

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

SAM FARRAR, Individually and on Behalf of All  
Others Similarly Situated,

Plaintiff,

v.

WORKHORSE GROUP, INC., DUANE HUGHES,  
STEVE SCHRADER, ROBERT WILLISON, and  
GREGORY ACKERSON

Defendants.

Case No. 2:21-cv-02072-CJC-PVC

**NOTICE OF PENDENCY AND PROPOSED SETTLEMENT**

**If you purchased or otherwise acquired Workhorse Group, Inc. common stock (ticker symbol “WKHS”) between March 10, 2020, and May 10, 2021, inclusive, you could receive a payment from this class action settlement.<sup>1</sup>**

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- The Settlement resolves a federal class action lawsuit alleging that Workhorse Group, Inc. (“Workhorse” or the “Company”) and certain of its current and former officers violated the Securities Exchange Act of 1934 (the “Exchange Act”), and Rules 10b-5 promulgated thereunder, by making materially false and misleading statements and omissions concerning the Company’s production and manufacturing capabilities, “backlog” of purchase orders, and positioning for a multi-billion dollar contract with the United States Postal Service (“USPS”) to manufacture its new fleet of approximately 165,000 next generation delivery vehicles (“NGDV”) and engaged in a scheme to defraud investors into believing, among other things, that Workhorse was capable of winning the NGDV Contract, that inflated the price of Workhorse’s stock or otherwise prevented it from falling over the course of the Class Period.
- Defendants deny Plaintiffs’ allegations. The Parties disagree on, among other things, whether Defendants violated any federal securities laws and whether the alleged violations caused any damages to the Settlement Class Members.
- The federal court has certified, for settlement purposes only, a Class consisting of all persons who purchased or otherwise acquired Workhorse securities between March 10, 2020, and May 10, 2021, inclusive (the “Class Period”), and were damaged thereby, excluding Defendants, officers, and directors of Defendants, members of their immediate families and their legal representative, heirs, successors, or assigns, and any entity in which Defendants have or had a controlling interest (the “Settlement Class”).
- The Settlement will provide a Settlement Fund with a total value of \$35,000,000 (the “Settlement Amount”) for the benefit of Settlement Class Members, consisting of \$15,000,000 in cash (“Settlement Cash”) and \$20,000,000 in shares of Workhorse common stock (“Settlement Stock”). The Settlement Fund will be distributed *pro rata*, after deduction of taxes and Court-approved fees and expenses, among all Settlement Class Members who submit valid Proof of Claim forms, according to a Court-approved Plan of Allocation set forth on Pages 7-10 below.
- Under the Settlement, the estimated average recovery from the Settlement Cash is \$0.08 per affected share of Workhorse common stock, before deduction of fees and expenses. Assuming the Settlement Stock is valued at \$20,000,000 at the time of distribution, the total estimated average recovery from the Settlement Fund is valued at \$0.18 per affected share of Workhorse common stock, before deduction of fees and expenses. However, your recovery from the Settlement Fund will depend on a number of variables, including the number of shares of Workhorse common stock you purchased during the Class Period, the timing of your purchases and any sales, and the number and size of claims actually filed. Your recovery from the Settlement Fund may consist of Settlement Cash or some combination of Settlement Cash and Settlement Stock.
- The Court-appointed Lead Plaintiff is Timothy M. Weis (“Lead Plaintiff”). The Additional Plaintiff is Angelo Federico (“Additional Plaintiff”). The Defendants are Workhorse, Duane Hughes, Steve Schrader, Robert Willison, and Gregory Ackerson.
- All claims against all Defendants will be dismissed upon the Effective Date of the Settlement.
- Your legal rights are affected whether you act or do not act. Read this Notice carefully.

<sup>1</sup> All capitalized terms not otherwise defined in this document shall have the meaning provided in the Stipulation of Settlement, dated January 13, 2023.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>SUBMIT A CLAIM FORM BY JULY 3, 2023</b>	The only way to get a payment in this Settlement.
<b>EXCLUDE YOURSELF FROM THE SETTLEMENT BY SUBMITTING AN OPT-OUT FORM BY JULY 3, 2023</b>	Get no payment pursuant to this Settlement. This is the <b>only</b> option that allows you to be a part of any other lawsuit against the Defendants and their affiliates involving the claims released by this Settlement. Please note that if you exclude yourself from the Settlement Class and decide to pursue your own action individually, you may not be able to pursue certain claims due to the lapsing of certain applicable statutes of repose.
<b>OBJECT BY JULY 3, 2023</b>	Write a letter to the Court objecting to the Settlement. You must still file a claim if you want to receive payment from the Settlement.
<b>GO TO A HEARING ON JULY 24, 2023</b>	Ask to speak in Court about the Settlement.
<b>DO NOTHING</b>	Get no payment from this Settlement. You will also be giving up your rights regarding all claims released by this Settlement and any other lawsuit as to the common stock.

- These rights and options – **and the deadlines to exercise them** – are explained in this Notice.
- The Court in charge of this case still must decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals by Settlement Class Members are resolved.

**SUMMARY OF THIS NOTICE**

**Statement of Settlement Class Recovery Under the Settlement**

Pursuant to the Settlement described herein, a \$35,000,000 Settlement Fund will be established – consisting of \$15,000,000 in cash and \$20,000,000 in shares of Workhorse common stock. Plaintiffs estimate that there were approximately 195.8 million Workhorse common stock shares traded on the NASDAQ during the Class Period that may have been damaged. Plaintiffs estimate that the average recovery from the Settlement Cash, before deduction of fees and expenses, is approximately \$0.08, while the average recovery from the total Settlement Fund, assuming the Settlement Stock is valued at \$20,000,000 at the time of distribution, is valued at approximately \$0.18.

