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of himself and all others similarly situated and aggrieved

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and Nital Pillay

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN JOAQUIN

JASON WICKLUND, an individual, and on
behalf of all others similarly situated,

Plaintiff,

v.

TQ LOGISTICS INC., a Georgia
Corporation; NITAL PILLAY, an individual;
and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: STK-CV-UOE-2024-0004980
RELATED CASE NO.: STK-CV-UOE-
2024-0018624

[Assigned for all purposes to the Hon.
Robert T. Waters in Dept 11B]

**CLASS AND PAGA SETTLEMENT
AGREEMENT**

Action Filed: April 24, 2024
Trial Date: None Set

1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Jason Wicklund (“Plaintiff”) and defendant TQ Logistics, Inc. (“TQ
3 Logistics”). The Agreement refers to Plaintiff and TQ Logistics collectively as “Parties,” or
4 individually as “Party.”

5 **1. DEFINITIONS**

6 1.1. “Action” means the Plaintiff’s lawsuits alleging wage and hour violations against
7 Defendants, captioned *Jason Wicklund v. TQ Logistics, Inc. et al.*, Case No. STK-CV-2024-
8 0004980, initiated on April 24, 2024, and for civil penalties under PAGA, captioned *Jason*
9 *Wicklund v. TQ Logistics, Inc. et al.*, Case No. STK-CV-UOE-2024-0018624, pending in
10 Superior Court of the State of California, County of San Joaquin.

11 1.2. “Administrator” means Apex Class Action LLC (“Apex”), the neutral entity the Parties
12 have agreed to appoint to administer the Settlement.

13 1.3. “Administration Expenses Payment” means the amount the Administrator will be paid
14 from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance
15 with the Administrator’s “not to exceed” bid submitted to the Court in connection with
16 Preliminary Approval of the Settlement.

17 1.4. “Aggrieved Employee” means a person employed by TQ Logistics in California and
18 classified as a non-exempt, hourly-paid employee who worked for TQ Logistics during the
19 PAGA Period.

20 1.5. “Class” means all persons employed by TQ Logistics in California and classified as a
21 non-exempt, hourly-paid employee who worked for TQ Logistics during the Class Period.

22 1.6. “Class Counsel” means David D. Bibiyan and Vedang J. Patel of Bibiyan Law Group,
23 P.C.

24 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean
25 the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
26 expenses, respectively, incurred to prosecute the Action.

27 1.8. “Class Data” means Class Member identifying information in Defendants’ custody,
28 possession, or control, including the Class Member’s (1) name; (2) last known address(es); (3)

1 last known telephone number(s); (4) last known Social Security Number(s); and (5) the dates of
2 employment (i.e., hire dates, and, if applicable, re-hire date(s) and/or separation date(s)).

3 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as either
4 a Participating Class Member or Non-Participating Class Member (including a Non- Participating
5 Class Member who qualifies as an Aggrieved Employee).

6 1.10. “Class Member Address Search” means the Administrator’s investigation and search for
7 current Class Member mailing addresses using all reasonably available sources, methods and
8 means including, but not limited to, the National Change of Address database, skip traces, and
9 direct contact by the Administrator with Class Members.

10 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
11 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
12 Class Members in English and Spanish in the form, without material variation, attached as Exhibit
13 A and incorporated by reference into this Agreement.

14 1.12. “Class Period” means the period from April 24, 2020, through March 7, 2025.

15 1.13. “Class Representative” means the named Plaintiff in the operative complaint in the Action
16 seeking Court approval to serve as a Class Representative.

17 1.14. “Class Representative Service Payment” means the payment to the Class Representative
18 for initiating the Action and providing services in support of the Action.

19 1.15. “Court” means the Superior Court of California, County of San Joaquin.

20 1.16. “Defendants” means named defendants TQ Logistics, Inc. and Nital Pillay.

21 1.17. “Defense Counsel” means Paul J. Bauer and Michael J. Conway II of Sagaser, Watkins &
22 Wieland, PC.

23 1.18. “Effective Date” means the later of: (a) the Court enters a Judgment on its Order Granting
24 Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the
25 latest of the following occurrences: (a) if no Participating Class Member objects to the
26 Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members
27 objects to the Settlement, the day after the deadline for filing a notice of appeal from the
28

1 Judgment; or if a timely appeal from the Judgment is filed, the day after the appellate court
2 affirms the Judgment and issues a remittitur.

3 1.19. “Final Approval” means the Court’s order granting final approval of the Settlement.

4 1.20. “Final Approval Hearing” means the Court’s hearing on the Motion for Final Approval
5 of the Settlement.

6 1.21. “Final Judgment” means the Judgment entered by the Court based upon the Final
7 Approval.

8 1.22. “Gross Settlement Amount” means \$250,000.00 (Two Hundred Fifty Thousand Dollars
9 and Zero Cents) which is the total amount TQ Logistics agrees to pay under the Settlement,
10 except as provided in Paragraph 8.1 below and any and all employer payroll taxes owed on the
11 Wage Portions of the Individual Class Payments. The Gross Settlement Amount will be used to
12 pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class
13 Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and
14 Administrator’s Expenses.

15 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata share of the
16 Net Settlement Amount calculated according to the number of Workweeks worked during the
17 Class Period.

18 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of 25% of
19 the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA
20 Period.

21 1.25. “Judgment” means the judgment entered by the Court based upon Final Approval.

22 1.26. “LWDA” means the California Labor and Workforce Development Agency, the agency
23 entitled, under Labor Code section 2699, subd. (i).

24 1.27. “LWDA PAGA Payment” means the 75% of the PAGA Penalties paid to the LWDA
25 under Labor Code section 2699, subd. (i).

26 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
27 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
28 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel

1 Litigation Expenses Payment, and Administration Expenses Payment. The remainder is to be
2 paid to Participating Class Members as Individual Class Payments.

3 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
4 Settlement by sending the Administrator a valid and timely Request for Exclusion.

5 1.30. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee worked
6 for TQ Logistics for at least one day during the PAGA Period, based on hire dates, re-hire dates
7 (as applicable), and termination dates (as applicable).

8 1.31. “PAGA Period” means the period from April 24, 2023 through the end of the Class
9 Period.

10 1.32. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

11 1.33. “PAGA Notice” means plaintiff’s April 24, 2024 letter to Defendants and the LWDA,
12 providing notice pursuant to Labor Code section 2699.3 subd. (a).

