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11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**
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14 ROLANDO TONLOY, individually and on
15 behalf of others similarly situated,

16 Plaintiff,

17 vs.

18 SOUTHERN COUNTIES TERMINALS dba
19 GRILEY AIR FREIGHT, a California
20 Corporation; PEOPLEASE LLC, a South
21 Carolina limited liability company; and DOES
22 1 through 50, inclusive,

23 Defendants.
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Case No. 20STCV18920

*Assigned for all purposes to: Hon. Elihu M.
Berle, Dept. SSC6*

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT**

Filed date: May 15, 2020
Trial date: None

This Joint Stipulation of Class Action and PAGA Settlement is entered into by and between Plaintiff Rolando Tonloy, individually and on behalf of the Class and Defendants Southern Counties Terminals dba Griley Air Freight (“Griley”) and PEOPLEASE, LLC.

1. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class Action and PAGA Settlement.

3. “Class Counsel” means Heather Davis and Amir Nayebdadash of Protection Law Group, LLP.

4. “Class Counsel’s Fees and Costs” means attorneys’ fees approved by the Court for Class Counsel’s litigation and resolution of this Action, and all costs incurred and to be incurred by Plaintiff’s Counsel in the Action, including, but not limited to, costs associated with documenting the Settlement, providing any notices required as part of the Settlement or Court order, securing the Court’s approval of the Settlement, administering the Settlement, and expenses for any experts. Class Counsel will request attorneys’ fees not to exceed thirty-five percent (35%) of the Gross Settlement Amount (\$313,250) and the reimbursement of any costs and expenses associated with Class Counsel’s litigation and settlement of the Action, not to exceed forty thousand dollars (\$40,000.00), subject to the Court’s approval. Defendants have agreed not to oppose Class Counsel’s request for fees and reimbursement of costs and expenses as set forth above.

5. “Class List” means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator within fourteen (14) calendar days after Preliminary Approval of this Settlement. The Class List will be formatted in a readable Microsoft Office Excel spreadsheet containing the following information for each Class Member: (1) full name; (2) last known home address;

(3) last known telephone number; (4) social security number; (5) start and end dates of active employment as a non-exempt employee of Defendants in the State of California; (6) total Workweeks during the Class Period; (7) total Workweeks during the PAGA Period; and (8) any other information required by the Settlement Administrator in order to effectuate the terms of the Settlement.

6. “Class” or “Class Members” means all current and former hourly-paid, non-exempt employees of Defendants in the state of California who performed work for Griley and/or were assigned to work for Griley through a third-party staffing agency, at any time during the Class Period.

7. “Class Period” means the period from May 15, 2016, until February 15, 2021.

8. “Class Representative” means Plaintiff Rolando Tonloy in his capacity as a representative of the Participating Class Members.

9. “Class Representative Incentive Payment” means the amount that the Court authorizes to be paid to Plaintiff Tonloy, in addition to his Individual Settlement Payment, in recognition of the efforts and risks he has taken in assisting with the prosecution of the Action and in exchange for the General Release of his claims as provided herein.

10. “Court” means the Superior Court of the State of California for the County of Los Angeles.

11. “Defendants” means Southern Counties Terminals dba Griley Air Freight (“Griley”) and PEOPLEASE, LLC.

12. “Effective Date” means the later of the following: (a) if no timely objections are filed or if all objections are withdrawn, the date upon which the Court enters Final Approval; (b) if an objection is filed and not withdrawn, the date for filing an appeal and no such appeal being filed; (c) if any timely appeals are filed, the date of the resolution (or withdrawal) of any such appeal in a way that does not alter the terms of the settlement.

13. “Final Approval” means the Court entering an order granting final approval of the Settlement Agreement.

14. “Griley” means Defendant Southern Counties Terminals dba Griley Air Freight.

1 15. “Gross Settlement Amount” means the sum of eight-hundred and ninety-five
2 thousand dollars (\$895,000). The Gross Settlement Amount is non-reversionary; no portion of
3 the Gross Settlement Amount will return to Defendants.

4 16. “Individual Settlement Payment” means the amount payable from the Net
5 Settlement Amount to each Participating Class Member and any payment a PAGA Member is
6 eligible to receive from the employee portion of the PAGA Penalties. Individual Settlement
7 Payments shall be paid by a settlement check made payable to Participating Class Members
8 and/or PAGA Members.

9 17. “Net Settlement Amount” means the funds available for payments to the Class,
10 which shall be the amount remaining after the following amounts are deducted from the Gross
11 Settlement Amount: (1) Class Counsel’s fees, (2) Class Counsel’s costs, (3) Settlement
12 Administration Costs, (4) Class Representative Incentive Payment to Plaintiff, and (5) PAGA
13 Penalties to be paid to the California Labor and Workforce Development Agency (“LWDA”)
14 and PAGA Members.

15 18. “Class Notice” means the Notice of Class Action Settlement in a form
16 substantially similar to the form attached hereto as Exhibit A, in both English and Spanish, that
17 will be mailed to Class Members’ last known addresses and which will provide Class Members
18 with information regarding the Action and information regarding the settlement of the Action.

19 19. “PAGA” means the California Labor Code Private Attorneys General Act of
20 2004 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”).

21 20. “PAGA Penalties” means the amount that the Parties have agreed to allocate as
22 civil penalties in order to settle claims arising under the Private Attorneys General Act of 2004
23 (Cal. Lab. Code §§ 2698, *et seq.*). The Parties have agreed to allocate fifty thousand dollars
24 (\$50,000) of the Gross Settlement Amount as PAGA Penalties. Seventy-five percent (75%) of
25 the PAGA Penalties (i.e., \$37,500) shall be paid directly to the LWDA in accordance with
26 Labor Code §§ 2698 *et seq.* The remaining twenty-five percent (25%) of the PAGA Penalties
27 (i.e., \$12,500), shall be distributed to PAGA Members. PAGA Members will receive payment
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1 from the employee portion of the PAGA Penalties regardless of their decision to participate in
2 the class action if the PAGA Penalties is approved by the Court.

3 21. "PAGA Period" means the period from May 15, 2019, until February 15, 2021.

4 22. "PAGA Members" means all current and former hourly-paid, non-exempt
5 employees of Defendants in the state of California who performed work for Griley and/or were
6 assigned to work for Griley through a third-party staffing agency, at any time during the PAGA
7 Period.

8 23. "Parties" means Plaintiff and Defendants, collectively, and "Party" shall mean
9 either Plaintiff or Defendants, individually.

10 24. "Participating Class Members" means all Class Members who do not submit a
11 valid and timely Request for Exclusion.

12 25. "Plaintiff" means Rolando Tonloy.

13 26. "Preliminary Approval" means the Court order granting preliminary approval of
14 the Settlement Agreement.

15 27. "Objection" means a Class Member's valid and timely written objection to the
16 Settlement Agreement. For an Objection to be valid, it must include: (a) the objector's full
17 name, address, telephone number, last four digits of the employees social security number or
18 employee ID number and (b) a written statement of all grounds for the objection accompanied
19 by legal support, if any, for such objection.