A Settlement Class Member’s actual recovery will be a proportion of the Net Settlement Fund (defined below), determined by that Claimant’s recognized loss (*i.e.*, a claim proved by timely submission of a valid Proof of Claim and Release form) as compared to the total recognized losses of all Settlement Class Members. This proportional allocation is called “proration.” See the Plan of Allocation beginning on Page 7 for more information.

**Statement of Claims, Issues, Defenses, and Potential Outcome of Case**

Plaintiffs allege that Defendants violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder by making materially false and misleading statements and omissions regarding the Company’s production and manufacturing capabilities, “backlog” of purchase orders, and positioning for the NGDV Contract and engaged in a scheme to defraud investors into believing, among other things, that Workhorse was capable of winning the NGDV Contract, that inflated the price of Workhorse’s stock or otherwise prevented it from falling over the course of the Class Period.

Plaintiffs filed an Amended Complaint for Violation of Federal Securities Law (the “AC”) on July 16, 2021. On September 3, 2021, Defendants moved to dismiss the AC, arguing that Plaintiffs did not adequately allege any valid claim under the federal securities laws. On December 2, 2021, the Court denied, in substantial part, Defendants’ Motion to Dismiss the AC, finding – except with respect to a narrow category of misstatements – that Plaintiffs had plausibly alleged their claims.

Throughout the course of the litigation, Defendants and third parties subpoenaed by Plaintiffs produced more than 100,000 pages of documents, which were reviewed and analyzed by Plaintiffs.

On August 23, 2022, the Parties took part in a full-day, in-person mediation with Jed D. Melnick, a nationally recognized mediator. The Parties reached an agreement in principle to settle the Action on October 26, 2022.

Plaintiffs contend that the misrepresentations and omissions alleged in the AC were the direct cause of the artificial elevation and eventual decline in the price of Workhorse’s common stock and caused Plaintiffs and the Settlement Class to be damaged. Plaintiffs further contend that the alleged stock decline is fully attributable to the alleged misrepresentations and omissions set forth in the AC. Defendants contend that they made no misrepresentations or omissions and that the alleged misrepresentations and/or omissions set forth in the AC did not cause a decline, or artificial inflation, in Workhorse common stock and, therefore, Plaintiffs and the Settlement Class are not entitled to any recovery.

Had the case continued toward to trial, Defendants would have asserted a myriad of factual and legal defenses, including their argument that Workhorse and the Individual Defendants fully complied with federal securities laws and did not make any materially untrue or misleading statements or omissions. Defendants would also have contested: (1) the measure and amount of recoverable damages, if any; (2) the extent to which the statements that Plaintiffs alleged as materially false or misleading influenced (if at all) the trading prices of Workhorse common stock during the relevant time period; and (3) whether any of them acted with scienter.

Furthermore, to the extent Plaintiffs succeeded on any claims at trial, Defendants may have appealed, which could have resulted in additional years of litigation with no certainty as to the outcome. Thus, had this Action continued, Plaintiffs and the Settlement Class would have faced the possibility of obtaining no recovery. This Settlement enables the Settlement Class to promptly recover a meaningful percentage of the alleged damages as calculated by Plaintiffs' Counsel in conjunction with their economic consultant, without incurring any additional risk. As a result, Plaintiffs and Plaintiffs' Counsel believe this Settlement is a fair, reasonable, and adequate recovery.

**Statement of Attorneys' Fees and Costs Sought**

Lead Counsel will move the Court to award (1) attorneys' fees in an amount not greater than twenty-five percent (25%) of the Settlement Fund, and (2) reimbursement of expenses incurred in connection with the prosecution of this Action not to exceed \$130,000, to be paid out of the Settlement Fund. The requested fees and expenses, if approved by the Court, would amount to an average of not more than \$0.06 per damaged shares in total. See Questions 8-11 below for more information. Settlement Class Members are not personally liable for any such fees, expenses, or compensation.

**Further Information**

Further information regarding the Action and this Notice of Pendency and Proposed Settlement (the "Notice") may be obtained by contacting Lead Counsel: Lewis S. Kahn, Esq., Kahn Swick & Foti, LLC, 1100 Poydras Street, Suite 960, New Orleans, LA 70163, Telephone: 504-455-1400

**Reasons for the Settlement**

For Plaintiffs, the principal reason for the Settlement is the benefit to be provided to the Settlement Class at this time, compared to the risk that no recovery might be achieved after a contested trial and likely appeals, possibly years into the future. Plaintiffs further considered, after conducting a substantial investigation into the factual and legal issues, including the review and analysis of more than 100,000 pages of documents, the risks to proving liability and damages and to sustaining a certified class through trial. For Defendants, who deny all allegations of wrongdoing or liability, the principal reason for the Settlement is to eliminate the expense, risks, and uncertain outcome of the litigation.

**HOW YOU GET A PAYMENT—**

**SUBMITTING A PROOF OF CLAIM FORM**

**1. How can I get a payment?**

To qualify for a payment, you must send in a Proof of Claim and Release Form ("Claim Form"). A Claim Form is being circulated with this Notice. You may also get a Claim Form on the Internet at [www.WorkhorseSecuritiesLitigation.com](http://www.WorkhorseSecuritiesLitigation.com). Read the instructions carefully, fill out the Claim Form, include all the documents the form asks for, sign it, and mail it postmarked no later than July 3, 2023.