13 1.34. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the
14 Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$6,250.00) and the 75%
15 to the LWDA (\$18,750.00) in settlement of PAGA claims.

16 1.35. “Participating Class Member” means a Class Member who does not submit a valid and
17 timely Request for Exclusion from the Settlement.

18 1.36. “Plaintiff” means Jason Wicklund the named plaintiff in the Action.

19 1.37. “Preliminary Approval” means the Court’s Order Granting Preliminary Approval of the
20 Settlement.

21 1.38. “Preliminary Approval Order” means the proposed Order granting Preliminary Approval
22 and Approval of PAGA Settlement.

23 1.39. “Released Class Claims” means the claims being released as described in Paragraph 5.2
24 below.

25 1.40. “Released PAGA Claims” means the claims being released as described in Paragraph 5.4
26 below.

27 1.41. “Released Parties” means: Defendants, and each of their former, present and future
28 owners, parents, and subsidiaries, and all of their current, former, and future officers, directors,

1 members, managers, employees, consultants, partners, shareholders, joint venturers, agents,
2 predecessors, successors, assigns, accountants, insurers, reinsurers, and/or legal representatives.

3 1.42. “Request for Exclusion” means a Class Member’s submission of a written request to be
4 excluded from the Class Settlement signed by the Class Member.

5 1.43. “Response Deadline” means forty-five (45) days after the Administrator mails Notice to
6 Class Members and Aggrieved Employees, and shall be the last date on which Class Members
7 may: (a) mail Requests for Exclusion from the Settlement, or (b) mail his or her Objection to the
8 Settlement. Class Members to whom Notice Packets are resent after having been returned
9 undeliverable to the Administrator shall have an additional 15 days beyond the Response
10 Deadline has expired.

11 1.44. “Settlement” means the disposition of the Action effected by this Agreement and the
12 Judgment.

13 1.45. “Workweek” means any week during which a Class Member worked for TQ Logistics,
14 for at least one day during the Class Period, based on hire dates, re-hire dates (as applicable), and
15 termination dates (as applicable).

16 **2. RECITALS**

17 2.1. On April 24, 2024, Plaintiff commenced this Action by filing a complaint against
18 Defendants for: (1) failure to pay overtime wages; (2) failure to pay minimum wages; (3) failure
19 to provide meal periods or compensation in lieu thereof; (4) failure to provide rest periods or
20 compensation in lieu thereof; (5) waiting time penalties; (6) wage statement violations; (7) failure
21 to timely pay wages; (8) failure to indemnify; (9) misclassification of employees; (10) violation
22 of Labor Code section 227.3; and (11) unfair competition (the “Class Action”). Defendants filed
23 responsive pleadings denying the allegations.

24 2.2. On April 24, 2024, Plaintiff filed with the LWDA and served on Defendants a notice
25 under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to
26 recover civil penalties on behalf of Aggrieved Employees for alleged Labor Code violations
27 (“PAGA Notice”).

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1 2.3. On October 15, 2024, Plaintiff amended the PAGA notice, adding misclassification
2 claims, among other things.

3 2.4. On December 30, 2024, Plaintiff filed a separate representative action in the Superior
4 Court of California for the County of San Joaquin, Case No. STK-CV-UOE-2024-0018624,
5 seeking PAGA civil penalties against Defendants for Labor Code violations alleged in the PAGA
6 Notice (the “PAGA Action”). Defendants filed responsive pleadings denying the allegations.

7 2.5. Thereafter, the Parties agreed to exchange informal discovery and attend mediation.

8 2.6. Prior to mediation Plaintiff obtained, through informal discovery: (a) time and pay
9 records for the driver employees during the Class Period; (b) policy and practice documents; and
10 (c) Plaintiff’s personnel file.

11 2.7. Plaintiff’s investigation was sufficient to satisfy the criteria for court approval set forth in
12 *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker*
13 *Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 (“*Dunk/Kullar*”).

14 2.8. On November 21, 2024, the Parties participated in an all-day mediation presided over by
15 Hon. Suzanne Bruguera. The mediation was unsuccessful, but the Parties continued negotiations
16 with the aid of the mediator and agreed to globally resolve all class and PAGA claims in the
17 Action on or around March 7, 2025.

18 2.9. The Court has not granted class certification.

19 2.10. The Parties, Class Counsel, and Defense Counsel represent that they are not aware of any
20 other pending matter or action asserting claims that will be extinguished or affected by the
21 Settlement.

22 **3. MONETARY TERMS**

23 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 8.1 below, TQ
24 Logistics promises to pay \$250,000.00 as the Gross Settlement Amount, unless increased
25 pursuant to Paragraph 8.1 of this Agreement, and to separately pay any and all employer payroll
26 taxes owed on the Wage Portions of the Individual Class Payments. TQ Logistics has no
27 obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated
28 in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement

1 Amount without asking or requiring Participating Class Members or Aggrieved Employees to
2 submit any claim as a condition of payment. None of the Gross Settlement Amount will revert
3 to Defendants.

4 3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct
5 the following payments from the Gross Settlement Amount, in the amounts specified by the Court
6 in the Final Approval:

7 3.2.1. To Plaintiff: Class Representative Service Payment to Plaintiff of not more than
8 \$7,500.00 in addition to any Individual Class Payment and any Individual PAGA
9 Payment Plaintiff is entitled to receive as a Participating Class Member. Defendants
10 will not oppose Plaintiff's request for a Class Representative Service Payment that does
11 not exceed this amount. As part of the motion for Class Counsel Fees Payment and
12 Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class
13 Representative Service Payments prior to the Final Approval Hearing. If the Court
14 approves a Class Representative Service Payment less than the amount requested, the
15 Administrator will retain the remainder in the Net Settlement Amount. The
16 Administrator will pay the Class Representative Service Payment using IRS Form 1099.
17 Plaintiff assumes full responsibility and liability for employee taxes owed on the Class
18 Representative Service Payment.