20 28. "Released Claims" means all claims, rights, demands, liabilities and causes of
21 actions that are alleged, or reasonably could have been alleged based on the facts and claims
22 asserted in the operative complaint in the Action including the following claims: (i) failure to
23 pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal
24 periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in
25 lieu thereof; (iv) failure to pay vested vacation pay; (v) failure to provide complete, accurate
26 wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii)
27 failure to provide timely pay wages during employment; (viii) unfair business practices that
28 could have been premised on the facts, claims, causes of action, or legal theories of relief

described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (ix) failure to maintain required payroll records; and (x) all claims under the California Labor Code Private Attorneys General Act of 2004 or for civil penalties that could have been premised on the facts, claims, causes of action, or legal theories described above or any of the facts, claims, causes of action, or legal theories of relief pleaded in the operative complaint including but not limited to Labor Code sections 210, 226.3, 1197.1, 558, and 2699, or premised on the facts, claims, causes of action, or legal theories set forth in Notice to the Labor & Workforce Development Agency sent by Plaintiff on May 15, 2020.

29. “Released Parties” means Defendants Southern Counties Terminals dba Griley Air Freight and PEOPLEASE, LLC as named by Plaintiff in the operative complaint, and their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

30. “Request for Exclusion” means a valid and timely written statement submitted by a Class Member requesting to be excluded from the Action. To be effective, the Request for Exclusion must contain (a) the Class Member’s name, address, telephone number, and the last four digits of the Class Member’s Social Security number and/or the Employee ID number and (b) a clear statement requesting to be excluded from the settlement of the class claims similar to the following: “I wish to exclude myself from the class settlement reached in the matter of *Tonloy v. Southern Counties Terminals*. I understand that by excluding myself, I will not receive money from the settlement of my individual claims.” To be effective, the Request for Exclusion must be post-marked by the Response Deadline and received by the Settlement Administrator. The Request for Exclusion shall not be effective as to the release of claims arising under the Private Attorneys General Act.

31. “Response Deadline” means the date sixty (60) days after the Settlement Administrator mails the Class Notice to Class Members and the last date on which Class Members may submit Requests for Exclusion, written objections to the Settlement, or

workweek disputes. In the event the 60th day falls on a Sunday or Federal holiday, the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline for Requests for Exclusion or Objections will be extended fifteen (15) calendar days for any Class Member who is re-mailed a Class Notice by the Settlement Administrator, unless the 15th day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The Response Deadline may also be extended by express agreement between Class Counsel and Defendants. Under no circumstances, however, will the Settlement Administrator have the authority to unilaterally extend the Response Deadline.

32. “Settlement” means the disposition of the Action pursuant to this Agreement.

33. “Settlement Administrator” means ILYM Group, Inc., or any other third-party class action Settlement Administrator agreed to by the Parties and approved by the Court for the purposes of administering this settlement. The Parties represent that they do not have any financial interest in the Settlement Administrator or otherwise have a relationship with the Settlement Administrator that could create a conflict of interest.

34. “Settlement Administration Costs” means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, calculating/confirming the class member Workweeks from the information contained in the Class List, calculating each Participating Class Member’s Individual Settlement Payment, tax reporting, distributing the Gross Settlement Amount, providing necessary reports and declarations, and other duties and responsibilities set forth herein to process this Settlement, and as requested by the Parties or the Court. Settlement Administration Costs shall not exceed twenty-five thousand dollars (\$25,000).

35. “Workweeks” means the total number of workweeks during which Class Members performed work for Defendants during the Class Period based on Defendants’ Records. In order for a Workweek to qualify as a Workweek for purposes of the Settlement, a Class Member must have performed work for Defendants at least one day during the applicable

workweek. If a Class Member was employed by Defendants during a workweek but performed no work, that week would not count towards her or his Workweeks for purposes of this Settlement.

TERMS OF AGREEMENT

36. Settlement Consideration. Griley shall fund the Gross Settlement Amount and all applicable employer-side payroll taxes following Final Approval by the Court and the occurrence of the Effective Date. The following will be paid out of the Gross Settlement Amount: the sum of the Individual Settlement Payments, Class Representative Incentive Payment, Class Counsel's Fees and Costs, the PAGA Penalties, and the Settlement Administration Costs, as specified in this Agreement. Any employer-side payroll taxes due on the Individual Settlement Payments, shall be paid by Griley separately from and in addition to the Gross Settlement Amount. Aside from the employer-side payroll taxes noted, or as specified below, Defendants shall not be required under any circumstances to pay more than the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Amount will revert to Defendants.

37. Potential Increase to the Gross Settlement Amount. Defendants have represented there are approximately 27,000 Workweeks within the Class Period. Should the actual number of Workweeks during the Class Period increase by more than ten percent (10%) (i.e. increase by more than two thousand seven hundred (2,700) Workweeks), the Gross Settlement Amount shall increase by a percentage equal to the percentage by which the number of Workweeks is more than ten percent (10%.) higher than Defendants' estimate of 27,000. For example, if the actual number of Workweeks is eleven percent (11%) higher than 27,000 Workweeks, the Gross Settlement Amount would increase by one percent ($1\% = 11\% - 10\%$).

38. Funding of the Gross Settlement Amount. Within fourteen (14) calendar days of the Effective Date of the Settlement, Griley will deposit the Gross Settlement Amount, and all applicable employer-side payroll taxes into a Qualified Settlement Fund ("QSF") to be established by the Settlement Administrator. Defendants shall provide all information necessary for the Settlement Administrator to calculate necessary payroll taxes including their official

name, 8-digit state unemployment insurance tax ID number, and other information requested by the Settlement Administrator, no later than seven (7) calendar days of the Effective Date.

39. Distribution of the Gross Settlement Amount. Within fourteen (14) calendar days of the funding of the Settlement, the Settlement Administrator will issue the following payments: (a) Settlement Checks to all Participating Class Members and all PAGA Members; (b) the PAGA Penalties to the LWDA; (c) the Class Representative Incentive Payment to Plaintiff; (d) Class Counsel's Fees and Costs; and (e) Settlement Administration Costs.

40. Attorneys' Fees and Costs. Defendants agree not to oppose or impede any application or motion by Class Counsel for attorneys' fees of up to thirty-five percent (35%) of the Gross Settlement Amount (\$313,250) plus the reimbursement of costs and expenses associated with Class Counsel's litigation and settlement of the Action, in an amount not to exceed forty thousand dollars (\$40,000.00), both of which will be paid from the Gross Settlement Amount. Any portion of the requested fees or costs that is not awarded by the Court to Class Counsel shall become part of the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement. Any adjustments made by the Court to the requested Attorneys' Fees and Costs shall not be deemed a material modification of this Agreement.