**2. When would I get my payment?**

The Court will hold a hearing on July 24, 2023, to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals by Settlement Class Members. Resolving appeals can take time, perhaps more than a year. It also takes time for all the Claim Forms to be processed.

### 3. What am I giving up to get a payment?

Unless you specifically exclude yourself, you will be treated as a member of this Class Action. This means that, upon the Effective Date, you will relinquish all Released Claims against the Released Defendants' Parties. These terms are defined below:

"Released Claims" means all claims (including but not limited to Unknown Claims) and causes of action of every nature and description whatsoever whether known or unknown, asserted or unasserted, whether arising under federal, state, local, statutory, common, foreign or administrative law, or any other law, rule or regulation, whether fixed or contingent, at law or in equity, whether class or individual in nature, that Plaintiffs, or any other Settlement Class Member or their representatives, heirs, successors-in-interest and assigns, asserted in the Action or could have asserted, directly or indirectly, in any forum that arise out of or are based upon or related to the purchase, sale, acquisition, disposition or holding of Workhorse securities during the Class Period (including, without limitation, claims in connection with, relating to or arising from any public statement made or omissions to make statements by any Defendant during the Class Period and/or any of the allegations, transactions, facts, events, acts, failures to act, matters or occurrences that were or could have been alleged, asserted, contended, set forth, related to or referred to in the Action by Plaintiffs or Settlement Class Members). Released Claims, includes "Unknown Claims" as defined in the Stipulation.

"Released Defendants' Parties" means each and all of the Defendants, each of their respective spouses and immediate family members (for individuals) and past, present and future direct and indirect parent entities, parent corporations, sister corporations, subsidiaries, related entities and affiliates, and, as applicable, their respective past and present general partners, limited partners, principals, shareholders, investors (however denominated), joint ventures, members, officers, directors, managers, managing directors, supervisors, employees, contractors, servants, consultants, auditors, accountants, financial advisors, professional advisors, investment bankers, representatives, insurers, reinsurers, receivers, trustees, trustors, agents, attorneys, legal representatives, professionals, predecessors, successors, assigns, assignors, legatees, devisees, estates, settlors, beneficiaries, heirs, executors, successors-in-interest, administrators, and any controlling person thereof.

The "Effective Date" will occur when an order entered by the Court approving the Settlement becomes final and no longer subject to appeal.

If you remain a Member of the Settlement Class, all of the Court's orders will apply to you and legally bind you.

#### **EXCLUDING YOURSELF FROM THE SETTLEMENT**

If you do not want a payment from this Settlement, and you want to keep any right you may have to sue or continue to sue the Defendants and the other Released Defendants' Parties in some other lawsuit as to the Released Claims in this lawsuit, then you must take steps to remove yourself from this lawsuit. **You may wish to consult with your own counsel before excluding yourself or "opting out" of the Settlement.** If more than a certain percentage of Settlement Class Members opt out or exclude themselves from the Settlement, Defendants may withdraw from and terminate the Settlement.

### 4. How do I exclude myself from the proposed settlement?

To exclude yourself from the Settlement, you must send a signed letter by mail stating that you "request exclusion from the Settlement Class in *Farrar v. Workhorse Group, Inc., et al.*, Civil Action No. 2:21-cv-2072." Your letter should state: the number of shares of Workhorse securities that the Person requesting exclusion held at the close of trading on March 10, 2020, the number of shares of Workhorse securities that the Person requesting exclusion purchased, acquired, sold, or disposed of during the Class Period, as well as the dates and prices for each such purchase, acquisition, sale, and/or disposition. In addition, be sure to include your name, address, telephone number, and signature. You must mail your exclusion request so that it is postmarked no later than July 3, 2023 to:

Workhorse Securities Litigation  
c/o KCC Class Action Services, LLC  
P.O. Box 5100  
Larkspur, CA 94977-5100  
(by regular or express mail)

Workhorse Securities Litigation  
c/o KCC Class Action Services, LLC  
1 McInnis Parkway  
San Rafael, CA 94903  
(by express delivery service)

The request for exclusion shall not be effective unless it provides the required information and is made within the time stated above, or the exclusion is otherwise accepted by the Court. You cannot exclude yourself by telephone or by email. If you ask to be excluded, you will not get any Settlement payment and you cannot object to the Settlement. You will not be legally bound by anything that happens in this lawsuit, and you may be able to sue (or continue to sue) Defendants and the other Released Defendants' Parties in the future. If you exclude yourself, do not send in a Claim Form to ask for any money and/or stock.

**5. If I do not exclude myself from the Settlement, can I sue Workhorse and the other Released Defendants' Parties later for the same alleged conduct?**

No. Unless you exclude yourself, you give up any rights to sue Defendants and the other Released Defendants' Parties for any and all Released Claims. Remember, the exclusion deadline is July 3, 2023.

**6. If I exclude myself from the Settlement, can I get money and/or stock from the proposed settlement?**

No.

**IF YOU DO NOTHING**

**7. What happens if I do nothing?**

The judgment of the Court will be binding upon you if you do nothing. You will get no money and/or stock from this Settlement and you will be precluded from starting a lawsuit, continuing with a lawsuit, or being part of any other lawsuit against Defendants and the other Released Defendants' Parties about the Released Claims in this case, ever again. To share in the Net Settlement Fund, you must submit a Claim Form (see Question 1). To start, continue, or be a part of any other lawsuit against Defendants and the other Released Defendants' Parties about the Released Claims in this case, you must exclude yourself from this Settlement Class (see Question 4).

