

SETTLEMENT AGREEMENT

This Settlement Agreement (the "Settlement" or "Agreement") is entered into by and between Plaintiff Teresa Anaya, individually and on behalf of the Settlement Class (defined below) and Quick Trim LLC. ("Quicktrim"), Windmill Health Products, LLC, Kimberly Kardashian, Khloe Kardashian-Odom, Kourtney Kardashian, Kris Jenner, Jenner Communications, Inc., Kimsaprincess, Inc., Kholomoney Inc., 2Die4Kourt, Inc., GNC Corp., CVS Pharmacy, Inc., Walmart Corp., Amazon.com Inc., Drugstore.com., Christopher Tisi, Vitaquest International, LLC. (collectively, the "Quicktrim Parties"), in full and complete settlement of the following litigation: Anaya, et als. v. Quicktrim LLC., Superior Court, California (San Bernandino County), Case No. CIV VS 1201177 (the "Action").

I. RECITALS

This Agreement is made with reference to and in contemplation of the following facts and circumstances:

A. Quicktrim is the owner of the Quicktrim Weight Loss System® which consists of multiple component products including: QuickTrim Sugar & Carb Cheater®, QuickTrim Fast Cleanse®, ClickTrim Extreme Burn®, Quicktrim Burn & Cleanse®, QuickTrim Hot Stix®, Quick Trim Fast Shake®, QuickTrim Satisfy® and QuickTrim Celluslim® ("The Products")

B. The Action was filed on March 7, 2012.

C. The allegations in the Action include, among others, that: Defendant and its agents through their labeling on The Products misrepresented and misled the Plaintiff by claiming The Products to have weight loss benefits.

D. The Quicktrim Parties vigorously deny all claims that have or could have been asserted against it in the Action (including, without limitation, claims with respect to each of The Products); denies all allegations of wrongdoing and liability; denies all material allegations of the Complaint in the Actions; and asserts numerous defenses as to both liability and damages. The Quicktrim Parties, nevertheless, desire to settle the Action, and all claims which have been or could have been alleged therein as it relates to the Products on the terms set forth herein.

E. Plaintiff and Class Counsel (defined below) have investigated the facts and law, including through formal and informal discovery, and have concluded that the Settlement is in the best interests of Plaintiff and the Settlement Class in order to avoid the risks and uncertainties of continuing this proceeding and to assure meaningful benefits to the Settlement Class. This Agreement resulted from and is the product of extensive meetings, negotiations, and analysis by counsel knowledgeable and experienced in class action litigation, including arm's-length negotiations conducted under the

supervision of a mediator, retired Judge Peter D. Lichtman at JAMS in Los Angeles, California.

F. The parties understand, acknowledge, and agree that the execution of this Agreement constitutes the settlement and compromise of disputed claims. This Agreement is inadmissible as evidence against any party except to enforce the terms of the Settlement and is not an admission of wrongdoing or liability on the part of any party to this Agreement. It is the parties' desire and intent to effect a full, complete, and final settlement and resolution of all existing disputes and claims as set forth herein.

G. The Settlement is subject to preliminary and final approval by the Court, as set forth herein. This Agreement is intended by the parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (defined below), upon and subject to the terms and conditions hereof.

II. DEFINITIONS

A. As used in this Agreement, capitalized terms have the meanings specified below:

1. "Amended Complaint" means the Amended Complaint to be filed by Plaintiff in the *Anaya* Case, substantially in the form appended hereto as **Exhibit A**.

2. "Claim Form" means the claim form to be submitted by Settlement Class Members in order to receive settlement

benefits, the proposed form of which is attached hereto as **Exhibit B.**

3. "Class Counsel" means Kabateck Brown Kellner, LLP.

4. "Class Notice" means the various forms of notice that will be provided to the Settlement Class pursuant to this Agreement, including Publication Notice, Press Release, Retailer Notice and Internet Notice. The notice forms are appended hereto as **Exhibit C.**

5. "Court" means the Superior Court of the State of California for the County of San Bernardino.

6. "Effective Date" means the date on which the Judgment becomes Final as defined in Para. 9 herein.

7. "Final Approval Hearing" means the hearing at or after which the Court will determine whether to finally approve the Settlement as fair, reasonable, and adequate to the Settlement Class.

8. "Final Approval Order" and "Judgment" each mean the Final Approval Order and Judgment to be submitted to the Court in connection with the Final Approval Hearing, the proposed form of which is attached hereto as **Exhibit D.** Among other things, the Judgment shall dismiss all claims in the Action with prejudice.

9. "Final" shall mean the later of: (a) fifteen (15) days after the expiration of the time to seek appeal, review, rehearing, reconsideration, or any other action seeking to reverse or modify a judgment or order; or (b) if any such document is filed, then fifteen (15) days after the date upon which all appellate and/or other proceedings resulting from the document or any subsequent such documents have been finally terminated and the orders or judgments are affirmed in such a manner as to permit no further judicial action.

10. "Full Notice" means the long-form settlement notice describing the settlement, the proposed form of which is attached hereto as **Exhibit E**.

11. "Internet Notice" means the settlement website that will be established by the Settlement Administrator and include the Full Notice, the Claim Form, a copy of this Agreement, the Preliminary Approval Order, and any other materials the Settling Parties agree to include. The Settlement Administrator shall secure a URL for the website acceptable to the Quicktrim Parties.

12. "Plaintiff" means Teresa Anaya, the named plaintiff in the Action.

13. "Preliminary Approval Order" means the order to be submitted to the Court in connection with the preliminary approval hearing on the Settlement, the proposed

form of which is attached hereto as **Exhibit F**.

14. "Publication Notice" means the summary notice of the Settlement that will be published twice in *National Inquirer* and *O.K. Magazine* pursuant to Section III.C.2(c) of this Agreement, the proposed form of which is attached hereto as **Exhibit G**. The parties shall also send a press release to the Associated Press in the form annexed hereto as **Exhibit H**.

15. "Released Claims" means the claims and matters released in Section III.G of this Agreement.

16. "Released Parties" means the individuals and entities released in Section III.G of this Agreement.

17. "Settlement Administrator" means Epiq Systems, Inc. or a third-party settlement administrator selected by Plaintiffs subject to reasonable approval by the Quicktrim Parties.

19. "Settlement Fund" or "Settlement Amount" means up to the total amount to be paid pursuant to Section III.D.1 of this Agreement.

20. "Settlement Class" means: All persons in the United States who purchased the QuickTrim Weight Loss System® or any of its component products for their own personal use and not for resale between August 14, 2009 and [date of preliminary approval of the settlement] (the "Class Period").

21. "Settlement Class Member" means a person in the

Settlement Class.

22. "Settlement Costs" include only the following: (a) any and all attorneys' fees, costs and/or incentive awards awarded by the Court to Class Counsel and/or Plaintiffs pursuant to this Agreement; (b) all costs of providing Class Notice; and (c) all costs incurred in administering the Settlement (such as, by way of example, Taxes (defined below) and costs incurred in receiving and processing opt-outs and claims, communicating with Settlement Class Members regarding claims or the Settlement), and issuing and mailing settlement payments.

23. "Settling Parties" means the Quicktrim Parties and the Plaintiff, on behalf of herself and the Settlement Class.

24. "Settlement Proceeds Distribution Deadline" means the date that is 30 days after the Effective Date.

B. Capitalized terms used in this Agreement but not defined above shall have the meaning ascribed to them in this Agreement, including the attached Exhibits.

III. TERMS OF SETTLEMENT

A. Amended Complaint. Simultaneous to seeking preliminary approval of the Settlement, Plaintiff will seek leave to file the Amended Complaint (in the form annexed hereto as **Exhibit A**) incorporating all claims and adding all parties addressed by this Settlement. Upon the Effective Date, the

Action will be dismissed with prejudice. The Quicktrim Parties shall not be required to respond to the Amended Complaint and, pursuant to this Agreement, all material allegations thereof shall be deemed to have been denied by the Quicktrim Parties. In the event the Court declines to grant leave to file an amended complaint, the Quicktrim Parties shall have the right in their sole discretion to terminate this agreement on five days written notice.

B. Conditional Certification Of Settlement Class. Solely for the purposes of settlement, providing Class Notice and implementing this Agreement, the Settling Parties agree to conditional certification of the Settlement Class, as defined above, which shall be certified in the *Anaya* Case for settlement purposes only. Certification of the Settlement Class shall be subject to the provisions of Section III.P below.

C. Preliminary Approval And Class Notice.

1. Preliminary Approval: Promptly after the execution and delivery of this Agreement by all parties, Plaintiff will move the Court in the *Anaya* Case for entry of the Preliminary Approval Order, which shall specifically include provisions that: (a) preliminarily approve the Settlement reflected herein as fair, adequate, and reasonable to the Settlement Class, and within the reasonable range of possible final approval; (b) conditionally certify the Settlement Class

for settlement purposes only and appoint Kabateck Brown Kellner, LLP as counsel for the Settlement Class for settlement purposes only; (c) approve the forms of Class Notice and find that the notice program set forth herein constitutes the best notice practicable under the circumstances, provides due and sufficient notice to the Settlement Class; (d) direct that notice be provided to the Settlement Class, in accordance with this Agreement, for a period of ninety (90) days, commencing no later than 10 days following entry of the Preliminary Approval Order (the "Notice Deadline"); (e) establish a procedure for Settlement Class Members to object to the Settlement or exclude themselves from the Settlement Class, and set a date forty-five (45) days after the Notice Deadline, after which no one shall be allowed to object to the Settlement or exclude himself or herself from the Settlement Class or seek to intervene in the Anaya Case (the "Opt-Out and Objection Deadline"); (f) approve the Claim Form and the claims process described herein; (g) pending final determination of whether the Settlement should be approved, bar all Settlement Class Members, directly, on a representative basis or in any other capacity from commencing or prosecuting against any of the Released Parties any action, arbitration, or proceeding in any court, arbitration forum or tribunal asserting any of the Released Claims; (h) pending final determination of whether the Settlement should be approved; and

(i) schedule a hearing on final approval of the Settlement.

2. Class Notice: The Quicktrim Parties and/or the Settlement Administrator, as specified below, shall provide Class Notice for ninety (90) days commencing no later than 10 days following the entry of the Preliminary Approval Order in the forms approved by the Court, as detailed below.

(a) Notice to Direct Purchasers. The Quicktrim Parties shall deliver an e-mail notice to all purchasers of the Products via its website (Quicktrim) in the form substantially similar to the notice appended hereto as **Exhibit I**.

(b) Internet Notice. The Settlement Administrator will establish a website specifically designated for this settlement which shall allow Settlement Class Members to download or print the Full Notice, the Claim Form, a complete copy of this Agreement, and the Preliminary Approval Order. The website will also include a toll-free number for those who prefer that copies of the Claim Form, the Full Notice, this Agreement and/or the Preliminary Approval Order be mailed to them. The Settlement Administrator also may provide an electronic Claim Form which can be submitted electronically through the settlement website. The settlement website shall be made accessible to the public no later than the date on which any form of Class Notice is first provided, and shall remain accessible until the Judgment is Final and the Settlement Fund

has been exhausted. The home page of the Quicktrim website will also display a link to the settlement website during the entire duration of the notice.

(c) Publication Notice. The Settlement Administrator shall publish the Publication Notice pursuant to Sec.II.15. The Publication Notice shall refer Settlement Class Members to the Internet Notice and provide a toll-free number for the Settlement Administrator and details regarding the Settlement.

(d) Retailer Notice. The Settlement Administrator shall mail a notice to each and every Quicktrim retailer in the United States a notice in the form substantially similar to the notice appended hereto as **Exhibit J**, wherein the retailers will be asked to display a posting at their place of business until the Notice deadline, advising consumers of the settlement and referring Settlement Class Members to the Internet Notice and the toll-free number for the Claim Form.

3. Settlement Administrator. The Settlement Administrator will administer the Settlement. The Settlement Administrator shall establish a toll-free telephone number which the Settlement Class Members may call to obtain copies of the Claim Form, Full Notice, Settlement Agreement, and/or Preliminary Approval Order. This toll-free number shall be provided on the Retailer Notice, Publication Notice, and

Internet Notice. All costs of Class Notice and settlement administration will be paid by the Quicktrim Parties. The Settlement Administrator shall be mutually selected by the Parties.

D. Settlement Consideration. In exchange for the releases described below and dismissal of the Action with prejudice, the Quicktrim Parties shall provide the following consideration which, with the exception of legal fees, shall not be payable until 45 days after the Effective Date:

1. Settlement Payments and Claims Process.

Settlement Class Members are entitled to submit a claim in connection with The Products purchased during the Class Period, as follows:

(i) Group A, Category 1: Settlement Class Members who purchased their product directly from the Quicktrim website, will automatically receive a 50% refund of the Purchase Price of The Product(s) purchased unless they submit a form and/or respond by email to the e-mail notice received indicating that they would prefer a coupon to be redeemed at a retailer for The Products with a retail value of two times the purchase price of The Product(s). Proof of Purchase is not necessary for these class members as they are readily identifiable from Quicktrim's database. An email notice will be e-mailed to each readily identifiable class member in this

group, who will be advised that they will automatically receive a 50% refund of the Purchase Price of The Product unless they submit a timely Opt-Out from the Settlement and/or unless they indicate with a reply e-mail that they would rather receive a coupon for The Products with a retail value of two times the purchase price of The Product(s). If Quicktrim does not have the e-mail addresses of the Class Members that fall into this Category, the Settlement Administrator will mail via U.S. mail a notice to the Class Members, at the last known address available, who fall under this Category, and the same course shall apply meaning that unless the Class Members who fall under this Category submit a timely Opt-Out and/or submit a response (by either an email and/or submit a form by mail and/or online via the Settlement website) indicating that they would prefer a coupon for double the value of the purchase price, they will receive a 50% refund of The Product(s) purchased.

(ii) Group A, Category 2: Settlement Class Members with Proof of Purchase, either by credit card statements and/or receipts etc., who purchased their product from a Retailer are eligible to claim a Settlement Amount of either: (a) Refund of Fifty Percent (50%) the Purchase Price of The Product(s) purchased or (b) a coupon which may be redeemed at a retailer for The Product(s) with a retail value equal to the

purchase price of The Product(s).

2. (iii) Group B: Settlement Class Members who purchased The Product(s) from a Retailer but who do not have the requisite proof of purchase of the Product(s) are eligible to claim a Settlement Amount of either: (a) refund of Twenty-Five Percent (25%) of the Purchase Price of The Product(s) purchased up to the amount of 2 Products, if they submit a Claim Form certifying that he/she purchased The Product(s) or (b) a coupon which may be redeemed at a retailer for Product(s) for the retail value of the purchase price of The Product(s) not to exceed Thirty-Five Percent (35%) of the Purchase Price of 2 Products not to exceed the combined retail value of \$42.00, if they submit a Claim Form certifying that he/she purchased The Product(s). The Settlement Administrator shall send via U.S. mail the respective settlement benefits to each Class Member who submitted a valid Claim Form no later than the Settlement Proceeds Distribution Deadline.

3. Attorneys' Fees and Costs. Class Counsel shall apply to the Court for an award of attorneys' fees and costs for all work performed on behalf of the Class, not to exceed the sum of \$250,000, which application the Quicktrim Parties agree not to oppose. The attorneys' fees and costs in the amount awarded by the Court, shall be paid directly to Class Counsel within fifteen (15) days after the entry of the order awarding fees and

costs. The Quicktrim Parties shall have no obligation to pay any attorneys' fees or costs to class counsel, in excess of this amount. In the event that the final approval order is vacated, modified or reversed, class counsel shall promptly refund attorneys' fees and costs awarded by the Court. At the election of the Quicktrim Parties, the Plaintiff's Class Counsel shall bond the obligations set forth in this paragraph, the cost to be borne by the Quicktrim Parties.

4. Class Representative Payments'. Class Counsel shall apply to the Court for an award for the Class Representative in the Action in the amount of \$2,500 which Quicktrim Parties agree not to oppose. This payment shall be made no later than forty-five (45) days after the Effective Date.

5. Business Practices and Injunctive Relief. No later than 30 days after the Effective Date, the Quicktrim Parties shall employ the following practices with respect to each of The Products and shall continue these practices following the Effective Date. At its sole election, Quicktrim may employ some or all of these practices prior to the Effective Date. Quicktrim may modify some or all of these practices to the extent required by law:

(a) The Quicktrim Parties shall redesign its labeling and packaging to restate the nature of its products and

its benefits. The proposed redesign of the labeling and packaging is attached hereto as **Exhibit K**.

E. Termination: In the event that the Settlement is not approved, or is terminated, canceled, or fails to become effective for any reason, the remaining Settlement Fund (including accrued interest), less expenses and Taxes incurred or due and owing and payable from the Settlement Funds in accordance with this Agreement, shall be refunded to the Quicktrim Parties.

F. Final Approval: Following the provision of Class Notice and expiration of the Opt-Out and Objection Period, Plaintiffs shall promptly request that the Court enter the Final Approval Order, which shall specifically include provisions that: (a) finally approve the Settlement as fair, reasonable, and adequate to the Settlement Class; (b) find that the Class Notice as given was the best notice practicable under the circumstances, is due and sufficient notice to the Settlement Class, and fully satisfies the requirements of due process; (c) approve the plan of distribution of the Settlement Amount and interest accrued thereon; (d) generally certify the Settlement Class; (e) confirm that Plaintiff and the Settlement Class Members (except those who have timely and validly requested exclusion from the Settlement Class) have released all Released Claims and are permanently barred and enjoined from asserting,

commencing, prosecuting, or continuing any of the Released Claims against the Released Parties; and (f) dismiss the Actions with prejudice, without costs to any party, except as provided in the Agreement and subject to the Court's retaining continuing jurisdiction over the parties and the Settlement Fund for the purpose of enforcement of the terms of the Agreement.

G. Releases. Plaintiff and the Settlement Class Members provide the following releases:

1. Upon the Effective Date, Plaintiff and each and all Settlement Class Members and their respective heirs, executors, administrators, representatives, agents, attorneys, partners, successors, predecessors in interest, assigns, will be deemed to have fully released and forever discharged Quicktrim and each and all of its present, former, and future direct and indirect parent companies (including, without limitation, Windmill Health Products, LLC. and Vitaquest International, LLC.), affiliates, subsidiaries, agents, retailers, spokespersons resellers and retailers (including, without limitation, Jenner Communications, Inc., Kimsaprincess, Inc., Khlomoney, Inc. and 2Die4Kourt, Inc., Walgreens, Rite Aid, Drug Emporium, Duane Reade, Giant Eagle, Harmon Drug, Kroger/Fred Meyer, Meijer, Publix, Roundy's USA Drug, Wakefern, Christopher Tisi, GNC Corp., CVS Pharmacy, Inc., Walmart Corp., Amazon.com Inc., Drugstore.com.), distributors, successors, predecessors in

interest, and/or any financial institutions, corporations, trusts, or other entities that may hold or have held any interest in any account or any receivables relating to any account, or any receivables or group of receivables, or any interest in the operation or ownership of Quicktrim, and all of the aforementioned's respective officers, directors, employees, attorneys, shareholders, agents, vendors, and assigns, Kris Jenner, Kim Kardashian, Khloe Kardashian-Odom and Kourtney Kardashian from any and all rights, duties, obligations, claims, actions, causes of action or liabilities, whether arising under local, state or federal law (including without limitation under any state or federal consumer-protection and/or unfair and deceptive practices acts, whether by Constitution, statute, contract, common law, or equity, whether known or unknown, suspected or unsuspected, asserted or unasserted, foreseen or unforeseen, actual or contingent, liquidated or unliquidated, as of the Effective Date: (1) that arise out of, relate to, or are in connection with The Products' manufacture, formulation, sale, pricing, marketing, labeling, promotion or distribution as alleged in the Amended Complaint (Exhibit A) and/or (2) that arise out of or relate in any way to the administration of the Settlement (the "Released Claims"). The release specifically does *not* include any personal injury claims any Class Members may have for taking and/or ingesting The Products.

2. Without limiting the foregoing (including the exclusion from the release of any personal injury claims), the Released Claims specifically extend to claims that arise out of, relate to, or are in connection with the manufacture, formulation, sale, pricing, marketing, labeling, promotion or distribution of The Products that the Plaintiff and Settlement Class Members do not know or suspect to exist in their favor at the time that the Settlement, and the releases contained therein, becomes effective. This paragraph constitutes a waiver by Plaintiff, and shall be deemed to be a waiver by all Settlement Class Members, of California Civil Code Section 1542 and any other similar statutes, laws or legal principles of any state. California Civil Code Section 1542 provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

3. Subject to the confirmatory discovery provision below, Plaintiff understands and acknowledges, and all Settlement Class Members shall be deemed to understand and acknowledge, the significance of the waiver of California Civil Code Section 1542 and any other applicable law relating to limitations on releases. In connection with such waiver and relinquishment, Plaintiff acknowledges, on behalf of herself and

all Settlement Class Members, that she is aware that she may hereafter discover facts in addition to, or different from, those facts which she now knows or believes to be true with respect to the subject matter of the Settlement, but that it is her intention to release fully, finally, and forever all Released Claims, and in furtherance of such intention, the release of the Released Claims will be and remain in effect notwithstanding the discovery or existence of any such additional or different facts.

4. Plaintiff individually represents and warrants that as of the date of her respective execution of this Agreement (i) she is not aware of any claims, demands, actions, causes of action, suits, damages, liabilities, judgments, debts, attorneys' fees, costs or expenses, whether based in contract law, tort law, equity, statute, regulation, or otherwise, whether state, federal, or local, known or unknown or asserted or unasserted ("Claims"), against the Quicktrim Parties other than the Released Claims and (ii) she has no present intention to make or assert any Claims against the Released Parties.

H. Opt-Out Right/Termination

1. Settlement Class Members may opt out of the Settlement by sending a written request to the Settlement Administrator at the address designated in the Class Notice by

the Opt-Out and Objection Deadline. Exclusion requests must: (i) be signed by the Settlement Class Member for whose account(s) exclusion is requested; (ii) include the full name, address, and account number(s) (if known) of the Settlement Class Member requesting exclusion; and (iii) include the following statement: "I/we request to be excluded from the settlement in Anaya Litigation." No request for exclusion will be valid unless all of the information described above is included. An opt-out by a buyer of any one of The Products shall be deemed an opt-out on all of The Products. The Settlement Administrator will retain a copy of all requests for exclusion and will, upon written request, provide copies of any such requests to counsel for the Settling Parties. Class Counsel will keep any such opt-out information confidential and use it only for purposes of determining whether a Settlement Class Member has properly opted out.

2. All Settlement Class Members who do not opt out in accordance with the terms set forth herein will be bound by all determinations and judgments in the *Anaya* Case. In the event that the number of valid opt-out requests (i.e., the number of letters or other written communications in which an opt-out is validly requested) exceeds 2,500, the Quicktrim Parties may terminate the Settlement. If more than 2,500 valid opt-out requests are received, thus triggering the Quicktrim Parties'

right to terminate, the Quicktrim Parties shall inform Class Counsel within 15 days after it is advised in writing that the number of valid opt-out requests is higher than 2,500 as to whether it wants to exercise the right of termination. If the Quicktrim Parties do not exercise the right in that time-frame, it has waived the right of termination. In the event that the Settlement is terminated pursuant to this provision, the Settling Parties will be returned to the *status quo ante* as if no settlement had been negotiated or entered into and the Action may be re-filed.

I. Objections To The Settlement

1. Any Settlement Class Member who has not previously opted out in accordance with the terms of this Agreement may appear at the Final Approval Hearing to object to the proposed settlement and/or to the application of Class Counsel for an award of attorneys' fees and costs and/or the incentive awards, but only if the Settlement Class Member has first filed a written objection with the Clerk of Court and/or the Settlement Administrator, in accordance with the requirements set forth in Section I.2(0(2) below, by the Opt-Out and Objection Deadline. Any Settlement Class Member who does not provide a written objection in the manner described in this Section I herein shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the

fairness, reasonableness, or adequacy of the proposed Settlement, the plan of allocation, or the award of any attorney fees and/or service awards. Further, any Settlement Class Member who intends to appear at the Final Approval Hearing, must file and serve on all parties a Notice of Intention to Appear with the Clerk of Court.

2. In order to be heard at the hearing, the Settlement Class Member must make any objection in writing and file it with the Court and/or submit it to the Settlement Administrator by the Opt-Out and Objection Deadline. The Settlement Class Member who files a written objection with the Court and/or the Settlement Administrator, must also mail the objection filed with the Court to each of the following, postmarked not later than the last day to file the objection: (i) Class Counsel – Brian S. Kabateck, Kabateck Brown Kellner, LLP., 644 South Figueroa Street, Los Angeles, California 90017; and (ii) counsel for the Quicktrim Parties – Bruce H. Nagel, Nagel Rice, LLP, 103 Eisenhower Parkway, Roseland New Jersey, 07068. An objection must: (a) attach documents establishing, or provide information sufficient to allow the Settling Parties to confirm, that the objector is a member of the Settlement Class; (b) include a detailed statement of such Settlement Class Member's specific objections; and (c) state the grounds for such objections, as well as identify all documents which such

objector desires the Court to consider. In the event that a Class Member submits an Objection to the Settlement Administrator, the Settlement Administrator must file the Objection with the Court within 72 hours of receipt of the Objection.

J. No Admissions: The Quicktrim Parties expressly disclaim and deny any wrongdoing or liability whatsoever. This Settlement, and any and all negotiations, statements, documents, and/or proceedings in connection with this Settlement, shall not be construed or deemed to be evidence of an admission or concession by the Quicktrim Parties of any liability or wrongdoing by the Quicktrim Parties or any of its affiliates, agents, representatives, vendors, or any other person or entity acting on its behalf with respect to any of The Products, and shall not be construed or deemed to be evidence of an admission or concession that any person suffered compensable harm or is entitled to any relief with respect to any of The Products. Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Quicktrim Parties; (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of the Quicktrim Parties in any civil,

criminal, or administrative proceeding in any court, administrative agency or other tribunal; (iii) is or may be deemed a waiver of the Quicktrim Parties' right to challenge class certification if this Settlement for any reason does not become Final; or (iv) is or may be deemed to be a waiver of the Quicktrim Parties' right to seek to enforce any arbitration provision in other cases or against Settlement Class Members who opt out of the Settlement.

K. Stay and Bar of Other Proceedings: Pending determination of whether the Settlement should be granted final approval, the Settling Parties agree not to pursue in the *Anaya* Case any claims or defenses otherwise available to them in the Actions, and no Settlement Class Member, either directly, on a representative basis, or in any other capacity, will commence or prosecute against any of the Released Parties any action or proceeding asserting any of the Released Claims, including without limitation by re-filing the Action dismissed without prejudice pending final approval of the Settlement. The Plaintiff will further cooperate in all efforts by the Quicktrim Parties to enjoin all actions brought in California or other jurisdictions seeking to assert claims or defenses that are settled by the *Anaya* Case.

L. Confirmatory Discovery. This Settlement was negotiated based on specific data and information provided to

Class Counsel by the Quicktrim Parties. This Settlement is subject to reasonable confirmatory discovery to take place prior to November 26, 2012 (hereinafter referred to as "Confirmatory Discovery Deadline") for purposes of corroborating the material information provided to Class Counsel during settlement discussions. The Court maintains jurisdiction and discretion to oversee and coordinate this confirmatory discovery. Plaintiff may terminate this Settlement based upon a good faith determination that confirmatory discovery has not corroborated material facts and information provided during informal discovery and settlement discussions, but this right of termination is void and of no further force and effect if notice of termination is not provided within 5 business days of the close of the Confirmatory Discovery Deadline. The Settling Parties may agree in writing, through counsel, to extend the Confirmatory Discovery Deadline. Such an agreement may be made through an exchange of e-mail messages.

M. Publicity. The Settling Parties shall refrain from publicly disparaging each other. The Settling Parties and their counsel further agree not to issue press releases or otherwise initiate communications with the media regarding this Settlement or the Action; provided, however, that the Quicktrim Parties may reference the Settlement in any securities filing, regulatory filing or press release it believes is necessary or appropriate

to comply with applicable law, limiting the reference to what the Quicktrim Parties believe is required for such compliance. In response to media inquiries concerning the Settlement, the Settling Parties and their counsel may state only that "The litigation has been settled to the mutual satisfaction of the parties. We have agreed not to make any further comment."

N. Confidentiality: It is agreed that, within thirty (30) days after the Effective Date, the originals and all copies of all confidential or highly confidential documents and/or information subject to all confidentiality agreements and any protective orders in the Actions shall be returned to the producing party or destroyed. Nothing in the Agreement shall require attorney work product or pleading files to be returned or destroyed.

O. Notices: Any notice sent in connection with this Agreement shall be transmitted by mail and Federal Express or an equivalent overnight delivery service as follows:

To Plaintiff and Class
Counsel:

Brian S. Kubateck, Esq.
Lina B. Melidonian, Esq.
Kabateck Brown Kellner LLP
644 South Figueroa Street
Los Angeles CA 90017
bsk@kbklawyers.com
lm@kbklawyers.com

To the Quicktrim Parties:

Bruce H. Nagel, Esq.
Nagel Rice, LLP
103 Eisenhower Parkway
Roseland, NJ 07068
bnagel@nagelrice.com

P. General Matters

1. Settlement Conditioned Upon Approval: The Settlement is expressly conditioned on obtaining the Preliminary Approval Order and Final Approval Order certifying a national class on all causes of action set forth in the Amended Complaint without material modification by the Court. In the event of failure to obtain any of the required provisions of such orders, including, without limitation, the denial of any motion seeking preliminary or final approval, any Party shall have the right to terminate this Agreement upon written notice to the other side, at which point, the Agreement will become null and void and all parties will return, without prejudice, to the *status quo ante* as of the date of this Agreement as if this Agreement had not been entered into. In such event, certification of the Settlement Class will be void, no doctrine of waiver, estoppel, or preclusion shall be asserted in any litigated certification proceedings in the Action or any other action relating to the subject matter of this Settlement, and this Agreement and its existence shall be inadmissible to establish any fact relevant to class certification or any alleged liability of Quicktrim

Parties for the matters alleged in the Action or for any other purpose. If the Effective Date does not occur, or if the Agreement is terminated pursuant to its terms, neither Plaintiff nor Class Counsel shall have any obligation to repay any amounts actually and properly disbursed to pay for costs of Class Notice or administration of the Settlement.

2. Effect of Settlement: Neither the Settlement, nor any act performed or document executed pursuant to or in furtherance of the Settlement: (i) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Quicktrim Parties; (ii) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of the Quicktrim Parties in any civil, criminal or administrative proceeding in any court, administrative agency, or other tribunal; (iii) is or may be deemed a waiver the Quicktrim Parties' rights to challenge class certification if this Settlement for any reason does not become Final; or (iv) is or may be deemed to be a waiver of the Quicktrim Parties' right to seek to enforce any arbitration provision in other cases or against Settlement Class Members who opt out of the Settlement. The Quicktrim Parties may file the Agreement and/or the Judgment in any action or proceeding that may be brought against it in order to support a defense or counterclaim based on principles

of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

3. Evidentiary Preclusion: In the event that the Settlement is not approved as presented, or the Quicktrim Parties terminate the Settlement as permitted herein, the Settling Parties agree that neither the terms of this Agreement, the Settling Parties' settlement negotiations, nor any publicly disseminated information regarding the Settlement, including, without limitation, the Publication Notice, or Internet Notice, court filings, orders, or public statements, may be used as evidence for any purpose whatsoever. In addition, neither the fact of, nor any documents relating to, the Quicktrim Parties' termination of the Settlement, any failure of the Court to approve the Settlement, or any objections or interventions may be used as evidence for any purpose whatsoever.

4. Parties Authorized to Enter into Settlement Agreement: The individuals executing this Agreement on behalf of a party represent and warrant that he, she, or it is fully authorized to execute this Agreement on such party's behalf and to carry out the obligations provided for therein. Each person executing this Agreement on behalf of a party covenants, warrants, and represents that he or she is and has been fully

authorized to do so by such party. Each party represents and warrants that he, she, or it intends to be bound fully by the terms of this Agreement.

5. Execution: The parties and their counsel may execute this Agreement in counterparts. Each counterpart shall be deemed to be an original, and execution of counterparts shall have the same force and effect as if all parties had signed the same instrument.

6. Best Efforts: The parties agree to cooperate in preparing and reviewing the documents and performing all other acts contemplated herein in a timely manner. Class Counsel and the Quicktrim Parties consider the Settlement described herein to be fair, reasonable, and adequate, will use their best efforts to seek approval of the Settlement by the Court and respond to any objectors, intervenors, or other persons or entities seeking to preclude entry of the Judgment, and, if the Settlement is granted final approval, and will effectuate its terms. Notwithstanding the foregoing, Plaintiff shall have an opportunity to engage in confirmatory discovery as set forth in Section L.

7. Time Periods: The time periods and dates described in this Agreement with respect to the giving of Class Notice and hearings will be subject to Court approval and modification by the Court with the consent of the parties.

8. Governing Law: The Agreement is governed by the laws of the State of California without reference to choice of law principles.

9. No Construction Against Drafter: The Agreement is deemed to have been drafted by all parties, and any rule that a document shall be interpreted against the drafter will not apply to this Agreement.

10. Agreement Binding on Successors in Interest: This Agreement is binding on and shall inure to the benefit of the respective heirs, successors, and assigns of the parties.

11. Entire Agreement: This Agreement contains the entire agreement between the parties and supersedes all prior understandings, agreements, or writings regarding the subject matter of this Agreement. This Agreement may be amended or modified only by a written instrument signed by all parties or their successors in interest or their duly authorized representatives.

Q. Miscellaneous Provisions

1. Each and every exhibit to this Agreement is incorporated herein by this reference as though fully set forth herein.

2. The provisions of the Agreement may be waived only in a writing executed by the waiving party. The waiver by one party of any breach of this Agreement by any other party

shall not be deemed a waiver, by that party or by any other party, of any other prior or subsequent breach of this Agreement.

3. Each party to this Agreement warrants that he, she, or it is acting upon his, her or its independent judgment and upon the advice of his, her, or its own counsel and not in reliance upon any warranty or representation, express or implied, of any nature or kind by any other party, other than the warranties and representations expressly made in this Agreement.

4. This Agreement has been carefully read by each of the parties, or the responsible officers thereof, and its contents are known and understood by each of the parties. This Agreement is signed freely by each party executing it.

5. No party to this Agreement has heretofore assigned, transferred, or granted, or purported to assign, transfer, or grant, any of the claims, demands, or cause or causes of action disposed of by this Agreement.

6. In the event any one or more of the provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalid, illegal, or unenforceable provision shall be ineffective but shall not in anyway invalidate or otherwise affect any other provision.

7. The Court shall retain jurisdiction with respect to implementation and enforcement of the terms of this Agreement, and all parties submit to the jurisdiction of the Court for purposes of implementing and enforcing the Settlement embodied in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed:

Dated: _____, 2012

Teresa Anaya

KABATECK BROWN KELLNER, LLP

Brian S. Kabateck, Esq.

As a principal of Kabateck Brown and Kellner, LLP, and guarantor to the obligation contained in Paragraph III.D.3 herein.

Richard Kellner, Esq.

As a principal of Kabateck Brown and Kellner, LLP, and guarantor to the obligation contained in Paragraph III.D.3 herein.

NAGEL RICE, LLP

Bruce H. Nagel, Esq.

Quick Trim, LLC

Windmill Health Products, LLC

Vitaquest International, LLC.

Kimberly Kardashian

Kris Jenner

Jenner Communications, Inc.

Kimsaprincess, Inc.

Khlooney, Inc.

Khloe Kardashian-Odom

Kourtney Kardashian

2Die4Kourt, Inc.

Christopher Tisi

EXHIBITS

- A. Amended Complaint
- B. Claim Form
- C. Class Notice
- D. Final Approval Order and Judgment
- E. Full Notice
- F. Preliminary Approval Order
- G. Publication Notice
- H. Press Release
- I. E-mail Notice
- J. Retailer Notice
- K. Redesign of Packaging

QT SETTLEMENT AGREEMENT (10-4-12 clean)