41. Class Representative Incentive Payment. Defendants agree not to oppose or object to any application or motion by Plaintiff for a Class Representative Incentive Payment of seven thousand five hundred dollars (\$7,500). The Class Representative Incentive Payment is in exchange for the Released Claims, General Release of the Plaintiff's individual claims, and for Plaintiff's time, effort and risk in bringing and prosecuting the Action. Any adjustments made by the Court to the requested Class Representative Incentive Payment shall not be deemed a material modification of this Agreement. In the event that the Court reduces or does not approve the requested Class Representative Incentive Payment, the Settlement Agreement remains in full force and effect, Plaintiff shall not have the right to revoke the settlement for that reason, it shall remain binding, and any portion of the requested Class Representative Incentive

Payment that is not awarded to the Class Representative shall become part of the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

42. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall not exceed twenty-five thousand dollars (\$25,000). To the extent that Settlement Administration Costs are less than \$25,000, the difference between \$25,000 and the actual costs of settlement administration shall become part of the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

43. PAGA Penalties. Fifty thousand dollars (\$50,000) of the Gross Settlement Amount shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Penalties, or thirty-seven thousand five hundred dollars (\$37,500.00), to the LWDA. The remaining twenty-five percent (25%) of the PAGA Penalties, or twelve thousand five hundred dollars (\$12,500), will be distributed to PAGA Members on a *pro rata* basis based on the total number of Workweeks worked by each PAGA Member during the PAGA Period. PAGA Members shall receive their portion of the PAGA Penalties regardless of their decision to opt-out of the class settlement.

44. Net Settlement Amount for Payment of Class Claims. The Net Settlement Amount will be used to satisfy the class portion of Participating Class Members' Individual Settlement Payments in accordance with the terms of this Agreement. The estimated Net Settlement Amount is as follows:

Gross Settlement Amount	\$	895,000.00
Class Representative Incentive Payment:	\$	7,500.00
Class Counsel's Fees:	\$	313,250.00
Class Counsel's Costs:	\$	40,000.00
PAGA Penalties:	\$	50,000.00
Settlement Administration Costs:	\$	25,000.00

1 **Estimated Net Settlement Amount:** \$ 459,250.00

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3 45. Individual Settlement Payment Calculations. Individual Settlement Payments
4 will be paid from the Net Settlement Amount and the 25% portion of the PAGA Penalties
5 allocated for PAGA Members and shall be paid pursuant to the formula set forth herein:

6 a) Calculation of Class Portion of Individual Settlement Payments.
7 Defendants will provide the Settlement Administrator with the total number of Workweeks for
8 each Participating Class Member. Defendants will also provide the total aggregated number of
9 Workweeks worked by all Participating Class Members during the Class Period. The amount
10 that each Participating Class Member will be eligible to receive will be calculated by dividing
11 each participating Class Member's individual Workweeks by the total Workweeks of all
12 Participating Class Members, and multiplying the resulting fraction by the Net Settlement
13 Amount.

14 b) Calculation of PAGA Portion of Individual Settlement Payments.
15 Defendants will provide the Settlement Administrator with the total number of Workweeks for
16 each PAGA Member. Defendants will also provide the total aggregated number of Workweeks
17 worked by all PAGA Members during the PAGA Period. The amount that each PAGA Member
18 will receive will be calculated by dividing each participating PAGA Member's individual
19 Workweeks by the total Workweeks of all PAGA Members, and multiplying the resulting
20 fraction by the 25% share of the PAGA Penalties designated for distribution to aggrieved
21 employees. PAGA Members shall receive this portion of their Individual Settlement Payment
22 regardless of whether they opt out of the participation regarding the class claims.

23 (c) Allocation of Individual Settlement Payments. All Individual
24 Settlement Payments will be allocated as follows: twenty percent (20%) of each Individual
25 Settlement Payment will be allocated as wages, forty percent (40%) shall be allocated as
26 interest, and forty percent (40%) shall be allocated as penalties. The portion of the Individual
27 Settlement Payment allocated to wages will be reported by the Settlement Administrator on an
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1 IRS Form W-2. The remaining non-wage payments will be reported on an IRS Form-1099 by
2 the Settlement Administrator.

3 45. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
4 Participating Class Members and/or PAGA members under this Settlement, as well as any other
5 payments made pursuant to this Settlement, will not be utilized to calculate any additional
6 benefits under any benefit plans to which any Class Members may be eligible, including, but
7 not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation
8 plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention
9 that this Settlement Agreement will not affect any rights, contributions, or amounts to which
10 any Class Members may be entitled under any benefit plans.

11 46. Settlement Administration Process. The Parties agree to cooperate in the
12 administration of the Settlement and to make all reasonable efforts to control and minimize the
13 costs and expenses incurred in administration of the Settlement. The Settlement Administrator
14 will provide the following services:

15 46(a) Establish and maintain a Qualified Settlement Fund.

16 46(b) Calculate the Individual Settlement Payment each Participating Class
17 Member is eligible to receive and the portion of the PAGA Penalties
18 each PAGA Member shall receive.

19 46(c) Translate the Class Notice from English to Spanish.

20 46(d) Print and mail the Class Notice.

21 46(e) Perform address searches as detailed in Paragraph 49, including
22 conduct additional address searches and skip traces for mailed
23 Notices that are returned as undeliverable.

24 46(f) Process Requests for Exclusion, Objections, calculate Participating
25 Class Members' Individual Settlement Payment, field inquiries or
26 disputes from Class Members. This service will include Settlement
27 Individual Payment calculations, printing and issuance of Settlement
28 Payment Checks, and preparation any necessary IRS W2 and 1099

Tax Forms. Basic accounting for and payment of employee tax withholdings will also be included as part of this service.

46(g) Inform Defendants of their employer-side payroll tax liability and making all necessary deposits, payments to the necessary taxing authorities for the payments received for employer-share of payroll taxes.

46(h) Administer the cure process as described in paragraph 52.

46(i) Make a final remittance to the Controller of the State of California to be held pursuant to the Unclaimed Property Law, California Civil Code §1500, as described in paragraph 58.

46(j) Supply Plaintiff's Counsel with a draft declaration at the conclusion of the opt-out period.

46(k) Provide declarations and/or other information to this Court as requested by the Parties and/or the Court.

46(l) Provide weekly status reports to counsel for the Parties.

46(m) Posting a notice of final judgment, after entry of the judgment, online at the Settlement Administrator's website for a period of sixty (60) days pursuant to California Rule of Court 3.769.

46(n) Provide a final list to Defendants of all class members noting which received Settlement Payments, which had their payments sent to the State of California and which were excluded.

47. Delivery of the Class List. Within fourteen (14) calendar days of Preliminary Approval, Defendants will provide the Class List to the Settlement Administrator. This information shall be treated as and remain confidential and shall be used solely by the Settlement Administrator to manage the notice and payment process described herein, shall not be disclosed to anyone other than the Settlement Administrator, except to applicable taxing authorities, or pursuant to express written authorization of Defendants, the individual in question, or by order of the Court. This is a material term of the Agreement, and if Defendants

fail to comply, Plaintiff shall have the right to void the Agreement.