**THE LAWYERS REPRESENTING SETTLEMENT CLASS MEMBERS**

**8. Do I have a lawyer in this case?**

The Court ordered that Lead Counsel Kahn Swick & Foti, LLC ("KSF") represents all Settlement Class Members. The Court will determine the amount of Lead Counsel's fees and expenses, which will be paid from the gross Settlement Fund. You will not be separately charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

**9. How will Lead Counsel be paid?**

Lead Counsel will move the Court to award attorneys' fees from the gross Settlement Fund in a total amount not greater than twenty-five percent (25%) of the gross Settlement Fund. Lead Counsel also will move the Court to award reimbursement of its expenses in an amount no greater than \$130,000, plus interest, to be paid out of the Settlement Fund. Lead Counsel also intends to request the Court to grant awards to the Lead Plaintiff and Additional Plaintiff, in accordance with 15 U.S.C. § 78u-4(a)(4), not to exceed a value of \$10,000, as reimbursement for their time and expenses in overseeing the prosecution of this Action, also to be paid out of the Settlement Fund.

**10. How will the notice costs and expenses be paid?**

Lead Counsel is authorized by the Stipulation to pay the Claims Administrator's fees and expenses incurred in connection with giving notice, administering the settlement, and distributing the settlement proceeds to the members of the Settlement Class. The Claims Administrator's fees and expenses will be paid out of the gross Settlement Fund. The Claims Administrator was selected through a competitive bidding process and multiple bids were reviewed and considered.

**OBJECTING TO THE SETTLEMENT**

You can tell the Court that you do not agree with the Settlement or some part of it.

**11. How do I object to the Settlement?**

If you are a Settlement Class Member, you can object to the Settlement or any of its terms, the proposed Plan of Allocation, and/or the application by Lead Counsel for an award of fees and expenses. You must write to the Court setting out your objection(s). You should state reasons why you think the Court should not approve any or all of the settlement terms or arrangements.

You must object in writing by sending a signed letter stating that you object to the proposed settlement in *Farrar v. Workhorse Group, Inc., et al.*, Civil Action No. 2:21-cv-2072 (C.D. Cal.). Your objection must include a cover page identifying this case name and number and naming the hearing date of July 24, 2023, at 1:30 P.M. in Courtroom 9B of the Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, CA 92701. Be sure to include your name, address, telephone number, and signature; identify the date(s), price(s), and number of shares of all purchases and sales of Workhorse common stock you made during the Class Period and state the reasons why you object to the Settlement. Your objection must be postmarked on or before July 3, 2023 to the Court; Kahn Swick & Foti, LLC, on behalf of the Plaintiffs; and Counsel for the Defendants at the following addresses:

**COURT:**

Clerk of the Court  
Ronald Reagan Federal Building and United States Courthouse,  
411 West 4<sup>th</sup> Street  
Santa Ana, CA 92701

**FOR LEAD PLAINTIFF:**

Lewis S. Kahn  
KAHN SWICK & FOTI, LLC  
1100 Poydras Street, Suite 960  
New Orleans, LA 70163  
*Lead Counsel for Lead Plaintiff Timothy M. Weis,  
Additional Plaintiff Angelo Federico, and the Settlement Class*

**FOR DEFENDANTS WORKHORSE GROUP, INC. AND GREGORY ACKERSON:**

John P. Stigi III  
SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
1901 Avenue for the Stars, Suite 1600  
Los Angeles, CA 90067  
*Counsel for Defendants Workhorse Group Inc. and Gregory Ackerson*

**FOR DEFENDANTS DUANE HUGHES, STEVE SCHRADER, AND ROBERT WILLISON:**

Richard H. Zelichov  
KATTEN MUCHIN ROSENMAN LLP  
2029 Century Park East, Suite 2600  
Los Angeles, CA 90067  
*Counsel for Defendants Duane Hughes, Steve Schrader, and Robert Willison*

You do not need to go to the Settlement Hearing to have your written objection considered by the Court.

At the Settlement Hearing, any Settlement Class Member who has not previously submitted a request for exclusion from the Settlement Class may appear and be heard, to the extent allowed by the Court, to state any objection to the settlement, the Plan of Allocation, or Lead Counsel's motion for an award of attorneys' fees and reimbursement of expenses. Any such objector may appear in person or arrange, at that objector's expense, for a lawyer to represent the objector at the Settlement Hearing. If you or your representative intend to appear in person but have not submitted a written objection postmarked by July 3, 2023, it is recommended that you give advance notice to Lead Counsel and/or counsel for Defendants of your intention to attend the hearing in order to object and the basis for your objection. You may contact them at the addresses provided above.

Unless the Court orders otherwise, any Settlement Class Member who does not object in the manner described above will be deemed to have waived any objection and shall be forever foreclosed from making any objection to the proposed Settlement, the proposed Plan of Allocation, or Lead Counsel's request for an award of attorneys' fees and litigation expenses. Settlement Class Members do not need to appear at the hearing or take any other action to indicate their approval.

**12. What is the difference between objecting to the Settlement and excluding myself from the Settlement?**

Objecting is simply telling the Court that you do not like something about the proposed settlement. You can object only if you remain in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object because the Settlement no longer affects you.

