail (optional): _____

PLEASE SIGN AND RETURN THIS CLAIM FORM AND THE TAX FORMS, AS INSTRUCTED ABOVE, ON OR BEFORE [DATE] IF YOU WISH TO PARTICIPATE IN THE PROPOSED SETTLEMENT OF THE LAWSUIT.

EXHIBIT B

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
BLS-1

ALEX YOUSSEFI, on behalf of himself and all
others similarly situated,

Plaintiffs,

v.

DIRECT ENERGY SERVICES, LLC;
CREDICO (USA) LLC

Defendants.

Civ. No. 1884cv03809

**NOTICE OF PENDENCY OF CLASS ACTION
AND PROPOSED CLASS ACTION SETTLEMENT**

If you sold Direct Energy products door-to-door in Massachusetts on a sales campaign brokered by Credico (USA) LLC for all or part of the time period between July 1, 2015 and October 31, 2018, a proposed Class Action Settlement may affect your rights.

A court authorized this notice. This is not a solicitation from a lawyer.

Please read this notice carefully. Your legal rights may be affected, even if you do nothing.

1. What is this document?

This is a notice that describes a proposed settlement (the "Proposed Settlement") of the class action lawsuit called *Alex Youssefi v. Direct Energy Services, LLC, et al.*, Civ. No. 1884-cv-03809 (the "Lawsuit"), which is currently pending in the Massachusetts Superior Court for Suffolk County (the "Court"). The Court has authorized us to send you this notice.

2. Why am I receiving this notice?

You have received this notice because records maintained by either Direct Energy Services, LLC or Credico (USA) LLC indicate that you sold Direct Energy products door-to-door in Massachusetts on a Credico-brokered sales campaign during the relevant time period, which means you may be eligible to recover money as part of the Proposed Settlement and that your legal rights may be affected. This notice is intended to inform you about the Proposed Settlement so that you can make an informed decision about whether to participate in the Proposed Settlement.

3. What is the Lawsuit about?

The plaintiff, Alex Youssefi, sold Direct Energy products door-to-door on a Credico-brokered sales campaign. He filed this Action alleging that Direct Energy and Credico misclassified him, as well as other individuals who sold Direct Energy products door-to-door in Massachusetts on a Credico-brokered sales campaign, as independent contractors, and, as a result, failed to pay them certain wages and benefits in violation of certain Massachusetts wage laws, including G.L. c. 149, §§ 148, 148B and G.L. c. 151, §§ 1-1B. The plaintiff further claimed that Direct Energy and Credico breached a contract.

Direct Energy and Credico deny the allegations in the Lawsuit, deny any and all wrongdoing, and maintain that they complied with all applicable statutes and laws. Direct Energy and Credico further maintain that no contract ever was breached, they did not misclassify anyone, and that they had no obligation to pay benefits or any wage to the plaintiff or any putative class.

The Court has not determined the merits of the plaintiffs' allegations or Direct Energy's and/or Credico's defenses in the Lawsuit and has not found that either Direct Energy or Credico violated any law.

The parties wish to resolve this matter on a class-wide basis to avoid protracted litigation and to fully and finally resolve and settle all claims relating to the allegations in the Lawsuit. The Proposed Settlement is a proposed resolution of those claims.

It remains conditioned upon approval by the Court.

4. What are my options?

You have three options in deciding how you want to respond to this Notice and the Proposed Settlement:

OPTION 1	<u>Submit a Claim Form.</u> You will receive money from the settlement <u>only if you submit a valid Claim Form</u> no later than [REDACTED], 2023. The claims process is described in more detail in response to Question 8, below. The Claim Form is included with this Notice.
-----------------	--

OPTION 2	<u>Do Nothing.</u> If you do nothing, you will remain in the class, but you will get <u>no money</u> from the Proposed Settlement. All of the Court's orders will apply to you. You will not be able to file your own lawsuit to pursue the claims in this case. In other words, if you do nothing, you will still be bound by the proposed settlement, including the release set forth on the enclosed claim form.
-----------------	--

OPTION 3	<u>Object.</u> You may object to the Proposed Settlement by mailing, e-mailing, or faxing a written objection to the Administrator, at the address below or number below, postmarked no later than [REDACTED], 2023. Your objection must be in writing and must include a statement specifying the reasons you are objecting to
-----------------	---

	<p>the Proposed Settlement. The objection also must include your full name, mailing address, email address, and phone number, along with the name of the entity (or entities) that hired you to sell Direct Energy products on a Credico-brokered campaign, and the dates when you performed work for that entity. If you intend to appear before the Court to object to the Proposed Settlement at the fairness hearing (described in Question 6, below), you must state that in your objection. In addition, you must personally sign the objection. The Court may decline to consider any objection received after [date] or which fails to meet the criteria described above.</p>
	<p>Any objection must be mailed, emailed, or faxed to the Administrator, at the following address:</p> <p style="text-align: center;">[INSERT]</p> <p>Please note that, even if you submit an objection to the Proposed Settlement, you must still submit a valid Claim Form in order to get money from the Proposed Settlement. In other words, even if you object you must also timely return a valid claim form in order to get money from the proposed settlement.</p>

5. Who is eligible to participate in the Proposed Settlement?
All individuals who sold Direct Energy products door-to-door in Massachusetts on a Credico-brokered sales campaign for all or part of the time period from July 1, 2015 and October 31, 2018, may participate in the Proposed Settlement.

6. When will the Court decide if it approves the Proposed Settlement?
There will be a settlement approval hearing on [DATE] at the Suffolk Superior Court, Courtroom [REDACTED], located at 3 Pemberton Square, Boston, MA 02108. At this hearing the Court will consider whether the Proposed Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. If you would like to attend the settlement approval hearing, you are free to do so. You do not need to attend the settlement approval hearing in order to participate in the settlement.

7. What are the Proposed Settlement benefits?
The total amount of the Proposed Settlement is \$450,000. If the Court approves the Proposed Settlement, up to one-third of the total settlement amount (\$148,500) will be used to pay attorneys' fees and costs incurred by Class Counsel for bringing and prosecuting the Action. In addition, \$[INSERT] will be paid as a service award to Mr. Youssefi for serving as the class representative and taking part in this case. A portion of the Proposed Settlement will also be

paid to a third-party administrator, Atticus Administration LLC (the “Administrator”) in exchange for its assistance in administering the Proposed Settlement.

Assuming the Proposed Settlement is approved by the Court, the remainder of the Proposed Settlement, after the foregoing payments are excluded, will be distributed to eligible, participating class members who timely submit Claim Forms, in accordance with a formula agreed to by the parties and approved by the Court. That formula takes into account each individual’s sales made of Direct Energy products and estimated days worked based on sales data during the time period July 1, 2015 to October 31, 2018. If there are any unused, residual funds remaining in the settlement account more than ninety (90) days after such distribution (*i.e.*, from uncashed settlement checks), those funds will be donated to the Massachusetts IOLTA Committee.

8. When will I receive a settlement payment?

You will not receive any settlement payment unless and until the Court approves the Proposed Settlement. If the Court approves the settlement, the Administrator will issue your check within thirty-five (35) calendar days after all rights of appeal or review of the Court’s approval order have expired or any appeal or review has been resolved in favor of approval of the settlement.

The Administrator will issue any settlement payments by check at the address listed on your Claim Form.

IT IS YOUR RESPONSIBILITY TO KEEP THE ADMINISTRATOR INFORMED OF ANY CHANGE OF ADDRESS OR CHANGE OF NAME BETWEEN WHEN YOU RETURN YOUR CLAIM FORM AND WHEN ANY SETTLEMENT PAYMENTS ARE MADE.

9. Are any settlement payments I receive taxable income?

Any settlement payment that you receive will be reported to the IRS as non-wage income on an IRS Form 1099, at the end of the tax year, and no taxes will be withheld.

You will be responsible for paying all required taxes on any settlement payment and any questions you may have should be directed to a tax professional. Settlement Class Counsel cannot provide you with tax advice with respect to any settlement payments, nor can the Administrator, nor can Direct Energy, Credico, or their counsel.

10. Who is representing the Class and the Plaintiffs?

The Court has appointed the following attorneys to represent the Class:

Rachel Smit, Esq.
Hillary Schwab, Esq.
FAIR WORK, P.C.
192 South Street, Suite 450
Boston, MA 02111
Tel: (857) 800-0440
class.admin@fairworklaw.com

These attorneys are “Settlement Class Counsel.” You do not need to hire your own attorney because Settlement Class Counsel is working on your behalf. You do, however, have the right to your own attorney, but you will be required to separately pay your own attorney’s fees. If you have questions or desire additional details, you may contact Settlement Class Counsel.

11. How can I get additional information?

This Notice only summarizes the Lawsuit, the Proposed Settlement, and related matters. If you have any questions, or to request a copy of the relevant settlement documents or other case documents, you may find them on the website [INSERT], or direct them to either Settlement Class Counsel (using the contact information in **Question 10**, above) or the Administrator at:

[INSERT ADMINISTRATOR CONTACT INFO]

PLEASE DO NOT TELEPHONE OR CONTACT THE COURT, ANY COURT PERSONNEL, OR DIRECT ENERGY’S OR CREDICO’S COUNSEL ABOUT THIS CASE OR THE PROPOSED SETTLEMENT. THEY WILL BE UNABLE TO HELP YOU.