48. Class Notice by First-Class U.S. Mail. Within seven (7) calendar days after receiving the Class List from Defendants, the Settlement Administrator will mail the Class Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

49. Confirmation of Contact Information in the Class List. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any Class Notice returned to the Settlement Administrator as non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing on the Class Notice. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address and/or Social Security number of the Class Member involved, and will then perform a single re-mailing. If any Class Notice sent to a Class Member by the Settlement Administrator is returned as undeliverable to a current employee, then Defendants shall make all reasonable efforts to obtain the current address from the Class Member and provide the same within seven (7) calendar days of notice from the Settlement Administrator. Those Class Members who receive a re-mailed Class Notice, whether by skip-trace or by request, will have between the later of (a) an additional fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for Exclusion, or an Objection to the Settlement.

50. Class Notice. All Class Members will be mailed a Class Notice. Each Class Notice will provide: (a) information regarding the nature of the Action; (b) a summary of the Settlement's principal terms; (c) the Class definition; (d) the total number of Workweeks each respective Class Member worked for Defendants during the Class Period; (e) each Class Member's estimated Individual Settlement Payment and the formula for calculating Individual Settlement Payments; (f) the dates which comprise the Class Period and PAGA Period; (g) the deadlines by which the Class Member must postmark Requests for Exclusion, Objections to the

Settlement, or workweek disputes; (h) the claims to be released, as set forth herein; and (j) the date for the final approval hearing.

51. Disputed Information on Class Notice. Class Members will have an opportunity to dispute the information provided in their Class Notice. To the extent Class Members dispute the number of Workweeks with which they have been credited or the amount of their Individual Settlement Payment, Class Members may produce evidence to the Settlement Administrator showing that such information is inaccurate. Absent evidence rebutting Defendants' records, Defendants' records will be presumed determinative. However, if a Class Member produces evidence contrary to Defendants' records by the Response Deadline, the Settlement Administrator shall notify Class Counsel, and Defendants' counsel to discuss and resolve the dispute, including providing all available relevant information to all counsel. The Parties will resolve all disputes jointly, which shall be final and binding on any Class Member disputes, and shall thereafter instruct the Settlement Administrator how to proceed in processing the dispute. If the Parties cannot reach an agreement, disputes shall be referred to the Settlement Administrator for a determination and if the dispute remains unresolved after that, the dispute shall be submitted to the Court for final determination. All such disputes are to be resolved or submitted to the Court for not later than fourteen (14) calendar days after the Response Deadline.

52. Defective Submissions. If a Class Member's Request for Exclusion is defective as to the requirements listed herein, that Class Member will be given an opportunity to cure the defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3) business days of receiving the defective submission to advise the Class Member that his or her submission is defective and that the defect must be cured to render the Request for Exclusion valid. The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15) calendar days from the date of the cure letter, whichever date is later, to postmark a revised Request for Exclusion. If a Class Member responds to a cure letter by filing a defective claim, then the Settlement Administrator will have no further obligation to give notice of a need to cure. If the revised Request for Exclusion is not postmarked within that period, it will be

1 deemed untimely.

2 53. Request for Exclusion Procedures. Any Class Member wishing to opt-out from
3 the Action must sign and postmark a written Request for Exclusion to the Settlement
4 Administrator by the Response Deadline. The Request for Exclusion must include (a) the Class
5 Member's name, address, telephone number, and the last four digits of the Class Member's
6 Social Security number and/or the Employee ID number and (b) a clear statement requesting to
7 be excluded from the settlement of the class claims similar to the following: "I wish to exclude
8 myself from the class settlement reached in the matter of *Tonloy v. Southern Counties Terminals*. I
9 understand that by excluding myself, I will not receive money from the settlement of my
10 individual claims." The date of the postmark on the return mailing envelope receipt
11 confirmation will be the exclusive means to determine whether a Request for Exclusion has
12 been timely submitted. All Requests for Exclusion will be submitted to the Settlement
13 Administrator, who will certify jointly to Class Counsel and Defendants' Counsel the Requests
14 for Exclusion that were timely submitted. All Class Members who do not request exclusion
15 from the Action will be bound by all terms of the Settlement Agreement if the Settlement is
16 granted final approval by the Court.

17 54. Defendants' Right to Rescind. If five percent (5%) or more of the Class
18 Members (rounded to the next whole number) elect not to participate in the Settlement,
19 Defendants may, at their election, rescind the Settlement Agreement and all actions taken in
20 furtherance of it will be thereby null and void. Defendants must meet and confer with Class
21 Counsel prior to exercising this right and must make clear their intent to rescind the Agreement
22 within fourteen (14) calendar days of the Settlement Administrator notifying the Parties of these
23 opt-outs. If Defendants exercise their right to rescind the Agreement, Defendants shall be
24 responsible for all Settlement Administration Costs incurred to the date of rescission.

25 55. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Any Class
26 Member who does not affirmatively opt-out of the Settlement by submitting a timely and valid
27 Request for Exclusion will be bound by all of its terms, including those pertaining to the
28 Released Claims, as well as any Judgment that may be entered by the Court if it grants final

1 approval to the Settlement. Class Members who opt-out of the Settlement shall not be bound by
2 such Judgment or release. The names of Class Members who have opted-out of the settlement
3 shall be disclosed to the Counsel for Plaintiff and Defendants and noted in the proposed
4 Judgment submitted to the Court.

5 56. Objection Procedures. To object to the Settlement, a Participating Class Member
6 must postmark a valid Objection to the Settlement Administrator on or before the Response
7 Deadline. The Objection must be signed by the Participating Class Member and contain all
8 information required by this Settlement Agreement including the employees full name, address,
9 telephone number, the last four digits of their social security number and/or Employee ID
10 number, and the specific reason including any legal grounds for the Participating Class
11 Members objection. The postmark date will be deemed the exclusive means for determining that
12 the Objection is timely. Participating Class Members who fail to object in the manner specified
13 above will be foreclosed from making a written objection, but shall still have a right to appear at
14 the Final Approval Hearing in order to have their objections heard by the Court. At no time will
15 any of the Parties or their counsel seek to solicit or otherwise encourage Participating Class
16 Members to submit written objections to the Settlement or appeal from the Order and Judgment.
17 Class Counsel will not represent any Class Members with respect to any objections to this
18 Settlement.

19 57. Certification Reports Regarding Individual Settlement Payment Calculations.
20 The Settlement Administrator will provide Defendants' Counsel and Class Counsel a weekly
21 report which certifies: (a) the number of Class Members who have submitted Requests for
22 Exclusion; (b) the number of re-mailed and/or undeliverable Class Notices; and (c) whether any
23 Class Member has submitted a challenge to any information contained in the Class Notice.
24 Additionally, the Settlement Administrator will provide to counsel for all Parties any updated
25 reports regarding the administration of the Settlement Agreement as needed or requested.