## **THE COURT'S SETTLEMENT HEARING**

The Court will hold a hearing to decide whether to approve the proposed settlement. You may attend and you may ask to speak, but you do not have to.

### **13. When and where will the Court decide whether to approve the proposed Settlement?**

The Court will hold a Settlement Hearing on July 24, 2023, at 1:30 P.M., in Courtroom 9B of the Ronald Reagan Federal Building and United States Courthouse, 411 West Fourth Street, Santa Ana, CA 92701. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The Court also will consider the proposed Plan of Allocation for the proceeds of the Settlement and the application of Lead Counsel for attorneys' fees and reimbursement of expenses at the Settlement Hearing. The Court will take into consideration any written objections mailed in accordance with the instructions in the answer to Question 11. The Court also will listen to people who seek to speak at the hearing, but decisions regarding the conduct of the hearing will be made by the Court. See Question 11 for more information about speaking at the hearing. After the hearing, the Court will decide whether to approve the Settlement and how much to pay Lead Counsel. We do not know how long these decisions will take.

The Court may change the date and time of the Settlement Hearing. The Court may also order the hearing to be held remotely. Thus, if you want to come to the hearing, you should check with Lead Counsel before coming to be sure that the date and/or time has not changed.

## **GETTING MORE INFORMATION**

### **14. Are there more details about the proposed settlement?**

This Notice summarizes the proposed settlement. More details are contained in a Stipulation of Settlement dated January 13, 2023 (the "Stipulation"). You can get a copy of the Stipulation by writing to Lead Counsel at their address above.

You also can call the Claims Administrator toll-free at 1-844-787-0160; write to the Claims Administrator at [info@WorkhorseSecuritiesLitigation.com](mailto:info@WorkhorseSecuritiesLitigation.com); or visit the website at [www.WorkhorseSecuritiesLitigation.com](http://www.WorkhorseSecuritiesLitigation.com), where you will find a Claim Form, answers to common questions about the Settlement, and other information to help you determine whether you are a Settlement Class Member and whether you are eligible for a payment.

### **15. How do I get more information?**

More detailed information concerning the matters involved in this Action, including the Stipulation and other Settlement-related documents, is available at [www.WorkhorseSecuritiesLitigation.com](http://www.WorkhorseSecuritiesLitigation.com). You may also inspect the papers filed in the Action at the Office of the Clerk, Ronald Reagan Federal Building and United States Courthouse, 411 West 4<sup>th</sup> Street, Room 1053, Santa Ana, CA 92701, during regular business hours. You may also contact Lead Counsel.

## **PLAN OF ALLOCATION OF NET SETTLEMENT FUND AMONG SETTLEMENT CLASS MEMBERS**

This Plan of Allocation has been prepared by Plaintiffs and Lead Counsel with the assistance of their economic consultant. Defendants dispute that any damages were suffered by any Members of the Settlement Class.

The Settlement Amount of \$35,000,000, consisting of \$15,000,000 in Settlement Cash and approximately \$20,000,000 in Settlement Stock, and the interest earned thereon, shall be the gross Settlement Fund. The gross Settlement Fund, less all taxes and approved costs, fees, and expenses (the "Net Settlement Fund") shall be distributed to Members of the Settlement Class who submit acceptable Claim Forms ("Authorized Claimants"), substantially in accordance with the Plan of Allocation discussed below.

After receipt of the Settlement Stock, Lead Counsel shall, in its sole discretion, either: (i) sell the Settlement Stock with the proceeds of such sales placed in the Settlement Fund; or (ii) distribute the Settlement Stock to Settlement Class Members who submit a valid claim in two equal distributions. Each Authorized Claimant shall be paid based on the percentage of the Net Settlement Fund that each Authorized Claimant's recognized loss bears to the total of the recognized losses of all Authorized Claimants (the "*Pro Rata* Share"), as determined by the Claims Administrator. The recognized loss formula is not intended to be an estimate of the amount a Settlement Class Member might have been able to recover after a trial, nor is it an estimate of the amount that will be paid to Authorized Claimants pursuant to the Settlement. The recognized loss formula is the basis upon which the Net Settlement Fund will be proportionately allocated to the Authorized Claimants.

The following proposed Plan of Allocation reflects the allegations in the AC that Defendants made materially false and misleading statements and omissions regarding the Company's production and manufacturing capabilities, "backlog" of purchase orders, and positioning for the NGDV Contract and engaged in a scheme to defraud investors into believing, among other things, that Workhorse was capable of winning the NGDV Contract. The AC alleges that these misrepresentations resulted in the artificial inflation of the prices of the Company's common stock during the Class Period from March 10, 2020, through May 10, 2021, inclusive. Defendants deny that they made any materially false or misleading statements or omissions or engaged in a scheme to defraud investors, and that those alleged misstatements and omissions or scheme resulted in the artificial inflation of the Company's stock.

Shares eligible for recognizable losses are those shares of Workhorse's common stock purchased or otherwise acquired from March 10, 2020, through May 10, 2021, inclusive.

### **PLAN OF ALLOCATION**

1. The objective of the Plan of Allocation is to equitably distribute the Settlement proceeds to those Settlement Class Members who Plaintiffs allege suffered economic losses as a result of the alleged violations of the federal securities laws as opposed to losses caused by market or industry factors or company-specific factors unrelated to the alleged violations of law. The Plan of Allocation reflects the allegations of the AC and the advice of Plaintiffs' damages expert, including a review of publicly available information regarding Workhorse and statistical analysis of the price movements of Workhorse common stock and the price performance of relevant market and peer indices during the Class Period. The Plan of Allocation, however, is not a formal damages analysis.
2. The calculations made pursuant to the Plan of Allocation are not intended to be estimates of, nor indicative of, the amounts that Settlement Class Members might have been able to recover after a trial. Nor are the calculations pursuant to the Plan of Allocation intended to be estimates of the amounts that will be paid to Authorized Claimants pursuant to the Settlement. The computations under the Plan of Allocation are only a method to weigh the claims of Authorized Claimants against one another for the purposes of making *pro rata* allocations of the Net Settlement Fund to Authorized Claimants.
3. Plaintiffs allege that Defendants made false statements and omitted material facts during a period from March 10, 2020, through May 10, 2021, inclusive, which inflated the price of Workhorse common stock. Plaintiffs argue that multiple corrective disclosures released to the market during the Class Period revealed the allegedly misrepresented information, impacted the market price of Workhorse common stock, and partially removed alleged artificial inflation from the Workhorse common stock price on February 23, 2021 and May 10, 2021. Again, Defendants deny they made any false statements or omissions or that such alleged statements or omissions resulted in artificial inflation.
4. Accordingly, in order to have a Recognized Loss under the Plan of Allocation, a Settlement Class Member who or which purchased or otherwise acquired Workhorse common stock during the Class Period must have held those shares through at least one of the dates where Plaintiffs allege new corrective information was released to the market and partially removed the alleged artificial inflation from the price of Workhorse common stock.

### **CALCULATION OF RECOGNIZED LOSS**

5. A Recognized Loss Amount will be calculated for each share of Workhorse common stock purchased or acquired during the Class Period from March 10, 2020, through May 10, 2021, inclusive, pursuant to Paragraphs 6 and 7 below. If the calculation of a Recognized Loss Amount for any particular share purchased or acquired during the Class Period results in a negative number, that number shall be set to zero.
6. For each share of Workhorse common stock purchased or otherwise acquired from March 10, 2020 through February 22, 2021, inclusive, and:
  - i. sold before February 23, 2021, the Recognized Loss Amount for each share shall be zero;
  - ii. sold from February 23, 2021, up to and including May 9, 2021, the Recognized Loss Amount for each share is **the lesser of:** (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table 1 below **minus** the amount of artificial inflation per share on the date of sale as stated in Table 1 below; or (ii) the purchase/acquisition price **minus** the sale price;
  - iii. sold from May 10, 2021 through and including the close of market trading on August 6, 2021, the Recognized Loss Amount for each share is **the least of:** (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table 1 below; (ii) the purchase/acquisition price **minus** the average closing price between May 10, 2021 and the date of sale as stated on Table 2 below; or (iii) the purchase/acquisition price **minus** the sale price;

- iv. held as of the close of market trading on August 6, 2021, the Recognized Loss Amount for each share is **the lesser of:** (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table 1 below; or (ii) the purchase/acquisition price **minus** \$12.08, the average closing price of Workhorse common stock between May 10, 2021 and August 6, 2021, as shown on the last line of Table 2 below.<sup>2</sup>
7. For each share of Workhorse common stock purchased or otherwise acquired from February 23, 2021 through May 10, 2021, inclusive, and:
  - i. sold before May 10, 2021, the Recognized Loss Amount for each share shall be zero;
  - ii. sold from May 10, 2021 through and including the close of market trading on August 6, 2021, the Recognized Loss Amount for each share is **the least of:** (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table 1 below; (ii) the purchase/acquisition price **minus** the average closing price between May 10, 2021 and the date of sale as stated on Table 2 below; or (iii) the purchase/acquisition price **minus** the sale price;
  - iii. held as of the close of market trading on August 6, 2021, the Recognized Loss Amount for each share is **the lesser of:** (i) the amount of artificial inflation per share on the date of purchase/acquisition as stated in Table 1 below; or (ii) the purchase/acquisition price **minus** \$12.08, the average closing price of Workhorse common stock between May 10, 2021 and August 6, 2021, as shown on the last line of Table 2 below.<sup>3</sup>

#### **ADDITIONAL PROVISIONS**

8. The sum of a Claimant's Recognized Loss Amounts will be the Claimant's "Recognized Claim." The Recognized Claim shall be the amount used to calculate the Authorized Claimant's *pro rata* share of the Net Settlement Fund. If the sum total of Recognized Claims of all Authorized Claimants who are entitled to receive payment out of the Net Settlement Fund is greater than the Net Settlement Fund, each Authorized Claimant shall receive his, her, or its *pro rata* share of the Net Settlement Fund. The *pro rata* share shall be the Authorized Claimant's Recognized Claim divided by the total of Recognized Claims of all Authorized Claimants, multiplied by the total amount in the Net Settlement Fund.
9. If a Settlement Class Member has more than one purchase/acquisition or sale of Workhorse common stock during the Class Period, all purchases/ acquisitions and sales shall be matched on a First In, First Out ("FIFO") basis. Class Period sales will be matched first against any holdings at the beginning of the Class Period, and then against purchases/acquisitions in chronological order, beginning with the earliest purchase/acquisition made during the Class Period.
10. Purchases or acquisitions of Workhorse common stock shall be deemed to have occurred on the "contract" or "trade" date as opposed to the "settlement" or "payment" date. The receipt or grant by gift, inheritance or operation of law of Workhorse common stock during the Class Period shall not be deemed a purchase, acquisition, or sale of these Workhorse common stock shares for the calculation of an Authorized Claimant's Recognized Claim, nor shall the receipt or grant be deemed an assignment of any claim relating to the purchase/acquisition of such shares of Workhorse common stock unless (i) the donor or decedent purchased or otherwise acquired such shares of Workhorse common stock during the Class Period; (ii) no Claim Form was submitted by or on behalf of the donor, on behalf of the decedent, or by anyone else with respect to such shares of Workhorse common stock; and (iii) it is specifically so provided in the instrument of gift or assignment.
11. The date of covering a "short sale" is deemed to be the date of purchase or acquisition of the Workhorse common stock shares. The date of a "short sale" is deemed to be the date of sale of Workhorse common stock. In accordance with the Plan of Allocation, however, the Recognized Loss Amount on "short sales" and any purchases/acquisitions covering "short sales" is zero. In the event that a Claimant has an opening short position in Workhorse common stock, the earliest Class Period purchases or acquisitions shall be matched against such opening short position, and not be entitled to a recovery, until that short position is fully covered.

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<sup>2</sup> Pursuant to Section 21D(e)(1) of the Exchange Act, "in any private action arising under this title in which the plaintiff seeks to establish damages by reference to the market price of a security, the award of damages to the plaintiff shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the mean trading price of that security during the 90-day period beginning on the date on which the information correcting the misstatement or omission that is the basis for the action is disseminated to the market." Consistent with the requirements of the Exchange Act, Recognized Loss Amounts are reduced to an appropriate extent by taking into account the closing prices of Workhorse common stock during the "90-day look-back period," May 10, 2021 through and including August 6, 2021. The mean (average) closing price for Workhorse common stock during this 90-day look-back period was \$12.08.

<sup>3</sup> As described in footnote 2, the mean (average) closing price for Workhorse common stock during the 90-day look-back period was \$12.08.

12. With respect to Workhorse common stock purchased or sold through the exercise of an option, the purchase/sale date of the common stock is the exercise date of the option and the purchase/sale price is the exercise price of the option.
13. The Net Settlement Fund will be allocated among all Authorized Claimants whose claims are valued at \$20 or greater. If the prorated payment to any Authorized Claimant calculates to less than \$20, it will not be included in the calculation and no distribution will be made to that Authorized Claimant.
14. After the initial distribution of the Net Settlement Fund, the Claims Administrator will make reasonable and diligent efforts to have Authorized Claimants cash their distribution checks. To the extent any monies or shares of Workhorse common stock remain in the Net Settlement Fund six (6) months after the initial distribution, if Lead Counsel, in consultation with the Claims Administrator, determine that it is cost-effective to do so, the Claims Administrator will conduct a re-distribution of the funds remaining after payment of any unpaid fees and expenses incurred in administering the Settlement, including for such re-distribution, to Authorized Claimants who have cashed their initial distributions and who would receive at least \$20 in cash and/or stock from such re-distribution. Additional re-distributions to Authorized Claimants who have cashed their prior checks and who would receive at least \$10 in cash and/or stock on such additional re-distributions may occur thereafter if Lead Counsel, in consultation with the Claims Administrator, determine that additional re-distributions would be cost-effective, after the deduction of any additional fees and expenses incurred in administering the Settlement, including for such re-distributions. At such time as it is determined that the re-distribution of funds and/or shares remaining in the Net Settlement Fund is not cost-effective, the remaining balance will be contributed to non-sectarian, not-for-profit, 501(c)(3) organization(s), to be recommended by Lead Counsel and approved by the Court.
15. Payment pursuant to the Plan of Allocation, or such other plan as may be approved by the Court, shall be conclusive against all Authorized Claimants. No person shall have any claim against Plaintiffs, Lead Counsel, Plaintiffs' damages expert, or other agent designated by Lead Counsel, Defendants, Defendants' Counsel, or any other Plaintiffs' Releasees or Defendants' Releasees, or the Claims Administrator arising from determinations or distributions to Claimants made substantially in accordance with the Stipulation, the plan of allocation approved by the Court, or further Orders of the Court. Plaintiffs, Defendants, and their respective counsel, and all of Releasing Plaintiffs' Parties or Released Defendants' Parties shall have no liability whatsoever for the investment or distribution of the Settlement Fund, the Plan of Allocation, the determination, administration, calculation, or payment of any Claim or any actions taken (or not taken) by the Claims Administrator, the payment or withholding of taxes owed by the Settlement Fund, or any losses incurred in connection therewith.
16. The Plan of Allocation set forth herein is the plan that is being proposed by the Plaintiffs and Lead Counsel to the Court for approval. The Court may approve this Plan of Allocation as proposed or it may modify the Plan without further notice to the Settlement Class. Any orders regarding a modification of the Plan of Allocation will be posted to the website for this Settlement, [www.WorkhorseSecuritiesLitigation.com](http://www.WorkhorseSecuritiesLitigation.com).

**TABLE 1**

**Common Share Alleged Artificial Inflation**

Purchase/Acquisition Date:	Alleged Artificial Inflation Per Share:
March 10, 2020 – February 22, 2021	(55% * Transaction Price) + \$0.01, Not to Exceed \$15.98
February 23, 2021 – May 9, 2021	(15% * Transaction Price) + \$0.01, Not to Exceed \$1.46
May 10, 2021	\$0.01

**TABLE 2**

**Workhorse Common Share Price and Average 90-Day Look-Back Price**

**May 10, 2021– August 6, 2021**

Date:	Workhorse Common Stock Closing Price:	Workhorse Common Stock Average Closing Price Between May 10, 2021 and Date Shown Closing Price:
May 10, 2021	\$8.20	\$8.20
May 11, 2021	\$8.24	\$8.22
May 12, 2021	\$7.69	\$8.04
May 13, 2021	\$7.48	\$7.90
May 14, 2021	\$8.10	\$7.94
May 17, 2021	\$8.25	\$7.99
May 18, 2021	\$9.00	\$8.14

<b>Date:</b>	<b>Workhorse Common Stock Closing Price:</b>	<b>Workhorse Common Stock Average Closing Price Between May 10, 2021 and Date Shown Closing Price:</b>
May 19, 2021	\$8.99	\$8.24
May 20, 2021	\$8.58	\$8.28
May 21, 2021	\$8.46	\$8.30
May 24, 2021	\$8.31	\$8.30
May 25, 2021	\$8.14	\$8.29
May 26, 2021	\$9.13	\$8.35
May 27, 2021	\$9.62	\$8.44
May 28, 2021	\$9.37	\$8.50
June 1, 2021	\$9.63	\$8.57
June 2, 2021	\$11.52	\$8.75
June 3, 2021	\$14.77	\$9.08
June 4, 2021	\$13.05	\$9.29
June 7, 2021	\$13.94	\$9.52
June 8, 2021	\$15.58	\$9.81
June 9, 2021	\$16.90	\$10.13
June 10, 2021	\$15.06	\$10.35
June 11, 2021	\$15.53	\$10.56
June 14, 2021	\$15.05	\$10.74
June 15, 2021	\$14.15	\$10.87
June 16, 2021	\$14.90	\$11.02
June 17, 2021	\$14.45	\$11.15
June 18, 2021	\$14.87	\$11.27
June 21, 2021	\$14.54	\$11.38
June 22, 2021	\$14.54	\$11.49
June 23, 2021	\$15.91	\$11.62
June 24, 2021	\$15.49	\$11.74
June 25, 2021	\$15.61	\$11.85
June 28, 2021	\$16.96	\$12.00
June 29, 2021	\$17.20	\$12.14
June 30, 2021	\$16.59	\$12.26
July 1, 2021	\$15.64	\$12.35
July 2, 2021	\$14.17	\$12.40
July 6, 2021	\$13.84	\$12.44
July 7, 2021	\$12.51	\$12.44
July 8, 2021	\$12.90	\$12.45
July 9, 2021	\$12.98	\$12.46
July 12, 2021	\$12.79	\$12.47
July 13, 2021	\$12.27	\$12.46
July 14, 2021	\$11.43	\$12.44
July 15, 2021	\$11.68	\$12.43
July 16, 2021	\$11.17	\$12.40
July 19, 2021	\$11.22	\$12.38
July 20, 2021	\$11.31	\$12.35
July 21, 2021	\$11.65	\$12.34
July 22, 2021	\$11.21	\$12.32
July 23, 2021	\$10.79	\$12.29
July 26, 2021	\$11.40	\$12.27
July 27, 2021	\$11.01	\$12.25
July 28, 2021	\$11.30	\$12.23
July 29, 2021	\$11.74	\$12.22
July 30, 2021	\$11.54	\$12.21
August 2, 2021	\$11.20	\$12.20
August 3, 2021	\$10.71	\$12.17
August 4, 2021	\$10.41	\$12.14
August 5, 2021	\$10.58	\$12.12
August 6, 2021	\$10.10	\$12.08

**SPECIAL NOTICE TO SECURITIES BROKERS AND OTHER NOMINEES**

If you purchased common stock of Workhorse from March 10, 2020, to May 10, 2021, inclusive, for the beneficial interest of a person or organization other than yourself, the Court has directed that WITHIN TEN DAYS OF YOUR RECEIPT OF THIS NOTICE, you either (a) provide to the Claims Administrator the name, email address, and last known address of each person or organization for whom or which you purchased Workhorse common stock during such time period or (b) request additional copies of the Postcard Notice, which will be provided to you free of charge, and within ten (10) days mail the Postcard Notice directly to the beneficial owners of that Workhorse common stock. If you choose to follow alternative procedure (b), the Court has directed that upon such mailing, you send a statement to the Claims Administrator confirming that the mailing was made as directed. You are entitled to reimbursement from the Settlement Fund of your reasonable out-of-pocket expenses actually incurred in connection with the foregoing up to \$0.03 for providing names, addresses, and email addresses to the Claims Administrator; up to a maximum of \$0.03 per Postcard Notice mailed by you, plus postage at the rate used by the Claims Administrator; or \$0.03 per notice sent by email. Those expenses will be paid upon request and submission of appropriate supporting documentation. All communications concerning the foregoing should be addressed to the Claims Administrator via email at [Notifications@kccllc.com](mailto:Notifications@kccllc.com) or by mail:

Workhorse Securities Litigation  
c/o KCC Class Action Services, LLC  
P.O. Box 301133  
Los Angeles, CA 90030-1133  
(by regular or express mail)

Workhorse Securities Litigation  
c/o KCC Class Action Services, LLC  
222 N. Pacific Coast Hwy, Suite 300  
El Segundo, CA 90245  
(by express delivery service)

If you choose to mail the Notice and Claim Form yourself, you may obtain from the Claims Administrator (without cost to you) as many additional copies of these documents as you will need to complete the mailing.

DATED: February 28, 2023

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THE HONORABLE CORMAC J. CARNEY  
UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA