IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT IN AND FOR POLK COUNTY, FLORIDA CIVIL DIVISION

OFFICE OF THE ATTORNEY GENERAL, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

 \mathbf{v}_{\bullet}

HUSKY CARGO, LLC, a Florida Limited Liability Company, DWAYNE PASS, an Individual, and TAMMY PASS, an Individual,

Defendants.

Case Number:

CONSENT FINAL JUDGMENT AGAINST HUSKY CARGO, LLC

Pursuant to the stipulation for Consent Final Judgment executed below by Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs ("Attorney General"), and Defendant, Husky Cargo, LLC, a Florida limited liability company, (hereinafter, "Defendant" or "Husky"), and the Court having reviewed the Consent Final Judgment, and upon consideration of the papers filed and consent of the parties hereto, it is hereby **ORDERED** and **ADJUDGED**:

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I. JURISDICTION

The Attorney General and Defendant (collectively, "Parties") agree that this Court has subject matter jurisdiction over this matter, jurisdiction over the Parties, and continuing jurisdiction over this matter and the Parties. The Attorney General filed a Complaint in this action for injunctive relief, restitution, civil penalties, attorney's fees and costs, and other statutory relief ("Complaint") pursuant to Chapter 501, Part II, Florida Statutes, Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"). The Complaint filed in this matter states claims upon which relief may be granted under the provisions of FDUTPA.

II. GENERAL PROVISIONS

Agreement. The Parties have agreed on a basis for settlement of the matters alleged in the Complaint. Further, the Parties agree to entry of this Consent Final Judgment ("Judgment") without the need for trial, discovery in this action, or adjudication of any issue of law or fact, and waive entry of findings of fact and conclusions of law and any hearing on the entry of this Judgment. Defendant enters into this Judgment freely and neither admits nor denies any allegation in the Complaint, except that for purposes of this Judgment, Defendant admits the facts necessary to establish the Court's jurisdiction over Defendant and the subject matter of this action. Defendant, Husky Cargo, LLC, a for-profit Florida limited liability company, formerly located at 315 Bartow Municipal Airport, Bartow, FL 33830 and.

more recently, at 3230 Delta Avenue, Bartow, FL 33830, acknowledges that the provisions of this Judgment have been read and that they can and will abide by them. Defendant further acknowledges that a violation of this Judgment may result in relief pursuant to FDUTPA and other relief as appropriate, including adjudication for contempt of Court.

- 2.2 <u>Waiver/Release</u>. The Attorney General and Defendant waives all rights to seek appellate review, rehearing, or otherwise to challenge or contest the validity of this Judgment. Defendant further waives and releases any and all claims it may have against the Attorney General, its employees, representatives or agents with respect to this action and Judgment. Defendant agrees that this paragraph does not limit the Attorney General's right to pursue any and all claims based on unknown information, including, but not limited to, any information that Defendant may have not disclosed.
- 2.3 <u>Compliance with Law.</u> Nothing herein relieves Defendant of their duty to comply with applicable laws of the State of Florida and all federal or local laws, regulations, ordinances and codes, nor constitutes authorization by the Attorney General for Defendant to engage in acts and practices prohibited by such laws.
- 2.4 <u>Non-Approval of Conduct</u>. Nothing herein constitutes approval by the Attorney General of Defendant's past or future practices. Defendant shall not make any representation to the contrary regarding this Judgment or use the name of the

Office of the Attorney General, State of Florida, Department of Legal Affairs, or any of its current or former employees or representatives as an endorsement or approval of Defendant's acts, practices or conduct of business.

- 2.5 Preservation of Private Claims and Other Law Enforcement Action. Nothing herein shall be construed as a waiver or release of any private rights, causes of action or remedies of any person against Defendant with respect to the acts and practices covered by this Judgment. Nothing herein shall be construed to limit or bar any other governmental entity, or any other unit of the Attorney General's office, from pursuing other available remedies against Defendant for violation of laws other than FDUTPA.
- 2.6 <u>Use of Settlement as Defense</u>. Nothing herein shall be interpreted to prevent the Attorney General from taking enforcement action to address conduct of Defendant occurring after the entry of this Judgment that the Attorney General believes to be in violation of the law. The fact that such conduct was not expressly prohibited by the terms of this Judgment shall not be a defense to any such enforcement action.
- 2.7 <u>Effective Date</u>. The Effective Date shall mean the date this Judgment is signed by the Circuit Court Judge.

- 2.8 <u>No Bond Required</u>. Pursuant to Section 60.08, Florida Statutes, the Attorney General is not required to post a bond to obtain permanent injunctive relief under Section 501.207, Florida Statutes.
- 2.9 <u>No Avoidance of Judgment</u>. Defendant agrees that it shall not effect any change in its form of doing business or its organizational identity for the purposes of avoiding the terms and conditions set forth in this Judgment. In the event Husky Cargo, LLC is sold, assigned, or transferred to a third-party, a copy of this Judgment shall be provided to said purchaser, assignee, or transferee.
 - 2.10 Defendant expressly acknowledges that it has:
 - a. obtained the advice and counsel of an independent attorney of its choosing to assist in the negotiation and preparation of the judgment;
 - b. jointly participated with the Attorney General in the negotiation of the terms articulated in this Judgment;
 - c. read this Judgment in its entirety and are aware of its terms;
 - d. voluntarily executed this Judgment; and
 - e. to the extent any rights or defenses have been waived by entry into this Judgement, made such a waiver voluntarily and with full knowledge of the ramifications of such waiver.
- 2.11 This Judgment is continuing in nature and shall be binding on any and all successors or assigns of Defendant.

III. INJUNCTIVE RELIEF

- 3.1 Defendant is permanently enjoined from engaging in the business of manufacturing and sale of automotive and cargo trailers.
- 3.2 Defendant shall notify the Attorney General at least thirty (30) calendar days prior to participating in any business activities with any entity which engages in the marketing and/or sales of automotive or cargo trailers, parts or equipment. Said notification shall include a written statement disclosing: (1) the name, address and telephone number of the business entity; (2) the names of the business entity's officers, directors, principals, managers, and employees; (3) a detailed description of the business entity's intended activities and (4) Defendant's involvement and responsibilities.

IV. MONETARY RELIEF

- 4.1 <u>Restitution.</u> Judgment shall be entered against Defendant, in the amount of Seventy-Five Thousand Dollars and No Cents (\$75,000.00) as restitution to consumers who ordered and paid deposits or, in some instances, full price for trailers to Defendant that were never delivered or received. The Attorney General, in her sole discretion, will determine a reasonable process for distribution of the restitution payments to consumers.
- 4.2 <u>Payment.</u> Judgment payment in the amount of Seventy-Five Thousand Dollars and No Cents (\$75,000.00) shall be due on or before March 29, 2019 and

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shall be made by cashier's check, money order, wire transfer, or other certified funds payable to the "Department of Legal Affairs' Revolving Trust Fund," and delivered to the Office of the Attorney General, State of Florida, Department of Legal Affairs, Attn.: Edward C. Carter, Assistant Attorney General, 3507 E. Frontage Road, Suite 325, Tampa, FL 33607. The Judgment payment shall be deposited into the Department of Legal Affairs' Revolving Trust Fund pursuant to Section 501.2101(1), Florida Statutes, for distribution to consumers according to the sole discretion of the Attorney General.

V. <u>FUTURE VIOLATIONS</u>

Any subsequent failure to comply with the provisions of this Judgment is, by statute, *prima facie* evidence of a violation of FDUTPA and will subject Defendant to any and all civil penalties and sanctions authorized by law, including attorney's fees and costs. In the event that a court of competent jurisdiction makes a determination that a violation of any provision of this Judgment has occurred, then any Defendant who has participated in, managed, operated or controlled the operations at the time of said subsequent violation may be jointly and severally liable for additional civil penalties, as well as any additional attorney's fees and costs, and other relief as may be allowed by law.

VI. <u>SEVERABILITY</u>

The provisions of this Judgment are separate and severable, and if any provisions are stayed or determined to be invalid, the remaining provisions shall remain in full force and effect.

VII. RETENTION OF JURISDICTION

This Court shall retain jurisdiction over this matter for all purposes, including to enforce the terms of this Judgment and to enter any further Orders as may be necessary to ensure compliance with this Judgment, including by contempt, civil and/or criminal proceedings.

VIII. <u>DISMISSAL</u>

This action is dismissed, subject to reopening for enforcement, modification or construction.

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STIPULATED AND AGREED:

HUSKY CARGO, LLC

Agreed to and signed this 25 day of 1001, 2019, by the below-stated person who states and affirms as follows:

BY MY SIGNATURE, I, Michael Gatewood, hereby affirm that I am acting in my capacity and within my authority over Husky Cargo, LLC, and that I have the full authority to bind Husky Cargo, LLC to the terms and conditions of this Consent

Judgment.

Michael Gatewood, President

STATE OF FLORIDA)

COUNTY OF HILLSBOROUGH)

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, Michael Gatewood personally appeared as President of Husky Cargo, LLC. He acknowledged before me that he executed the foregoing instrument for the purposes therein stated on the day of day of 2019.

Subscribed to before me this and day of the day of 2019.

NATASHA DAVIS
Notary Public - State of Florida
Commission # GG 219633
My Comm. Expires May 20, 2022

[NOTARY SEAL]

Notary Public

Personally known ____

OR Produced Identification # (_ 330550)40160

Type of Identification Produced \bigcirc

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OFFICE OF THE ATTORNEY GENERAL, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS

ASHLEY MOODY ATTORNEY GENERAL

Dated this 3rd day of April, 2019.
By: VICTORIA BUTLER Director, Consumer Protection Div. Office of the Attorney General Department of Legal Affairs
3507 East Frontage Road, #325
Tampa, Florida 33607
Telephone: (813) 287-7950
Facsimile: (813) 281-5515
ers in Polk County, Florida, this day
By:
Circuit Court Judge
Robert Marshall Rainey Burr & Forman, LLP PO Box 380 Tampa, FL 33601 Counsel for Defendant