26 58. Uncashed Settlement Checks. Any checks issued by the Settlement
27 Administrator to Participating Class Members and PAGA Members will be negotiable for at
28 least one hundred eighty (180) calendar days. If a Participating Class Member or PAGA

1 Member does not cash his or her Settlement Check or PAGA Penalties check within 180 days,
2 the uncashed funds, subject to Court approval, shall be distributed to the Controller of the State
3 of California to be held pursuant to the Unclaimed Property Law, California Civil Code §1500,
4 *et. seq.* for the benefit of those Participating Class Members and PAGA Members who did not
5 cash their checks until such time that they claim their property. The Parties agree that this
6 disposition results in no “unpaid residue” under California Civil Procedure Code § 384, as the
7 entire Net Settlement Amount will be paid out to Participating Class Members and PAGA
8 Members, whether or not they all cash their settlement checks or PAGA Penalties checks.
9 Therefore, Defendants will not be required to pay any interest on such amounts. The Individual
10 Settlement Payments provided to Participating Class Members and to PAGA Members shall
11 prominently state the expiration date or a statement that the Settlement Check will expire in one
12 hundred eighty (180) days, or alternatively, such a statement may be made in a letter
13 accompanying the Individual Settlement Payment. Expired Individual Settlement Payments will
14 not be reissued, except for good cause and as mutually agreed by the Parties in writing. The
15 parties agree no unclaimed funds will result from the settlement process detailed in this
16 Agreement.

17 59. Administration of Taxes by the Settlement Administrator. The Settlement
18 Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and
19 Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts
20 paid pursuant to this Settlement. The Settlement Administrator will also be responsible for
21 forwarding all payroll taxes and penalties to the appropriate government authorities.

22 60. Tax Liability. Defendants make no representation as to the tax treatment or legal
23 effect of the payments called for hereunder, and Plaintiff, Participating Class Members, and
24 PAGA Members are not relying on any statement, representation, or calculation by Defendants
25 or by the Settlement Administrator in this regard. Plaintiff, Participating Class Members, and
26 PAGA Members understand and agree that except for Defendants’ payment of the employer’s
27 portion of any payroll taxes, they will be solely responsible for the payment of any taxes and
28 penalties assessed on the payments described herein. Defendants’ share of any employer-side

1 payroll taxes and other required employer withholdings due on the Individual Settlement
2 Payments, including, but not limited to, Defendants' FICA and FUTA contributions, shall be
3 paid separate and apart from the Gross Settlement Amount.

4 61. Circular 230 Disclaimer. EACH PARTY TO THIS AGREEMENT (FOR
5 PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY
6 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER
7 PARTY") ACKNOWLEDGES AND AGREES THAT: (1) NO PROVISION OF THIS
8 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN
9 OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR
10 WAS INTENDED TO BE, NOR WILL ANY SUCH COMMUNICATION OR DISCLOSURE
11 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
12 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230
13 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS
14 RELIED EXCLUSIVELY UPON HIS, HER OR ITS OWN, INDEPENDENT LEGAL AND
15 TAX COUNSEL FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH
16 THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON
17 THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR
18 ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
19 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
20 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
21 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
22 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
23 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
24 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
25 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF
26 ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
27 AGREEMENT.

28 62. No Prior Assignments. The Parties and their counsel represent, covenant, and

warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

63. Release by Participating Class Members, PAGA Members, the LWDA and the State of California. It is the desire of the Plaintiff, Participating Class Members, and Defendants to fully, finally, and forever settle, compromise, and discharge the claims asserted in the Action. Upon the complete funding of the Gross Settlement Amount and all applicable employer-side payroll taxes by Defendants, in exchange for the consideration set forth in this Agreement, Participating Class Members shall fully release and discharge the Released Parties from any and all Released Claims for the Class Period. This release shall be binding on all Participating Class Members, including each of their respective attorneys, agents, spouses, executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the benefit of the Released Parties, who shall have no further or other liability or obligation to any Class Member with respect to the Released Claims, except as expressly provided herein. All PAGA Members, regardless of whether they submit timely and valid Requests for Exclusion from the Settlement Class, will release all claims under PAGA that could have been premised on the claims, causes of action or legal theories described the operative complaint during the PAGA Period. The State of California and the LWDA will also release all claims under PAGA that could have been premised on the claims, causes of action or legal theories described the operative complaint.

64. Release of Additional Claims & Rights by Plaintiff. Upon complete funding of the Gross Settlement Amount and all applicable employer-side payroll taxes, and as a condition of receiving any portion of his Class Representative Incentive Payment, Plaintiff will agree to the additional following General Release: In consideration of Defendants' promises and agreements as set forth herein, Plaintiff hereby releases all claims related to his employment or alleged employment with the Defendants including all claims alleged in the Action, and all claims known and unknown, without exception, except as may be prohibited by law. Specifically, Plaintiff waives all rights and benefits afforded by California Civil Code Section

1 1542, which provides:

2 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
3 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST
4 IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND
5 THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED
6 HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

7 This release specifically excludes claims for unemployment insurance, disability, social
8 security, and workers' compensation (with the exception of claims arising pursuant to
9 California Labor Code Sections 132(a) and 4553).

10 65. Neutral Employment Reference. Defendants agree that they will adopt a neutral
11 reporting policy regarding any future employment references related to Plaintiff. In the event
12 that any potential or future employers of Plaintiff request a reference regarding Defendants'
13 employment of Plaintiff, Defendants shall only provide the Plaintiff's dates of employment, and
14 job titles during employment. Defendants shall not refer to the Action or this Settlement.

15 66. Nullification of Settlement Agreement. In the event that: (a) the Court does not
16 finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any
17 material term of this Settlement Agreement; or (c) the Settlement does not become final as
18 written and agreed to by the Parties for any other reason, then this Settlement Agreement, and
19 any documents generated to bring it into effect, will be null and void, all amounts deposited into
20 the QSF will be returned to Defendants, and the Parties shall be returned to their original
21 respective positions. Any order or judgment entered by the Court in furtherance of this
22 Settlement Agreement will likewise be treated as void from the beginning. Pursuant to
23 California Evidence Code § 1152, this Settlement Agreement is inadmissible in any proceeding,
24 except a proceeding to approve, interpret, or enforce this Settlement Agreement. If Final
25 Approval does not occur, the Parties agree that this Settlement Agreement is void, and remains
26 protected by California Evidence Code § 1152. Should the Court fail to approve this settlement
27 for any reason, the Parties agree that they will return to and attend mediation with a mutually
28 agreed mediator in an effort to reach a settlement that may be approved by the Court.

1 67. Preliminary Approval Hearing. Plaintiff will obtain a hearing before the Court to
2 request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary
3 Approval Order for: (a) conditional certification of the Class for settlement purposes only, (b)
4 Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final
5 Approval/Settlement Fairness Hearing. The Preliminary Approval Order will provide for the
6 Class Notice to be sent to all Class Members as specified herein. In conjunction with the
7 Preliminary Approval hearing, Plaintiff will submit this Agreement, which sets forth the terms
8 of the Settlement, and will include the proposed Class Notice attached as Exhibit A. Defendants
9 agree that they will not oppose Plaintiff's motion for Preliminary Approval. Any failure by the
10 Court to fully and completely approve the Agreement as to the Action, or the entry of any Order
11 by another Court with regard to any of the Action which has the effect of preventing the full and
12 complete approval of this Settlement Agreement as written and agreed to by the Parties, will
13 result in this Settlement Agreement and the Memorandum of Understanding entered into by the
14 Parties, and all obligations under this Settlement Agreement and the Memorandum of
15 Understanding being nullified and voided.

16 68. Final Settlement Approval Hearing and Entry of Judgment. Upon completion of
17 the Class Notice process, including the expiration of the deadlines to postmark Requests for
18 Exclusion or objections to the Settlement Agreement, a Final Approval/Settlement Fairness
19 Hearing will be conducted to determine the Final Approval of the Settlement Agreement along
20 with the amounts properly payable for: (a) Individual Settlement Payments; (b) the PAGA
21 Penalties; (c) Class Counsel's Attorneys' Fees and Costs; (d) the Class Representative Incentive
22 Payment for Plaintiff; and (d) the Settlement Administration Costs. Class Counsel will be
23 responsible for drafting all documents necessary to obtain Final Approval. Defendants shall not
24 oppose Plaintiff's Motion for Final Approval.

25 69. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by
26 the Court or after the Final Approval/Settlement Fairness Hearing, the Parties will present the
27 Judgment to the Court for its approval. After entry of the Judgment, the Court will have
28

continuing jurisdiction solely for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement, (b) settlement administration matters, and (c) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement.

70. Exhibits Incorporated by Reference. The terms of this Settlement include the terms set forth in any attached Exhibit (Exhibit A), which are incorporated by this reference as though fully set forth herein. Exhibit A to this Agreement is an integral part of the Settlement.

71. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute the entirety of the Parties' Settlement. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties.

72. Amendment or Modification. This Settlement Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

73. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

74. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

75. California Law Governs. All terms of this Settlement Agreement hereto will be governed by and interpreted according to the laws of the State of California.

76. Execution and Counterparts. This Settlement Agreement is subject only to the

1 execution of all Parties. However, the Settlement Agreement may be executed in one or more
2 counterparts. All executed counterparts and each of them, including facsimile and scanned
3 copies of the signature page, will be deemed to be one and the same instrument provided that
4 counsel for the Parties will exchange among themselves original signed counterparts.

5 77. Acknowledgement that the Settlement is Fair and Reasonable. The Parties
6 believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action
7 and have arrived at this Settlement after arm's-length negotiations and in the context of
8 adversarial litigation, taking into account all relevant factors, present and potential. The Parties
9 further acknowledge that they are each represented by competent counsel and that they have had
10 an opportunity to consult with their counsel regarding the fairness and reasonableness of this
11 Settlement.

12 78. Invalidity of Any Provision. Before declaring any provision of this Agreement
13 invalid, the Court will first attempt to construe the provision as valid to the fullest extent
14 possible consistent with applicable precedents so as to define all provisions of this Agreement
15 valid and enforceable.

16 79. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
17 class certification for purposes of this Settlement only; except, however, that either party may
18 appeal any court order that materially alters the Settlement Agreement's terms.

19 80. Class Action Certification for Settlement Purposes Only. The Parties agree to
20 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the
21 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
22 that certification for purposes of the Settlement is not an admission that class action certification
23 is proper under the standards applied to contested certification motions and that this Agreement
24 will not be admissible in this or any other proceeding as evidence that either: (a) a class action
25 should be certified or (b) Defendants are liable to Plaintiff or any Class Member, other than
26 according to the Settlement's terms.

27 81. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
28 dispute that has arisen between them and to avoid the burden, expense and risk of continued

1 litigation. In entering into this Agreement, Defendants do not admit, and specifically deny, they
2 have violated any federal, state, or local law; violated any regulations or guidelines promulgated
3 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
4 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
5 engaged in any other unlawful conduct with respect to their employees. Neither this Agreement,
6 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be
7 construed as an admission or concession by Defendants of any such violations or failures to
8 comply with any applicable law. Except as necessary in a proceeding to enforce the terms of
9 this Agreement, this Agreement and its terms and provisions shall not be offered or received as
10 evidence in any action or proceeding to establish any liability or admission on the part of
11 Defendants or to establish the existence of any condition constituting a violation of, or a non-
12 compliance with, federal, state, local or other applicable law.

13 82. Captions. The captions and section numbers in this Agreement are inserted for
14 the reader's convenience, and in no way define, limit, construe or describe the scope or intent of
15 the provisions of this Agreement.

16 83. Waiver. No waiver of any condition or covenant contained in this Settlement
17 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be
18 considered to imply or constitute a further waiver by such party of the same or any other
19 condition, covenant, right or remedy.

20 84. Mutual Preparation. The Parties have had a full opportunity to negotiate the
21 terms and conditions of this Agreement. Accordingly, this Agreement will not be construed
22 more strictly against one Party than another merely by virtue of the fact that it may have been
23 prepared by counsel for one of the Parties, it being recognized that, because of the arms-length
24 negotiations between the Parties, all Parties have contributed to the preparation of this
25 Settlement Agreement.

26 85. Representation By Counsel. The Parties acknowledge that they have been
27 represented by counsel throughout all negotiations that preceded the execution of this
28 Agreement, and that this Agreement has been executed with the consent and advice of counsel

1 and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there are no
2 liens on the Agreement.

3 86. All Terms Subject to Final Court Approval. All amounts and procedures
4 described in this Settlement Agreement herein will be subject to final Court approval.

5 87. Cooperation and Execution of Necessary Documents. The Parties agree to
6 cooperate to promote participation in the Settlement, and in seeking court approval of the
7 Settlement. The Parties and their counsel agree not to take any action to encourage any Class
8 Members to opt out of and/or object to the Settlement. Defendants agree not to obtain any
9 settlement agreement waivers, Pick Up Stix agreements or arbitration agreements from any
10 Class Member prior to the funding of the Gross Settlement Amount concerning claims released
11 via this Agreement, or enter into any arbitration agreement with any Class Member that covers
12 the claims released via this Agreement during the Settlement approval process prior to the
13 funding of the Gross Settlement Amount and that the Parties will work in good faith to reach an
14 agreement approved by the Court.

15 88. Enforcement and Continuing Jurisdiction of the Court. To the extent consistent
16 with class action procedure, this Settlement Agreement shall be enforceable by the Court
17 pursuant to California Code of Civil Procedure § 664.6. The Court shall retain continuing
18 jurisdiction over this Action and over all Parties and Class Members, to the fullest extent to
19 enforce and effectuate the terms and intent of this Settlement Agreement, and to adjudicate any
20 claimed breaches of this Settlement Agreement. The Court may award reasonable attorneys'
21 fees and costs to the prevailing party in any motion or action taken and based on an alleged
22 violation of any material term of the Settlement Agreement.

23 89. Voluntary Agreement. The Parties acknowledge that they have entered into this
24 Settlement Agreement voluntarily, on the basis of their own judgment and without coercion,
25 duress, or undue influence of any Party, and not in reliance on any promises, representations, or
26 statements made by the other Parties other than those contained in this Settlement Agreement.
27 Each of the Parties hereto expressly waives any right he/they might ever have to claim that this
28 Settlement Agreement was in any way induced by fraud.

1 90. Confidentiality. The Parties and their counsel agree to keep the terms of the
2 Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Plaintiff,
3 Class Counsel, Defendants and their counsel agree that they will not issue any press releases,
4 initiate any contact with the press, respond to any press inquiry or have any communication
5 with the press about the fact, amount or terms of the Settlement Agreement. Nothing in this
6 Settlement Agreement shall limit Defendants' ability to fulfill disclosure obligations reasonably
7 required by law or in furtherance of business purposes, including the fulfillment of obligations
8 stated in this Settlement Agreement or limit Class Counsel's communications with the Class
9 Members in furtherance of approval of this Settlement.

10 91. Binding Agreement. The Parties warrant that they understand and have full
11 authority to enter into this Settlement, and further intend that this Settlement Agreement will be
12 fully enforceable and binding on all Parties, and agree that it will be admissible and subject to
13 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality
14 provisions that otherwise might apply under federal or state law.

15
16 APPROVED AS TO FORM AND CONTENT:

17 Dated: 02/25/2021

18 **PLAINTIFF**

19 By:

Rolando Tonloy

20 Rolando Tonloy

21
22 Dated: 4/5/21

23 **DEFENDANT SOUTHERN COUNTIES
24 TERMINALS DBA GRILEY AIR FREIGHT**

25 By: Kevin Griley

26 Name: [Signature]

27 Title: Manager

1 Dated: 3/5/2021

DEFENDANT PEOPLEASE, LLC

2 By: 

3 Name: Christopher D. Abetz Jr.

4 Title: CFO

Exhibit A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Tonloy v. Southern Counties Terminals. et al.
Los Angeles Superior Court, Case No. 20STCV18920

**THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION.
PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.**

To: All current and former hourly-paid, non-exempt employees who are or were employed by Southern Counties Terminals dba Griley Air Freight (“Griley”) and/or PEOPLEASE, LLC in the State of California who performed work for Griley and/or were assigned to work for Griley through a third-party staffing agency, at any time from May 16, 2016 to February 15, 2021.

BASIC INFORMATION

1. What is this settlement about?

A lawsuit was commenced by Rolando Tonloy (“Plaintiff”) a former employee of Southern Counties Terminals dba Griley Air Freight (“Griley”) and PEOPLEASE, LLC (“Defendants”) on May 15, 2020. The case is currently pending in the Los Angeles County Superior Court, Case No. 20STCV18920.

The lawsuit claims that Defendants violated sections of the California Labor Code and California Business and Professions Code. Specifically, Plaintiff alleges that Defendants failed to provide compliant meal and rest periods and associated premium pay, did not properly pay employees all wages owed for time worked, did not provide accurate wage statements, did not timely pay all wages during employment and all wages owed at termination of employment, failed to pay vested vacation time, and maintained unfair business practices. The settlement also seeks to recover penalties pursuant to the California Private Attorneys General Act (“PAGA”). The lawsuit claims that the Defendants violated the California Labor Code and the California Business and Professions Code, entitling Class Members to, *inter alia*, damages, penalties and restitution. Defendants deny all alleged violations and deny that they owe Class Members any remedies. The Court has not made a ruling on the merits of the case.

2. Why is this a class action?

In a class action, one or more people called the Class Representative (in this case Rolando Tonloy, also known as “Plaintiff”), sue on behalf of people who appear to have similar claims (in this case all current and former hourly-paid, non-exempt employees who are or were employed by Southern Counties Terminals dba Griley Air Freight and/or PEOPLEASE, LLC in the State of California who performed work for Griley and/or were assigned to work for Griley through a third-party staffing agency, at any time from May 16, 2016 to February 15, 2021. All these people are referred to here as Class Members. In a class action one court resolves the issues for all Class Members in one lawsuit, except for those who exclude themselves from the Class. The Los Angeles County Superior Court is in charge of this class action.

3. Why is there a settlement?

The Court has not decided in favor of the Plaintiff or Defendants. Instead, both sides agreed to a settlement which is memorialized in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement”). On [DATE OF PRELIMINARY APPROVAL] the Court granted preliminary approval of the Settlement, appointed

Plaintiff Rolando Tonloy as the Class Representative, and appointed his attorneys at Protection Law Group as counsel for the Class (“Class Counsel”).

The Class Representative and Class Counsel think the Settlement is best for the Class.

WHO IS IN THE SETTLEMENT?

4. How do I know if I am part of the settlement?

You are part of the Settlement, and a Class Member, if you were employed by Defendants as an hourly-paid, non-exempt employee in the state of California and performed work for Griley and/or were assigned to work for Griley through a third-party staffing agency at any time between May 16, 2016 and February 15, 2021.

THE SETTLEMENT BENEFITS—WHAT YOU GET

5. What does the settlement provide?

The Settlement provides that Defendants will pay a maximum of Eight Hundred and Ninety-Five Thousand Dollars (\$895,000) (“Gross Settlement Amount”). This includes all costs and attorneys’ fees for Class Counsel.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Attorneys’ Fees to Class Counsel** not to exceed 35% of the Gross Settlement Amount or Three Hundred Thirteen Thousand Two Hundred Fifty Dollars (\$313,250);
- B. **Litigation Costs/Expenses to Class Counsel** not to exceed Forty Thousand Dollars (\$40,000);
- C. **Incentive Payment to the Class Representative** in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500);
- D. **Settlement Administration Costs** which are currently estimated to be Twenty-Five Thousand Dollars (\$25,000); and
- E. **PAGA Penalties** in the amount of Fifty Thousand Dollars (\$50,000) for the settlement of claims arising under the Private Attorney’s General Act of 2004 (PAGA). Seventy-Five percent (75%) of this amount, (\$37,500) shall be paid to the LWDA. The remaining twenty-five percent (25%) (\$12,500) will be distributed to hourly-paid, non-exempt employees of Defendants in the state of California who performed worked for Griley and/or were assigned to work for Griley through a third-party staffing agency, at any time from May 15, 2019 to February 15, 2021, for the release of their claims arising under PAGA.

The amount you are eligible to receive from the settlement, your “Individual Settlement Payment” will be determined on a *pro rata* basis, based on the number of weeks you worked in California as an hourly-paid, non-exempt employee of Defendants from May 16, 2016 to February 15, 2021. (“Workweeks”). Your Individual Settlement Payment includes both your estimated share of the Net Settlement Amount and, if eligible, your share of the PAGA Penalties.

Your Individual Settlement Payment will be apportioned as twenty percent (20%) wages, forty percent (40%) interest and forty percent (40%) penalties. The wage portion of the Individual Settlement Payment will be subject to withholding for the employee taxes and will be reported on a W-2 Form. Employer-side payroll taxes shall be paid separately from and in addition to the Gross Settlement Amount. The penalties and interest portions of each class member’s settlement payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

You worked XXX workweeks during the class period. Your Individual Settlement Payment is \$XXX.XX. The amount of the payment may change depending on the number of timely and valid requests for exclusions submitted in the Settlement, if any.

This Amount was determined based on Defendants' record of your employment between May 16, 2016 and February 15, 2021, and is presumed correct. If you dispute the accuracy of Defendants' records as to the number of weeks worked during the Class Period, you must contact the Settlement Administrator and provide any documentation you have supporting such dispute by [DATE]. All disputes regarding your workweeks will be resolved and decided by the Parties or if the Parties cannot agree, the Court, after you submit evidence to the Settlement Administrator. The Settlement Administrator's contact information is listed below:

[Settlement Administrator]

[Address]

[Telephone No].