19 3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the
20 Gross Settlement Amount, which, unless escalated pursuant to Paragraph 8.1 of this
21 Agreement, is currently estimated to be \$87,500.00 and a Class Counsel Litigation
22 Expenses Payment of not more than \$25,000.00. Defendants will not oppose requests
23 for these payments provided that do not exceed these amounts. Plaintiff and/or Class
24 Counsel will endeavor to file a motion for Class Counsel Fees Payment and Class
25 Litigation Expenses Payment prior to the Final Approval Hearing. If the Court approves
26 a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less
27 than the amounts requested, the Administrator will allocate the remainder to the Net
28 Settlement Amount. Released Parties shall have no liability to Class Counsel or any

1 other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee
2 Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will
3 pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one
4 or more IRS 1099 Forms. Class Counsel assume full responsibility and liability for taxes
5 owed on the Class Counsel Fees Payment and the Class Counsel Litigation Expenses
6 Payment and holds TQ Logistics harmless, and indemnifies TQ Logistics, from any
7 dispute or controversy regarding any division or sharing of any of these Payments. There
8 will be no additional charge of any kind to either the Settlement Class Members or
9 request for additional consideration from TQ Logistics for such work unless, TQ
10 Logistics materially breaches this Agreement, including any term regarding funding,
11 and further efforts are necessary from Class Counsel to remedy said breach, including,
12 without limitation, moving the Court to enforce the Agreement. Should the Court
13 approve attorneys' fees and/or litigation costs and expenses in amounts that are less than
14 the amounts provided for herein, then the unapproved portion(s) shall be a part of the
15 Net Settlement Amount.

16 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
17 \$5,650.00 except for a showing of good cause and as approved by the Court. To the
18 extent the Administration Expenses are less or the Court approves payment less than
19 \$5,650.00, the Administrator will retain the remainder in the Net Settlement Amount.

20 3.2.4. To Each Participating Class Member: An Individual Class Payment calculated
21 by (a) dividing the Net Settlement Amount by the total number of Workweeks worked
22 by all Participating Class Members during the Class Period and (b) multiplying the result
23 by each Participating Class Member's Workweeks.

24 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each Participating
25 Class Member's Individual Class Payment will be allocated to settlement of
26 wage claims (the "Wage Portion"). The Wage Portions are subject to tax
27 withholding and will be reported on an IRS W-2 Form. The 80% of each
28 Participating Class Member's Individual Class Payment will be allocated to

1 settlement of claims for interest and penalties (the “Non-Wage Portion”). The
2 Non-Wage Portions are not subject to wage withholdings and will be reported
3 on IRS 1099 Forms. Participating Class Members assume full responsibility
4 and liability for any employee taxes owed on their Individual Class Payment.

5 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual
6 Class Payments. Non-Participating Class Members will not receive any
7 Individual Class Payments. The Administrator will retain amounts equal to
8 their Individual Class Payments in the Net Settlement Amount for distribution
9 to Participating Class Members on a pro rata basis.

10 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of
11 \$25,000.00 to be paid from the Gross Settlement Amount, with 75% (\$18,750.00)
12 allocated to the LWDA PAGA Payment and 25% (\$6,250.00) allocated to the Individual
13 PAGA Payments.

14 3.2.5.1. The Administrator will calculate each Individual PAGA
15 Payment by (a) dividing the amount of the Aggrieved Employees’ 25% share
16 of PAGA Penalties \$6,250.00 by the total number of PAGA Period Pay Periods
17 worked by all Aggrieved Employees during the PAGA Period and (b)
18 multiplying the result by each Aggrieved Employee’s PAGA Period Pay
19 Periods. Aggrieved Employees assume full responsibility and liability for any
20 taxes owed on their Individual PAGA Payment.

21 3.2.5.2. If the Court approves PAGA Penalties of less than the
22 amount requested, the Administrator will allocate the remainder to the Net
23 Settlement Amount. The Administrator will report the Individual PAGA
24 Payments on IRS 1099 Forms.

25 **4. SETTLEMENT FUNDING AND PAYMENTS**

26 4.1. Class Workweeks and Aggrieved Employee Pay Periods. Based on a review of its records
27 to date, TQ Logistics estimates there are 62 Class Members who collectively worked a total of
28

1 5,726 Workweeks, and 30 of Aggrieved Employees who worked a total of 2,040 PAGA Pay
2 Periods.

3 4.2. Class Data. Not later than 14 days after the Court grants Preliminary Approval of the
4 Settlement, TQ Logistics will deliver the Class Data to the Administrator, in the form of a
5 Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must
6 maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement
7 and for no other purpose, and restrict access to the Class Data to Administrator employees who
8 need access to the Class Data to effect and perform under this Agreement. TQ Logistics has a
9 continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted
10 class member identifying information and to provide corrected or updated Class Data as soon as
11 reasonably feasible. Without any extension of the deadline by which TQ Logistics must send the
12 Class Data to the Administrator, the Parties and their counsel will expeditiously use best efforts,
13 in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Class
14 Data.

15 4.3. Funding of Gross Settlement Amount. TQ Logistics shall fully fund the Gross Settlement
16 Amount, and also fund the amounts necessary to fully pay TQ Logistics's share of payroll taxes
17 by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

18 4.4. Payments from the Gross Settlement Amount. Within 14 days after TQ Logistics funds
19 the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
20 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
21 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
22 Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel
23 Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative
24 Service Payment shall not precede disbursement of Individual Class Payments, and the Individual
25 PAGA Payments.

26 4.4.1. The Administrator will issue checks for the Individual Class Payments and/or
27 Individual PAGA Payments and send them to the Class Members via First Class U.S.
28 Mail, postage prepaid. The face of each check shall prominently state the date (not less

1 than 180 days after the date of mailing) when the check will be voided. The
2 Administrator will cancel all checks not cashed by the void date. The Administrator
3 will send checks for Individual Settlement Payments to all Participating Class Members
4 (including those for whom Class Notice was returned undelivered). The Administrator
5 will send checks for Individual PAGA Payments to all Aggrieved Employees including
6 Non-Participating Class Members who qualify as Aggrieved Employees (including
7 those for whom Class Notice was returned undelivered). The Administrator may send
8 Participating Class Members a single check combining the Individual Class Payment
9 and the Individual PAGA Payment. Before mailing any checks, the Settlement
10 Administrator must update the recipients' mailing addresses using the National Change
11 of Address Database.

12 4.4.2. The Administrator must conduct a Class Member Address Search for all other
13 Class Members whose checks are returned undelivered without USPS forwarding
14 address. Within 7 days of receiving a returned check the Administrator must re-mail
15 checks to the USPS forwarding address provided or to an address ascertained through
16 the Class Member Address Search. The Administrator need not take further steps to
17 deliver checks to Class Members whose re-mailed checks are returned as undelivered.
18 The Administrator shall promptly send a replacement check to any Class Member whose
19 original check was lost or misplaced, requested by the Class Member prior to the void
20 date.

21 4.4.3. For any Class Member whose Individual Class Payment check or Individual
22 PAGA Payment check is uncashed and cancelled after the Void Date, the Administrator
23 shall transmit the funds represented by such checks to the California Controller's
24 Unclaimed Property Fund, in the name of the Class Member, thereby leaving no "unpaid
25 residue" subject to the requirements of California Code of Civil Procedure Section 384,
26 subd. (b).

27 4.4.4. The payment of Individual Class Payments and Individual PAGA Payments shall
28 not obligate Defendants to confer any additional benefits or make any additional

1 payments to Class Members (such as 401(k) contributions or bonuses) beyond those
2 specified in this Agreement.

3 **5. RELEASE OF CLAIMS**

4 Effective upon entry of Judgment, the Order granting Final Approval of this Settlement,
5 and on the date when TQ Logistics fully funds the entire Gross Settlement Amount and funds all
6 employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiff,
7 Class Members, and Class Counsel will release claims against all Released Parties as follows:

8 5.1. Plaintiff's Release. Plaintiff and Plaintiff's respective former and present spouses,
9 representatives, agents, attorneys, heirs, administrators, successors, and assigns generally, release
10 and discharge Released Parties from all claims, transactions, or occurrences, whether known or
11 unknown, suspected or unsuspected, contingent or non-contingent, which now exist, or have
12 existed, upon any theory of law or equity now existing, including, but not limited to, conduct that
13 is negligent, intentional, with or without malice, or a breach of any duty, law or rule, without
14 regard to the subsequent discovery or existence of such different or additional facts.
15 Additionally, Plaintiff releases the Released Parties of all claims, charges, complaints, liens,
16 demands, causes of action, obligations, damages and liabilities, known or suspected, arising from
17 their employment with the TQ Logistics including, but not limited to: (a) all claims that were, or
18 reasonably could have been, alleged, based on the facts contained, in the Operative Complaint
19 and (b) all PAGA claims that were, or reasonably could have been, alleged based on facts
20 contained in the Operative Complaint and Plaintiff's PAGA Notice. The released claims
21 include, without limitation: claims under (1) the Civil Rights Act of 1964, as amended; (2) 42
22 U.S.C. § 1981; (3) the California Fair Employment and Housing Act; (4) Section 503 of the
23 Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair Labor Standards
24 Act (including the Equal Pay Act); (7) the California and the United States Constitution; (8) the
25 California Labor Code; (9) the Family and Medical Leave Act; (10) the California Family Rights
26 Act; (11) the Worker Adjustment and Retraining Notification Act; (12) the Employee Retirement
27 Income Security Act; (13) the Immigration Reform and Control Act; (14) the California Business
28 and Professions Code, sections 17200, et seq.; (15) the California Government Code; and (16)

1 the California Wage Orders (collectively “Claim” or “Claims”) which Plaintiff now has, owns or
2 holds, or claims to have, own or hold, or which Plaintiff at any time had, owned or held, or
3 claimed to have, own or hold against any of the Released Parties up to and including, as of the
4 final approval of this Settlement Agreement. (Everything released based on the above as well as
5 everything released as part of the Released Class Claims discussed below will be referred to as
6 “Plaintiff’s Release.”) (“Plaintiff’s Release.”) Plaintiff’s Release does not extend to any claims
7 or actions to enforce this Agreement, or to any claims for vested benefits, unemployment
8 benefits, disability benefits, social security benefits, workers’ compensation benefits that arose
9 at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that
10 Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff
11 now knows or believes to be true but agrees, nonetheless, that Plaintiff’s Release shall be and
12 remain effective in all respects, notwithstanding such different or additional facts or Plaintiff’s
13 discovery of them. Plaintiff also understands and agrees that in accordance with the Older
14 Workers Benefit Protection Act, Plaintiff: Has had up to 21 days within which to consider this
15 Agreement before executing it; Agrees that if Plaintiff elects to sign the agreement in less than
16 21 days, Plaintiff does so voluntarily and without pressure or coercion from Defendants and
17 waives any further period of consideration; Has carefully read and fully understands all of the
18 provisions of this Agreement and that the provisions of this Agreement are written in a manner
19 designed to be understood by Plaintiff; Is, through this Agreement, releasing Defendants from
20 any and all rights or claims Plaintiff may have against Defendants under the Age Discrimination
21 in Employment Act of 1967 (29 U.S.C. § 621, et seq.) (“ADEA”); Knowingly and voluntarily
22 intends to be legally bound by the same; Was advised and hereby is advised in writing to consider
23 the terms of this Agreement and consult with an attorney of Plaintiff’s choice before executing
24 this Agreement; Has a full seven days following the execution of this Agreement to revoke this
25 Agreement and has been and hereby is advised in writing that this Agreement shall not become
26 effective or enforceable until the revocation period has expired; Understands that rights or claims
27 under the ADEA that may arise after the date this Agreement is executed are not waived. Plaintiff
28

1 further understands, however, that such rights will not arise against Defendants in light of this
2 Agreement.

3 5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
4 purposes of Plaintiff's Release only, Plaintiff expressly waives and relinquish the
5 provisions, rights, and benefits, if any, of section 1542 of the California Civil Code,
6 which reads:

7 A general release does not extend to claims that the creditor or releasing party does not
8 know or suspect to exist in his or her favor at the time of executing the release, and that
9 if known by him or her would have materially affected his or her settlement with the
10 debtor or Released Party.

11 5.1.2. Released PAGA Claims: Upon approval by the Court and upon funding of the
12 Gross Settlement Amount, the claims released by Plaintiff, as agent and proxy of the
13 LWDA will include any and all claims for civil penalties under the California Labor
14 Code Private Attorneys General Act of 2004 ("PAGA"), Labor Code section 2698, et
15 seq., against the Released Parties for work performed during the PAGA Period and
16 based on or arising out of the alleged violations of the Labor Code sections alleged in
17 Plaintiff's letter to the LWDA and the Action, or which could have been alleged under
18 the same or similar facts plead in Plaintiff's letter to the LWDA or the Action.

19 5.2. Release by Participating Class Members: For the duration of the Class Period, all
20 Participating Class Members, on behalf of themselves and their respective former and present
21 representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released
22 Parties from all claims including, without limitation, violations of Labor Code sections 201, 202,
23 203, 204, 210, 216, 223, 225.5, 226, 226.3, 226.7, 500, 510, 512, 558, 1174, 1174.5 1182.12,
24 1194, 1194.2, 1197, 1198 and 2802; applicable IWC Wage Orders, and Business & Professions
25 Code section 17200, et. seq, and all other claims, such as those under the California Labor Code,
26 Wage Orders, regulations, and/or other provisions of law, that were alleged, or reasonably could
27 have been alleged, based on the facts stated in the Operative Complaint including: (1) failure to
28 pay overtime wages; (2) failure to pay minimum wages; (3) failure to provide meal periods or

1 compensation in lieu thereof; (4) failure to provide rest periods or compensation in lieu thereof;
2 (5) waiting time penalties; (6) wage statement violations; (7) failure to timely pay wages; (8)
3 failure to indemnify; (9) misclassification of employees; (10) violation of Labor Code section
4 227.3; (11) unfair competition; and (12) all claims asserted through California Business &
5 Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in the
6 Operative Complaint.

7 5.3. Except as set forth in Section 5.2 of this Agreement, Participating Class Members do not
8 release any other claims, including claims for vested benefits, wrongful termination, violation of
9 the Fair Employment and Housing Act, unemployment insurance, disability, social security,
10 workers' compensation, or claims based on facts occurring outside the Class Period.

11 5.4. Release by Aggrieved Employees: Aggrieved Employees, whether or not they are
12 Participating Class Members, shall be deemed to release, to the extent permissible by law, any
13 and all claims for civil penalties under the California Labor Code Private Attorneys General Act
14 of 2004 ("PAGA"), Labor Code section 2698, *et seq.*, against the Released Parties for work
15 performed during the PAGA Period and based on or arising out of the alleged violations of the
16 Labor Code sections alleged in Plaintiff's letter to the LWDA and the Action, or which could
17 have been alleged under the same or similar facts plead in Plaintiff's letter to the LWDA or the
18 Action.

19 **6. MOTION FOR PRELIMINARY APPROVAL**

20 The Parties agree to jointly prepare and file a motion for preliminary approval ("Motion
21 for Preliminary Approval") that complies with the Court's current checklist for Preliminary
22 Approvals.

23 6.1. Plaintiff's Responsibilities. Plaintiff will prepare and to deliver to Defense Counsel all
24 documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice, and
25 memorandum in support, of the Motion for Preliminary Approval that includes an analysis of the
26 Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under Labor
27 Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval and
28 Approval of PAGA Settlement; (iii) a draft proposed Class Notice; (iv) a signed declaration from

1 the Administrator attaching its “not to exceed” bid for administering the Settlement and attesting
2 to its willingness to serve; competency; operative procedures for protecting the security of Class
3 Data; amounts of insurance coverage for any data breach, defalcation of funds or other
4 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
5 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
6 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve
7 and disclosing all facts relevant to any actual or potential conflicts of interest with Class
8 Members; (v) a signed declaration from each Class Counsel firm attesting to its competency to
9 represent the Class Members; its timely transmission to the LWDA of all necessary PAGA
10 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
11 Complaint (Labor Code section 2699, subd. (1)(1)), this Agreement (Labor Code section 2699,
12 subd. (1)(2)); and (vi) all facts relevant to any actual or potential conflict of interest with Class
13 Members and the Administrator.

14 6.2. Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly responsible
15 for expeditiously finalizing and filing the Motion for Preliminary Approval after the full
16 execution of this Agreement; obtaining a prompt hearing date for the Motion for Preliminary
17 Approval; and for appearing in Court to advocate in favor of the Motion for Preliminary
18 Approval. Class Counsel is responsible for delivering the Court’s Preliminary Approval to the
19 Administrator.

20 6.3. Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion for
21 Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
22 Defense Counsel will expeditiously work together on behalf of the Parties by meeting and
23 conferring, and in good faith, to resolve the disagreement. If the Court does not grant Preliminary
24 Approval or conditions Preliminary Approval on any material change to this Agreement, Class
25 Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by
26 meeting and conferring, and in good faith, to modify the Agreement and otherwise satisfy the
27 Court’s concerns.

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1 **7. SETTLEMENT ADMINISTRATION**

2 7.1. Selection of Administrator. The Parties have jointly selected Apex to serve as the
3 Administrator and verified that, as a condition of appointment, Apex agrees to be bound by this
4 Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for
5 payment of Administration Expenses. The Parties and their Counsel represent that they have no
6 interest or relationship, financial or otherwise, with the Administrator other than a professional
7 relationship arising out of prior experiences administering settlements.

8 7.2. Employer Identification Number. The Administrator shall have and use its own Employer
9 Identification Number for purposes of calculating payroll tax withholdings and providing reports
10 state and federal tax authorities.

11 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets
12 the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury Regulation section
13 468B-1.

14 7.4. Notice to Class Members

15 7.4.1. No later than three (3) business days after receipt of the Class Data, the
16 Administrator shall notify Class Counsel that the list has been received and state the
17 number of Class Members, Aggrieved Employees, Workweeks, and Pay Periods in the
18 Class Data.

19 7.4.2. Using best efforts to perform as soon as possible, and in no event later than 14
20 days after receiving the Class Data, the Administrator will send to all Class Members
21 identified in the Class Data, via first-class United States Postal Service (“USPS”) mail,
22 the Class Notice with Spanish translation, substantially in the form attached to this
23 Agreement as Exhibit A. The first page of the Class Notice shall prominently estimate the
24 dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable
25 to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable)
26 used to calculate these amounts. Before mailing Class Notices, the Administrator shall
27 update Class Member addresses using the National Change of Address database.

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1 7.4.3. Not later than 3 business days after the Administrator's receipt of any Class Notice
2 returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice
3 using any forwarding address provided by the USPS. If the USPS does not provide a
4 forwarding address, the Administrator shall conduct a Class Member Address Search,
5 and re-mail the Class Notice to the most current address obtained. The Administrator
6 has no obligation to make further attempts to locate or send Class Notice to Class
7 Members whose Class Notice is returned by the USPS a second time.

8 7.4.4. The deadlines for Class Members' written objections, Challenges to Workweeks
9 and/or Pay Periods, and Requests for Exclusion will be extended an additional 15 days
10 beyond the 45 days otherwise provided in the Class Notice for all Class Members whose
11 notice is re-mailed. The Administrator will inform the Class Member of the extended
12 deadline with the re-mailed Class Notice.

13 7.4.5. If the Administrator, TQ Logistics or Class Counsel is contacted by or otherwise
14 discovers any persons who believe they should have been included in the Class Data
15 and should have received Class Notice, the Parties will expeditiously meet and confer,
16 and in good faith, in an effort to agree on whether to include them as Class Members.
17 If the Parties agree, such persons will be Class Members entitled to the same rights as
18 other Class Members, and the Administrator will send, via email or overnight delivery,
19 a Class Notice requiring them to exercise options under this Agreement not later than
20 15 days after receipt of Class Notice, or the deadline dates in the Class Notice, which
21 ever are later.

22 7.5. Requests for Exclusion (Opt-Outs).

23 7.5.1. Class Members who wish to exclude themselves (opt-out of) the Class Settlement
24 must send the Administrator, by mail, a signed written Request for Exclusion not later
25 than 45 days after the Administrator mails the Class Notice (plus an additional 15 days
26 for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter
27 from a Class Member or his/her representative that reasonably communicates the Class
28 Member's election to be excluded from the Settlement and includes the Class Member's

1 name, address and email address or telephone number. To be valid, a Request for
2 Exclusion must be timely postmarked by the Response Deadline.

3 7.5.2. The Administrator may not reject a Request for Exclusion as invalid because it
4 fails to contain all the information specified in the Class Notice. The Administrator
5 shall accept any Request for Exclusion as valid if the Administrator can reasonably
6 ascertain the identity of the person as a Class Member and the Class Member's desire
7 to be excluded. The Administrator's determination shall be final and not appealable or
8 otherwise susceptible to challenge. If the Administrator has reason to question the
9 authenticity of a Request for Exclusion, the Administrator may demand additional proof
10 of the Class Member's identity. The Administrator's determination of authenticity shall
11 be final and not appealable or otherwise susceptible to challenge.

12 7.5.3. Every Class Member who does not submit a timely and valid Request for
13 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled
14 to all benefits and bound by all terms and conditions of the Settlement, including the
15 Participating Class Members' Releases under Paragraphs 5.2 and 5.3 of this Agreement,
16 regardless whether the Participating Class Member actually receives the Class Notice
17 or objects to the Settlement.

18 7.5.4. Every Class Member who submits a valid and timely Request for Exclusion is a
19 Non-Participating Class Member and shall not receive an Individual Class Payment or
20 have the right to object to the class action components of the Settlement. Because future
21 PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-
22 Participating Class Members who are Aggrieved Employees are deemed to release the
23 claims identified in Paragraph 5.4 of this Agreement and are eligible for an Individual
24 PAGA Payment.

25 7.6. Challenges to Calculation of Workweeks. Each Class Member shall have 45 days after
26 the Administrator mails the Class Notice (plus an additional 15 days for Class Members whose
27 Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods
28 (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge

1 the allocation by communicating with the Administrator via mail. The Administrator must
2 encourage the challenging Class Member to submit supporting documentation. In the absence
3 of any contrary documentation, the Administrator is entitled to presume that the Workweeks
4 contained in the Class Notice are correct so long as they are consistent with the Class Data. The
5 Administrator's determination of each Class Member's allocation of Workweeks and/or Pay
6 Periods shall be final and not appealable or otherwise susceptible to challenge. The
7 Administrator shall promptly provide copies of all challenges to calculation of Workweeks
8 and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination
9 the challenges.

10 **7.7. Objections to Settlement**

11 7.7.1. Only Participating Class Members may object to the class action components of
12 the Settlement and/or this Agreement, including contesting the fairness of the
13 Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class
14 Counsel Litigation Expenses Payment and/or Class Representative Service Payment.

15 7.7.2. Participating Class Members may send written objections to the Administrator, by
16 mail. In the alternative, Participating Class Members may appear in Court (or hire an
17 attorney to appear in Court) to present verbal objections at the Final Approval Hearing.
18 A Participating Class Member who elects to send a written objection to the
19 Administrator must do so not later than 45 days after the Administrator's mailing of the
20 Class Notice (plus an additional 15 days for Class Members whose Class Notice was re-
21 mailed).

22 7.7.3. Non-Participating Class Members have no right to object to any of the class action
23 components of the Settlement.

24 **7.8. Administrator Duties.** The Administrator has a duty to perform or observe all tasks to be
25 performed or observed by the Administrator contained in this Agreement or otherwise.

26 7.8.1. Website, Email Address and Toll-Free Number. The Administrator will maintain
27 and use an internet website to post information of interest to Class Members including
28 the date, time and location for the Final Approval Hearing and copies of the Settlement

1 Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Class
2 Notice, the Motion for Final Approval, the Motion for Class Counsel Fees Payment,
3 Class Counsel Litigation Expenses Payment and Class Representative Service Payment,
4 the Final Approval and the Judgment. The Administrator will also maintain and monitor
5 an email address and a toll-free telephone number to receive Class Member calls and
6 emails.

7 7.8.2. Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will
8 promptly review on a rolling basis Requests for Exclusion to ascertain their validity.
9 Not later than 5 days after the expiration of the deadline for submitting Requests for
10 Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel
11 containing (a) the names and other identifying information of Class Members who have
12 timely submitted valid Requests for Exclusion (“Exclusion List”); (b) the names and
13 other identifying information of Class Members who have submitted invalid Requests
14 for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted
15 (whether valid or invalid).

16 7.8.3. Weekly Reports. The Administrator must, on a weekly basis, provide written
17 reports to Class Counsel and Defense Counsel that, among other things, tally the number
18 of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for
19 Exclusion (whether valid or invalid) received, objections received, challenges to
20 Workweeks and/or Pay Periods received and/or resolved, and checks mailed for
21 Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The
22 Weekly Reports must include provide the Administrator’s assessment of the validity of
23 Requests for Exclusion and attach copies of all Requests for Exclusion and objections
24 received.

25 7.8.4. Workweek and/or Pay Period Challenges. The Administrator has the authority to
26 address and make final decisions consistent with the terms of this Agreement on all
27 Class Member challenges over the calculation of Workweeks and/or Pay Periods. The
28

1 Administrator's decision shall be final and not appealable or otherwise susceptible to
2 challenge.

3 7.8.5. Administrator's Declaration. Before the date by which Plaintiff is required to file
4 the Motion for Final Approval of the Settlement, the Administrator will provide to Class
5 Counsel and Defense Counsel, a declaration suitable for filing in Court attesting to its
6 due diligence and compliance with all of its obligations under this Agreement,
7 including, but not limited to, its mailing of Class Notice, the Class Notices returned as
8 undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total
9 number of Requests for Exclusion from Settlement it received (both valid or invalid),
10 the number of written objections and attach the Exclusion List. The Administrator will
11 supplement its declaration as needed or requested by the Parties and/or the Court. Class
12 Counsel is responsible for filing the Administrator's declaration(s) in Court.

13 7.8.6. Final Report by Settlement Administrator. Within 10 days after the Administrator
14 disburses all funds in the Gross Settlement Amount, the Administrator will provide
15 Class Counsel and Defense Counsel with a final report detailing its disbursements by
16 employee identification number only of all payments made under this Agreement. At
17 least 7 days before any deadline set by the Court, the Administrator will prepare, and
18 submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in
19 Court attesting to its disbursement of all payments required under this Agreement. Class
20 Counsel is responsible for filing the Administrator's declaration in Court.

21 **8. CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE**

22 Based on its records, TQ Logistics estimates that, as of the date of this Settlement
23 Agreement, (1) there are 62 Class Members and 5,726 Total Workweeks during the Class Period
24 and (2) there are 30 Aggrieved Employees who worked 2,040 Pay Periods during the PAGA
25 Period.

26 8.1. Increase in Workweeks. TQ Logistics represents that there are no more than 5,726
27 Workweeks worked during the Class Period. In the event the number of Workweeks worked by
28 Class Members during the Class Period increases by more than 10%, or 573 additional

1 Workweeks, TQ Logistics may elect to either (1) cut off the release period as of the date the 10
2 percent cushion is exhausted, or (2) purchase the additional workweeks above the 10 percent
3 cushion at a *pro rata* rate. If TQ Logistics elects Option 2, then the Gross Settlement Amount
4 shall be increased proportionally by the Workweeks in excess of 5,726 Workweeks multiplied
5 by the Workweek Value. The Workweek Value shall be calculated by dividing the originally
6 agreed-upon Gross Settlement Amount (\$250,000.00) by 5,726, which amounts to a Workweek
7 Value of \$43.66. Thus, for example, should there be 6,500 Workweeks in the Class Period, then
8 the Gross Settlement Amount shall be increased by \$33,792.84 $([6,500 \text{ Workweeks} - 5,726$
9 $\text{Workweeks}] \times \$43.66 \text{ per Workweek.})$

10 8.2. Right to Withdraw. If five percent (5%) or more of the Settlement Class Members elect
11 not to participate in the Settlement by submitting a valid Request for Exclusion, TQ Logistics
12 may, at its election, rescind the Settlement and all actions taken in its furtherance of it will be
13 thereby null and void. The Parties agree that, if TQ Logistics elects to withdraw pursuant to this
14 Paragraph, the Settlement shall be void ab initio, have no force or effect whatsoever, and neither
15 Party will have any further obligation to perform under this Agreement; provided, however, TQ
16 Logistics will be responsible for paying all Settlement Administration Expenses incurred to that
17 point. TQ Logistics must notify Class Counsel and the Court of its election to withdraw not later
18 than ten (10) days after the Administrator sends the final Exclusion List to the Parties; late
19 elections will have no effect.

20 **9. MOTION FOR FINAL APPROVAL**

21 Prior to the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for
22 final approval of the Settlement that includes a request for approval of the PAGA settlement
23 under Labor Code section 2699, subd. (l), a Proposed Final Approval Order and a proposed
24 Judgment (collectively “Motion for Final Approval”). Plaintiff shall endeavor to provide drafts
25 of these documents to Defense Counsel prior to filing the Motion for Final Approval. Class
26 Counsel and Defense Counsel will expeditiously meet and confer, and in good faith, to resolve
27 any disagreements concerning the Motion for Final Approval.

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1 9.1. Response to Objections. Each Party retains the right to respond to any objection raised
2 by a Participating Class Member, including the right to file responsive documents in Court no
3 later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted
4 by the Court.

5 9.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final
6 Approval on any material change to the Settlement (including, but not limited to, the scope of
7 release to be granted by Class Members), the Parties will expeditiously work together in good
8 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
9 Approval. The Court's decision to award less than the amounts requested for the Class
10 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
11 Expenses Payment, Administrator Expenses Payment and/or individual claims of plaintiff for
12 alleged wrongful termination, shall not constitute a material modification to the Agreement
13 within the meaning of this paragraph.

14 9.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of Judgment, the
15 Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of
16 (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters,
17 and (iii) addressing such post-Judgment matters as are permitted by law.

18 9.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and
19 conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class
20 Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
21 respective counsel, and all Participating Class Members who did not object to the Settlement as
22 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
23 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
24 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
25 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
26 Parties' obligations to perform under this Agreement will be suspended until such time as the
27 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
28 the amount of the Net Settlement Amount.

1 9.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the
2 reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material
3 modification of this Agreement (including, but not limited to, the scope of release to be granted
4 by Class Members), this Agreement shall be null and void. The Parties shall nevertheless
5 expeditiously work together in good faith to address the appellate court's concerns and to obtain
6 Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional Administration
7 Expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify
8 the Court's award of the Class Representative Service Payment or any payments to Class Counsel
9 shall not constitute a material modification of the Judgment within the meaning of this paragraph,
10 as long as the Gross Settlement Amount remains unchanged

11 **10. AMENDED JUDGMENT**

12 If any amended judgment is required under Code of Civil Procedure section 384, the
13 Parties will work together in good faith to jointly submit and a proposed amended judgment.

14 **11. ADDITIONAL PROVISIONS**

15 11.1. No Admission of Liability, Class Certification or Representative Manageability for Other
16 Purposes. This Agreement represents a compromise and settlement of highly disputed claims.
17 Nothing in this Agreement is intended or should be construed as an admission by Defendants
18 that any of the allegations in the Operative Complaint have merit or that Defendants have any
19 liability for any claims asserted; nor should it be intended or construed as an admission by
20 Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class
21 certification and representative treatment is for purposes of this Settlement only. If, for any
22 reason the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants
23 reserve the right to contest certification of any class for any reasons, and Defendants reserve all
24 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
25 certification on any grounds available and to contest Defendants' defenses. The Settlement, this
26 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
27 admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
28 Settlement and this Agreement).

1 11.2. Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel, Defendants and
2 Defense Counsel separately agree that, until the Motion for Preliminary Approval of Settlement
3 is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit
4 another person to disclose, disseminate or publicize, any of the terms of the Agreement directly
5 or indirectly, specifically or generally, to any person, corporation, association, government
6 agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom
7 will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the
8 extent necessary to report income to appropriate taxing authorities; (4) in response to a court
9 order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
10 government agency. Each Party agrees to immediately notify each other Party of any judicial or
11 agency order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel,
12 Defendants and Defense Counsel separately agree not to, directly or indirectly, initiate any
13 conversation or other communication, before the filing of the Motion for Preliminary Approval,
14 any with third party regarding this Agreement or the matters giving rise to this Agreement except
15 to respond only that "the matter was resolved," or words to that effect. This paragraph does not
16 restrict Class Counsel's communications with Class Members in accordance with Class
17 Counsel's ethical obligations owed to Class Members.

18 11.3. No Solicitation. The Parties separately agree that they and their respective counsel and
19 employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal
20 from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's
21 ability to communicate with Class Members in accordance with Class Counsel's ethical
22 obligations owed to Class Members.

23 11.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement
24 together with its attached exhibits shall constitute the entire agreement between the Parties
25 relating to the Settlement, superseding any and all oral representations, warranties, covenants, or
26 inducements made to or by any Party.

27 11.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and
28 represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate

1 action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate
2 its terms, and to execute any other documents reasonably required to effectuate the terms of this
3 Agreement including any amendments to this Agreement.

4 11.6. Cooperation. The Parties and their counsel will cooperate with each other and use their
5 best efforts, in good faith, to implement the Settlement by, among other things, modifying the
6 Settlement Agreement, submitting supplemental evidence and supplementing points and
7 authorities as requested by the Court. In the event the Parties are unable to agree upon the form
8 or content of any document necessary to implement the Settlement, or on any modification of the
9 Agreement that may become necessary to implement the Settlement, the Parties will seek the
10 assistance of a mediator and/or the Court for resolution.

11 11.7. No Prior Assignments. The Parties separately represent and warrant that they have not
12 directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
13 encumber to any person or entity and portion of any liability, claim, demand, action, cause of
14 action, or right released and discharged by the Party in this Settlement.

15 11.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are
16 providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied
17 upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR
18 Part 10, as amended) or otherwise.

19 11.9. Modification of Agreement. This Agreement, and all parts of it, may be amended,
20 modified, changed, or waived only by an express written instrument signed or agreed to by all
21 Parties or their representatives, and approved by the Court. Plaintiff and TQ Logistics expressly
22 agrees that should the Parties agree to amend, modify, change, or waive this Agreement, or any
23 part of it, Class Counsel and Defense Counsel are authorized to submit to the Court any
24 amendments of this Agreement, amended Agreements, or amendments to the Agreement, on
25 behalf of the Parties once fully executed, which includes, but is not limited to, authorization of
26 the use of signatures previously provided by the Parties.

27 11.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to
28 the benefit of, the successors of each of the Parties.

1 11.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be
2 governed by and interpreted according to the internal laws of the state of California, without
3 regard to conflict of law principles.

4 11.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of
5 this Agreement. This Agreement will not be construed against any Party on the basis that the
6 Party was the drafter or participated in the drafting

7 11.13. Confidentiality. To the extent permitted by law, all agreements made, and orders entered
8 during Action and in this Agreement relating to the confidentiality of information shall survive
9 the execution of this Agreement

10 11.14. Use of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code
11 §1152, and all copies and summaries of the Class Data provided to Class Counsel by Defendants
12 in connection with the mediation, other settlement negotiations, or in connection with the
13 Settlement, may be used only with respect to this Settlement, and no other purpose, and may not
14 be used in any way that violates any existing contractual agreement, statute, or rule of court.

15 11.15. Headings. The descriptive heading of any section or paragraph of this Agreement is
16 inserted for convenience of reference only and does not constitute a part of this Agreement.

17 11.16. Calendar Days. Unless otherwise noted, all reference to “days” in this Agreement shall
18 be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
19 weekend or federal legal holiday, such date or deadline shall be on the first business day
20 thereafter.

21 11.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts
22 by facsimile, electronically (i.e., DocuSign), or email which for purposes of this Agreement shall
23 be accepted as an original. All executed counterparts and each of them will be deemed to be one
24 and the same instrument if counsel for the Parties will exchange between themselves signed
25 counterparts. Any executed counterpart will be admissible in evidence to prove the existence
26 and contents of this Agreement.

27 11.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the
28 litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further

1 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend
2 the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
3 process.

4 11.19. Severability. In the event that one or more of the provisions contained in this Agreement
5 shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity,
6 illegality, or unenforceability shall in no way effect any other provision if Defendants' Counsel
7 and Class Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing
8 to proceed as if such invalid, illegal, or unenforceable provision had never been included in this
9 Agreement.

10 11.19.1. Notice. All notices, demands or other communications between the Parties in
11 connection with this Agreement will be in writing and deemed to have been duly given
12 as of the third business day after mailing by United States mail, or the day sent by email
13 or messenger, addressed as follows:

14 To Plaintiff:

15 BIBIYAN LAW GROUP, P.C.

16 David D. Bibiyani

17 david@tomorrowlaw.com

18 Vedang J. Patel

19 vedang@tomorrowlaw.com

20 1460 Westwood Boulevard

21 Los Angeles, California 90024

22 Tel: (310) 438-5555; Fax: (310) 300-1705

23 To Defendants:

24 Paul J. Bauer

25 paul@sw2law.com

26 SAGASER, WATKINS & WIELAND, PC

27 5260 North Palm Avenue, Suite 400

28 Fresno, California 93704

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IT IS SO AGREED:

Jason Wicklund

Plaintiff, Jason Wicklund

For Defendant, TQ Logistics, Inc.

AGREED AS TO FORM ONLY:

Vedang J. Patel

David D. Bibiyan
Vedang J. Patel
Counsel for Plaintiff

Paul J. Bauer
Michael J. Conway II
Counsel for Defendants

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IT IS SO AGREED:

Plaintiff, Jason Wicklund



September 16, 2025

Andrew W. Bounds, President & CEO
For Defendant, TQ Logistics, Inc.

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