[Fax No.]

HOW TO GET A PAYMENT FROM THE SETTLEMENT

6. How can I get a payment?

You do not have to do anything to qualify for a payment of your portion of the Settlement.

7. What am I giving up if I do not request to be excluded from the Settlement?

Upon the funding of the Gross Settlement Amount, in exchange for the consideration set forth by the Settlement, Plaintiff and all Class Members who do not submit a timely request for exclusion shall release the "Released Parties" from the "Released Claims" for the Class Period.

The "Released Parties" include Southern Counties Terminals dba Griley Air Freight and PEOPLEASE, LLC and any of their past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

The "Released Claims" means any and all claims, rights, demands, liabilities, and causes of action that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the operative complaint filed in the Action including the following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to pay vested vacation pay; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to provide timely pay wages during employment; (viii) unfair business practices that could have been premised on the facts claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative complaint; (ix) failure to maintain required payroll records and (x) all claims under the California Labor Code Private Attorneys General Act of 2004 or for civil penalties that could have been premised on the facts claims, causes of action or legal theories described above or any of the facts claims, causes of action or legal theories of relief pleaded in the operative complaint including but not limited to Labor Code sections 210, 226.3, 1197.1, 558, and 2699 , or premised on the facts, claims, causes of action, or legal theories set forth in Notice to the Labor & Workforce Development Agency sent by Plaintiff on May 15, 2020. .

This release of these claims pertains to the Class Period from May 16, 2016 to February 15, 2021.

All PAGA Members will be deemed to have fully, finally and forever released, settled, compromised, relinquished, and discharged any and all Released Claims arising under PAGA with respect to all of the Released Parties irrespective of whether a Class Member submits a request for exclusion.

EXCLUDING YOURSELF FROM THE RELEASE OF NON-PAGA CLAIMS

If you want to keep the right to sue or continue to sue Defendants with respect to the Released Claims (other than those which arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*), then you must submit a request for exclusion in conformity with the requirements set forth herein. If you exclude yourself, you will not receive payment from the Net Settlement Amount. However, if eligible, you will still receive a payment in an amount equal to your estimated *pro rata* share of the PAGA Penalties because the Request for Exclusion does not apply to this claim.

8. How can I not participate in the Settlement?

To exclude yourself from the release of Released Claims you must submit a written request for exclusion. You must include your name, address, telephone number and the last four digits of your social security number and/or Employee ID number. Your request for exclusion must also include a statement that you do not wish to be included in this action similar to the following: I wish to exclude myself from the class action settlement reached in the matter of *Tonloy v. Southern Counties Terminals*. I understand that by excluding myself I will not receive money from the class portion of the settlement.”

The written request for exclusion must be mailed to the Settlement Administrator at the address listed below, post-marked by [DATE]. You cannot exclude yourself by phone.

[Settlement Administrator]
[Address]
[Telephone No.
[Fax No.]

If you ask to be excluded, you will not receive payment of any portion of the Net Settlement Amount and you cannot object to the Settlement. You will not be legally bound by the release of Released Claims (except for Released Claims that arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*)).

You may be able to sue Defendants and/or the Released Parties or continue any suit you have pending against Defendants and/or the Released Parties, regarding the Released Claims (except for Released Claims that arise under the Private Attorney General Act (California Labor Code sections 2698 *et seq.*)).

9. If I don't exclude myself, can I sue Defendants for the same thing later?

No. Unless you submit a request for exclusion, you give up the right to sue Defendants and the Released Parties for the Released Claims. If you have a pending lawsuit involving the Released Claims, speak to your lawyer in that lawsuit immediately.

10. If I exclude myself, can I get money from this settlement?

No (except if you worked between May 15, 2019, and February 15, 2021, in which case you will still receive the portion of your Individual Settlement Payment for Released Claims that arise under PAGA.). But if you submit a timely and valid request for exclusion, you retain any right that you may have to sue, continue to sue, or be part of a

different lawsuit against and/or the Released Parties for Released Claims (except for Released Claims that arise under PAGA).

THE LAWYERS REPRESENTING YOU

11. Do I have a lawyer in this case?

The Court has approved PROTECTION LAW GROUP, LLP as Class Counsel. The firm's contact information is:

PROTECTION LAW GROUP LLP

Heather Davis, Esq.
Amir Nayebdadash, Esq.
237 California Street
El Segundo, California 90245
Telephone: (424) 290-3095

Class Counsel will ask the Court for attorneys' fees of up to \$313,250 and reimbursement of litigation cost/expenses of up to \$40,000. These amounts are subject to Court approval and the Court may award less than these amounts.

OBJECTING TO THE SETTLEMENT

You can object to the Settlement or some part of it.

13. How do I tell the Court if I don't like the settlement?

If you are a Class Member, you can object to the Settlement and you can give reasons for why you think the Court should not approve it. The Court will consider your views. To object, you must mail your objection to the Settlement Administrator no later than [DATE]. Your objection must include your full name, address, telephone number, the last four digits of your social security number or employee ID number, and the specific reason for your objection. You may also come to the Final Approval Hearing on [DATE] and make an objection at that time, regardless of whether you submitted a written objection.

14. What is the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the 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 case no longer affects you.

THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement ("Final Approval Hearing"). You may attend, but you do not have to attend.

15. When and where will the Court decide whether to approve the settlement?

The Court will hold the Final Approval Hearing at [] a.m./p.m. on [], 2020], at the Los Angeles Superior Court—Spring Street Courthouse, located at 312 N. Spring St. Los Angeles, CA 90012.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them.

16. Do I have to come to the hearing?

No. If you agree to the Settlement you do not have to come to Court to talk about it. However, you may attend. You may also retain your own lawyer at your expense to attend on your behalf. You may attend in person, but you may also attend remotely if you wish. Remote appearances may be scheduled through “LA Court Connect” <https://www.lacourt.org/lacc/>

17. How will I learn if the settlement was approved?

A notice of final judgment will be posted on the Settlement Administrator website located at www.

IF YOU DO NOTHING

18. What happens if I do nothing at all?

If you do nothing, you will receive your share of the Settlement, and you will release the Released Claims. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants and/or the Released Parties about the Released Claims, ever again. Your Individual Settlement Payment will be mailed to you and remain valid and negotiable for 180 days. If you do not cash your settlement check within 180 days, these funds will be transferred to the Controller of the State of California’s Unclaimed Property Fund. You may then claim these funds from there.

GETTING MORE INFORMATION

19. How do I get more information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by viewing the settlement located on the Settlement Administrator’s website at www. or by contacting the Settlement Administrator or Class Counsel.

WHAT IF MY INFORMATION CHANGES?

19. What if my contact information changes ?

It is your responsibility to inform the Settlement Administrator of your updated information to ensure receipt of settlement payments or communications regarding this matter. You can change or update your contact information by contacting the Settlement Administrator.

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE