

## PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement ("Agreement") is made by and between Trevor Morton ("Plaintiff"), and Defendants Associated Microbreweries, Ltd. ("Defendant") and Associated Microbreweries, Inc., dba Karl Strauss Brewing Company (hereinafter collectively, "Defendants"). The Agreement refers to Plaintiff and Defendants collectively as "Parties" or as a "Party."

The Gross Settlement Amount, as defined below, and the payments dates thereof are material terms agreed to by the Parties and are binding on all Parties. All other specific terms of this Agreement are subject to Court approval and must be modified, without alteration of the binding Gross Settlement Amount or payment dates, as necessary to obtain Court approval.

### 1. DEFINITIONS.

1.1. "Action" means the Plaintiff's PAGA lawsuit alleging wage and hour violations against Defendants captioned *Trevor Morton. v. Associated Microbreweries, Ltd. and Associated Microbreweries, Inc., dba Karl Strauss Brewing Company*; Case No. 37-2020-00016542-CU-OE-CTL, pending in San Diego County Superior Court.

1.2. "Administrator" means Simpluris, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administration Expenses Payment" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid to be submitted to the Court. The Administration Expenses Payment shall not exceed \$8,347.00.

1.4. "Aggrieved Employee" means a person employed by Defendant in California and classified as a non-exempt brewpub employee who worked for Defendant during the PAGA Period.

1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in Defendant's possession including the Aggrieved Employee's name, last-known mailing address, Social Security number, and number of PAGA Pay Periods actually worked.

1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and search for current Aggrieved Employee mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Aggrieved Employees.

1.7. "Approval Order" means the proposed Court Order Granting Approval of the PAGA Settlement.

1.8. "Court" means the Superior Court of the State of California for the County of San Diego.

1.9. "Defense Counsel" means Defendants' counsel of record from the law firm of Caldarelli Hejmanowski Page & Leer LLP.

1.10. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters its Approval Order approving the PAGA Settlement and dismissing the Action, subject to Code of Civil Procedure section 664.6 and (b) the Approval Order shall become final upon the expiration of time to appeal or exhaustion of any appeal thereto, whichever is later.

1.11. "Gross Settlement Amount" means **\$200,000**, which is the total amount Defendants agree to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.

1.12. "Individual PAGA Payment" means each Aggrieved Employee's pro rata share of 25% the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee actually worked during the PAGA Period.

1.13. "LWDA" means the California Labor Workforce and Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.14. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

1.15. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment and the Administration Expenses Payment. Any remainder is to be paid to Aggrieved Employees as Individual PAGA Payments.

1.16. "Operative Complaint" means the Representative Action Complaint filed by Plaintiff on March 16, 2020.

1.17. "PAGA Counsel" means Ferraro Vega Employment Lawyers, Inc., the attorneys representing the Plaintiff in the Action.

1.18. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean any amounts approved by the Court allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees in an amount not to exceed 33.33% of the Gross Settlement Amount, and the amount of litigation expenses incurred to prosecute the Action, respectively.

1.19. "PAGA" means California's Private Attorneys General Act of 2004 (Labor Code §§ 2698 et seq.).

1.20. "PAGA Period" means the period from January 10, 2019 to September 11, 2024.

1.21. "PAGA Notice" means Plaintiff's January 10, 2020 letter to Defendants and the LWDA, including any amendments thereto, providing notice pursuant to Labor Code § 2699.3(a).

1.22. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (estimated at \$23,162.17) and the 75% to the LWDA (estimated at \$69,486.50) in settlement of PAGA Claims.

1.23. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendant for at least one day during the PAGA Period.

1.24. "Plaintiff" means Trevor Morton, the named plaintiff in the Action.

1.25. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel in connection with this Agreement, as set forth in Paragraph 5 below.

1.26. "Released Parties" means: Defendants and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

1.27. "Service Payment" means the payment to the Plaintiff for initiating and providing services in support of the Action in the amount of \$10,000.

1.28. "Settlement" means the disposition of the Action effected by this Agreement.

## **2. MONETARY TERMS.**

2.1. Gross Settlement Amount. Defendants promise to pay \$200,000 and no more as the Gross Settlement Amount. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

2.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts approved by the Court:

2.2.1. To Plaintiff: A Service Payment in an amount approved by the Court and not to exceed \$10,000, in addition to any Individual PAGA Payment the he may be entitled to receive as an Aggrieved Employee. Plaintiff and/or PAGA Counsel will file an application or motion for a Service Payment. If the Court approves a Service Payment less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for taxes owed on the Service Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any payment. An award of less than the requested amount for the Service Payment will not give rise to a basis to abrogate this Agreement and the Court has authority under this Agreement to reduce the Service Payment, at its discretion at the approval stage.

2.2.2. To PAGA Counsel: A PAGA Counsel Fees Payment in an amount approved by the Court and not to exceed 33.33% of the Gross Settlement Amount, which is currently estimated to be \$66,660 and PAGA Counsel Litigation Expenses Payment in an amount approved by the Court and not to exceed \$22,344.33. Defendants express no opinion on such

payments, but agree not to oppose requests for Court approval of payments provided that the requested payments do not exceed these amounts. Plaintiff and/or PAGA Counsel will file an application or motion for PAGA Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to PAGA Counsel or any other Plaintiff's Counsel arising from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA Counsel Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Expenses Payment approved by the Court using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on any PAGA Counsel Fees Payment and/or any PAGA Counsel Litigation Expenses Payment and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these Payments. An award of less than the requested amount for the PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment will not give rise to a basis to abrogate this Agreement and the Court has authority under this Agreement to reduce the PAGA Counsel Fees Payment and/or PAGA Counsel Litigation Expenses Payment, at its discretion at the approval stage.

2.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$8,347.00, except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$8,347.00, the Administrator will retain the remainder in the Net Settlement Amount.

2.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount estimated to be \$92,648.67 to be paid from the Gross Settlement Amount, with 75% (estimated at \$69,486.50) allocated to the LWDA PAGA Payment and 25% (estimated at \$23,162.17) allocated to the Individual PAGA Payments.

2.2.4.1 The Administrator will calculate each PAGA Payment by: (a) dividing the Net Settlement Amount by the total number of PAGA Pay Periods worked by all Aggrieved employees during the PAGA Period; and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. The Individual PAGA Payments are not subject to wage withholdings and will be reported on IRS 1099 Forms. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

### **3. SETTLEMENT FUNDING AND PAYMENTS.**

3.1. Aggrieved Employee Pay Periods. Based on a review of its records to date, Defendant estimates there are 1599 Aggrieved Employees who worked an estimated total 41,000 PAGA Pay Periods.

3.2. Aggrieved Employee Data. Not later than 15 days after the Court approves this Agreement as the Settlement of this PAGA Action, Defendant will simultaneously deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved Employee Data to

Administrator employees who need access to the Aggrieved Employee Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee identifying information and to provide corrected or updated Aggrieved Employee Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Aggrieved Employee Data to the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to missing or omitted Aggrieved Employee Data.

3.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator according to the following payment schedule:

3.3.1. Defendants shall transmit \$45,000 to the Administrator on or before the later of (a) January 10, 2025 or (b) the 5th business day following the Effective Date of this Agreement;

3.3.2. Defendants shall transmit the remaining \$155,000 to the Administrator on or before the later of (a) September 1, 2025 or (b) the 5<sup>th</sup> business day following the Effective Date of this Agreement.

3.4. Payments from the Gross Settlement Amount. Within 10 days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual PAGA Payments, the Administration Expenses Payment, the LWDA PAGA Payment, the PAGA Counsel Fee Payment and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel Fee Payment and the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

3.4.1. The Administrator will issue checks for the Individual PAGA Payments and send them to the Aggrieved Employees via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the date (not less than 180 days after the date of mailing) when the check will be voided. The Administrator will cancel all checks not cashed by the void date. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.

3.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding addresses. Within 7 days of receiving a returned check the Administrator must re-mail checks to the USPS forwarding address provided or to an address ascertained through the Aggrieved Employee Address Search. The Administrator need not take further steps to deliver checks to Aggrieved Employees whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Aggrieved Employee whose original check was lost or misplaced, requested by the Aggrieved Employee prior to the void date.

3.4.3. For any Aggrieved Employee who's Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California State Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

3.4.4. The payment of Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to the Aggrieved Employees beyond those specified in this Agreement.

3.4.5. The Administrator will send checks for Individual PAGA Payments to all PAGA Members, who have no right to opt-out or otherwise exclude themselves from the settlement and release of PAGA claims set forth in this Agreement.

3.5. Default. In the event of the failure by Defendants to to make any or all payments required under this Agreement after the Effective Date, pursuant to the terms herein and approved by the Court, Plaintiff shall provide written notice of the non-payment to each Defense Counsel by email and first class, registered or certified mail (the "Non-Payment Notice"). The Non-Payment Notice shall be effective upon the date of mailing. If Defense Counsel no longer represents Defendants, Defense Counsel shall be obligated to deliver the Non-Payment Notice to Defendants and/or its successor counsel within five business days of receipt.

3.5.1. Defendants shall have the opportunity to pay the unpaid balance that is the subject of the Non-Payment Notice within ten (10) business days from the date of mailing. If Defendants fail to pay the overdue balance of its payment obligations within ten (10) business days from the date of mailing of the Non-Payment Notice (such failure referred to herein as a "Default"), Plaintiff, in his sole discretion, may declare or do any or all of the following, or may exercise, without limitation, any remedies available at law, including:

3.5.1.1 Declare the entire Gross Settlement Amount, less any payments already made, immediately due and payable, with unpaid amounts bearing the default interest rate at the interest rate set forth in California Code Civil Procedure section 3289 beginning as of the date of default until the payment of the remaining balance is made in full; and/or

3.5.1.2 Pursue entry of judgment under California Code Civil Procedure section 664.6. If Plaintiff prevails in such motion, Plaintiff may recover reasonable attorneys' fees and costs of collection and enforcement of this Agreement, as approved by the court.

**4. RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire Gross Settlement Amount, Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

4.1. Plaintiff's Release. Plaintiff and his respective former and present spouses, representatives, agents, attorneys, (including PAGA Counsel) heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice or ascertained during the Action; and (b) any other claims, debts, liabilities, demands, damages, obligations, actions and causes of actions, of any nature whatsoever, whether known or unknown, or suspected or unsuspected, arising out of or in connection with their employment with Defendants, the separation of such employment, or any other act, omission or event occurring between the Parties at any time prior to the date the Plaintiff executes this Agreement. This Release

includes, without limitation: (1) all claims for violation of any federal, state or local statute, ordinance or regulation relating to employment benefits, leaves of absence, or discrimination, harassment, retaliation, or whistleblowing in employment, specifically including, without limitation, the California Fair Employment and Housing Act, the California Family Rights Act, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Genetic Information Nondiscrimination Act, the Americans with Disabilities Act, and the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act, the Securities Act, the Immigration Reform and Control Act the Worker Adjustment and Retraining Notification Act of 1988, the California Worker Adjustment and Retraining Notification Act, the Uniformed Service Employment and Reemployment Rights Act, and any regulation of any administrative agency or governmental authority relating to employment benefits or discrimination or harassment or retaliation in employment; (2) all claims for failure to pay minimum or overtime wages, failure to timely pay wages, failure to provide accurate itemized wage statements, failure to maintain accurate records, failure to reimburse business expenses, failure to provide meal periods or rest breaks, failure to provide paid sick leave, failure to post notice of paydays and time and place of payment, and any claim for violations of the California Labor Code, California's Business and Professions Code § 17200 et seq., and the applicable California Industrial Welfare Commission Wage Order; (3) any non-statutory tort or contractual claim, including all claims for breach of oral, implied or written contract, breach of implied covenant of good faith and fair dealing, negligent or intentional infliction of emotional distress, and conversion; (4) all claims for wrongful termination of employment; (5) all claims for wages, penalties and/or benefits; and (6) all claims for attorneys' fees and costs. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiff acknowledges that he may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or his discovery of them.

4.1.1. Plaintiff's Section 1542 Waiver. For purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights, and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

4.2. Release by Aggrieved Employees: All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from, and are forever barred from pursuing such against Released Parties for, the PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts alleged in the Operative Complaint during the PAGA Period, and the PAGA Notice.

4.3. Release by PAGA Counsel: PAGA Counsel release on behalf of their present and former attorneys, employees, agents, successors and assigns the Released Parties from

all claims for PAGA Fees and costs incurred in connection with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

## **5. MOTION OR APPLICATION FOR SETTLEMENT APPROVAL.**

5.1. PAGA Approval. Plaintiff shall prepare and deliver to Defense Counsel all documents necessary for obtaining approval of this PAGA settlement under Labor Code § 2699(f)(2). To effectuate approval of this Agreement and PAGA settlement, Plaintiff shall prepare either a Motion for Approval of PAGA Settlement. Plaintiff shall file declarations from Plaintiffs' Counsel and/or the Plaintiff to support approval of this Agreement.

5.2. Duty to Cooperate. If the Parties disagree on any aspect of the proposed application or motion for approval of this Settlement and/or the supporting declarations and documents, PAGA Counsel and Defense Counsel will expeditiously work together in good faith on behalf of the Parties to resolve the disagreement. If the Court does not grant the motion for approval of this Agreement or conditions any approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties to modify the Agreement and satisfy the Court's concerns.

## **6. SETTLEMENT ADMINISTRATION.**

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

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

6.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund under U.S. Treasury Regulation section 468B-1.

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

6.5. Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide PAGA Counsel, Defense Counsel, and the approving Court with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 15 days before any deadline set by the Court, if applicable and if requested by either Party, the Administrator will prepare, and submit to Plaintiffs' Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all

payments required under this Agreement, which PAGA Counsel will file with the Court if the Court requires PAGA Counsel to do so in its order approving the PAGA settlement.

7. **AGGRIEVED EMPLOYEE ESTIMATE.** Based on its records, Defendant estimates there are 1599 Aggrieved Employees who worked an estimated total 41,000 PAGA Pay Periods.

8. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree, after entry of the Approval Order, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Approval Order, (ii) addressing settlement administration matters, and (iii) addressing such post-Approval Order matters as are permitted by law.

8.1. Waiver of Right to Appeal. Provided the Approval Order is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel, waive all rights to appeal from the Approval Order, including all rights to appellate proceedings, the right to file motions to vacate the Approval Order, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another party appeals the Approval Order, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Approval Order becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

## 9. **ADDITIONAL PROVISIONS.**

9.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims and Defendants maintain that Plaintiff is not an aggrieved employee. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or Defendants have any liability for any claims asserted nor should it be intended or construed as an admission by Plaintiff that Defendants defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. The Settlement, this Agreement, and the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

9.2. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Aggrieved Employee to opt out of or object to the Settlement, or appeal from the Approval Order.

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

9.4. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by the Parties, respectively, to take all appropriate

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

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

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

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

9.8. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

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

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

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

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

9.13. Use and Return of Aggrieved Employee Data. Information provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to PAGA Counsel by Defendant in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Action, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule of court. Not later than 90 days after the Administrator discharges its

obligation to pay out of all Settlement funds, Plaintiff and/or PAGA Counsel shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendant unless, prior to the Administrator's payment of all Settlement Funds, Defendant makes a written request to PAGA Counsel for the return, rather than the destruction of Aggrieved Employee Data.

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

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

9.16. Notice. All notices or other communications between the Parties required in connection with this Agreement shall be in writing and shall be deemed to have been duly given as of the 3<sup>rd</sup> business day after mailing by U.S. Mail or the same day if sent by email, addressed as follows:

To Plaintiffs:

***Ferraro Vega Employment Lawyers, Inc.***

Attn: Nicholas J. Ferraro

3333 Camino del Rio South, Suite 300

San Diego, CA 92108 USA

[nick@ferrarovega.com](mailto:nick@ferrarovega.com)

[www.ferrarovega.com](http://www.ferrarovega.com)

To Defendants:

***Caldarelli Hejmanowski Page & Leer LLP***

Attn: Marisa Janine-Page

3398 Carmel Mountain Road, Suite 250

San Diego, CA 92020

[mjp@chpllaw.com](mailto:mjp@chpllaw.com)

9.17. Execution in Counterparts. This Agreement may be executed in one or more counterparts using physical and/or electronic signatures (i.e. DocuSign, SignRequest, Adobe Sign, etc.), which shall be accepted as originals for purposes of this Agreement. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

9.18. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process.

**SIGNATURES**

*I have read this Agreement and agree to its terms.*

**Plaintiff Trevor Morton**

Date: Oct 29, 2024

*Trevor Morton*

Trevor Morton

**Defendant Associated Microbreweries, Ltd.**

Date: 11/8/24

AML  
by *[Signature]*  
Name: M. K. F.  
Title: Proprietor

**Defendant Associated Microbreweries, Inc.**

Date: 11/8/24

AMI  
by *[Signature]*  
Name: M. K. F.  
Title: CFO & Secretary

AGREED AS TO FORM.

Dated: Oct 29, 2024

Ferraro Vega Employment Lawyers, Inc.

*Nicholas J. Ferraro*

Nicholas J. Ferraro

Attorneys for Plaintiff Trevor Morton

Dated: 11/8/24

Caldarelli Hejmanowski Page & Leer LLP

*[Signature]*

Marisa Janine-Page

Attorneys for Defendants Associated Microbreweries, Ltd.  
and Associated Microbreweries, Inc.

### **[PROPOSED] APPROVAL ORDER**

Plaintiff's Motion for Approval of PAGA Settlement came before the Court, the Honorable Kathrine A. Bacal presiding, on \_\_\_\_\_.

Having considered the Plaintiff's Motion for Approval of PAGA Settlement and Declaration of \_\_\_\_\_ and exhibits submitted in support thereof, the Court HEREBY ORDERS THE FOLLOWING:

1. All terms used herein shall have the same meaning as defined in the PAGA Settlement Agreement (the "PAGA Settlement").
2. Pursuant to the California Labor Code Private Attorneys General Act ("PAGA"), Cal. Lab. Code §§ 2699(1)(2), (1)(4), the Labor Workforce and Development Agency ("LWDA") has been given notice of the PAGA Settlement. In particular, on the date Plaintiff filed motion seeking approval of the PAGA Settlement with the Court, Plaintiff submitted to the LWDA a Notice of Settlement enclosing a copy of the PAGA Settlement Agreement. Plaintiff's Notice of Settlement to the LWDA complied with the requirements of PAGA.
3. The Court confirms approval of the PAGA Settlement Agreement as to the following group of individuals, collectively referred to as the "Aggrieved Employees": any person employed by Defendant Associated Microbreweries, Ltd. dba Karl Strauss Brewing Company ("Defendant") in California and classified as a non-exempt brewpub employee who worked for Defendant during the PAGA Period.
4. The Court has jurisdiction over the subject matter of this litigation, over all Aggrieved Employees, and over those persons and entities undertaking affirmative obligations under the PAGA Settlement.
5. The PAGA Settlement Agreement is approved under Cal. Lab. Code § 2699(1)(2).
6. The Notice of PAGA Settlement and Release of Claims, attached hereto as Exhibit 1 fairly and adequately describes the Action, the approved Settlement, and is the best notice practicable under the circumstances.
7. The Court approves the following releases of claims:

Plaintiff and his respective former and present spouses, representatives, agents, attorneys, (including PAGA Counsel) heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences, including, but not limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts contained in the Operative Complaint and the PAGA Notice or ascertained during the Action; and (b) any other claims, debts, liabilities, demands, damages, obligations, actions and causes of actions, of any nature whatsoever, whether known or unknown, or suspected or unsuspected, arising out of or in connection with their employment with Defendants, the separation of such employment, or any other act, omission or event occurring between the Parties at any time prior to the date the Plaintiff executes this Agreement. This Release includes, without limitation: (1) all claims for violation of any federal, state or local statute, ordinance or regulation relating to employment benefits, leaves of absence, or discrimination, harassment, retaliation, or whistleblowing in employment, specifically including, without limitation, the California Fair Employment and Housing Act, the California Family Rights Act, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Genetic Information Nondiscrimination Act, the Americans with Disabilities Act, and the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act, the Securities Act, the Immigration Reform and Control Act the Worker Adjustment and Retraining Notification Act of 1988, the California Worker Adjustment and Retraining Notification Act, the Uniformed Service Employment and Reemployment Rights Act, and any regulation of any administrative agency or governmental authority relating to employment benefits or discrimination or harassment or retaliation in employment; (2) all claims for failure to pay minimum or overtime wages, failure to timely pay wages, failure to provide accurate itemized wage statements, failure to maintain accurate records, failure to reimburse business expenses, failure to provide meal periods or rest breaks, failure to provide paid sick leave, failure to post notice of paydays and time and place of payment, and any claim for violations of the California Labor Code, California's Business and Professions Code § 17200 et seq., and the applicable California Industrial Welfare Commission Wage Order; (3) any non-statutory tort or contractual claim, including all claims for breach of oral, implied or written contract, breach of implied covenant of good faith and fair dealing, negligent or intentional infliction of emotional distress, and conversion; (4) all claims for wrongful termination of employment; (5) all claims for wages, penalties and/or benefits; and (6) all claims for attorneys' fees and costs. Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, workers' compensation benefits that arose at any time. Plaintiff acknowledges that he may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or his discovery of them.

All Aggrieved Employees and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from, and are forever barred from pursuing such against Released Parties for, the PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts alleged in the Operative Complaint during the

PAGA Period, and the PAGA Notice.

Released Parties means: Defendants and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

8. "PAGA Period" means the period from January 10, 2019 to September 11, 2024.
9. The PAGA Gross Settlement Amount is approved under Cal. Lab. Code § 2699(1)(2).
10. The Court has considered Plaintiff and/or PAGA Counsel's evidence in support of their motion for approval and thereon approves:
  - i. a Service Payment to Plaintiff in the amount of \$ \_\_\_\_\_;
  - ii. a PAGA Counsel Fees Payment in an amount of \$ \_\_\_\_\_; and
  - iii. a PAGA Counsel Litigation Expenses Payment in an amount \$ \_\_\_\_\_.
11. The Court approves a payment not to exceed \$8,347.00 to Simpluris ("Administrator") to calculate individual payments, make payments to Aggrieved Employees and the LWDA, issue the appropriate tax forms, and perform necessary tax reporting.
12. The Court approves all other terms of allocations and payments of the Gross Settlement Amount for the compromise of the PAGA Action, to be paid in accordance with the terms of the PAGA Settlement Agreement.
13. Under the terms of the Settlement, the amount remaining after Plaintiff's Service Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment will be proportioned with 75% of the remaining amount paid to the State of California Labor Workforce Development Agency ("LWDA Payment"), and 25% of the remaining amount distributed to the Aggrieved Employees in accordance with the terms of the Settlement Agreement.
14. The Court retains exclusive and continuing jurisdiction over this Action for the purposes of supervising, administering, implementing, interpreting, and enforcing this Order, as well as the PAGA Settlement Agreement.

15. Nothing in this Approval Order or the PAGA Settlement Agreement shall be construed as an admission or concession by any party. The PAGA Settlement Agreement and the resulting dismissal simply represent a compromise of disputed allegations.

16. Plaintiff is directed to submit a copy of this Approval Order to the LWDA within 10 days of the date of this Order.

17. The Court retains jurisdiction under Code of Civil Procedures Section 664.6 until the terms of the PAGA Settlement Agreement are performed fully.

18. The Action is hereby DISMISSED WITH PREJUDICE five court days after the Administrator confirms to the Parties and the Court that it has disbursed all funds in the Gross Settlement Amount.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Hon Katherine A. Bacal  
Judge of the Superior Court

## EXHIBIT 1

### Notice of PAGA Settlement and Release of Claims

*Trevor Morton. v. Associated Microbreweries, Ltd. et al;*  
San Diego Superior Court Case No. 2020-00016542-CU-OE-CTL

<<Employee Name>>

<<Address>>

<<Address>>

<<City, State, Zip>>

#### **1. NOTICE OF PAGA SETTLEMENT**

The San Diego County Superior Court has approved a settlement in the above referenced action filed by Plaintiff Trevor Morton on behalf of himself and all other aggrieved employees. Plaintiff claimed non-compliance with requirements of the California Labor Code under the Private Attorneys General Act ("PAGA").

The Court has not made a determination about Plaintiff's allegations. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of the Claim. The Defendants strongly maintain that they were in compliance with California Labor Code at all times and entered into the Settlement with no admission of liability and solely for the purpose of compromising and settling the action to avoid the burden of litigation.

You are receiving this Notice because you are in the group of possible Aggrieved Employees. "Aggrieved Employees" means a person employed by Defendant Associated Microbreweries, Ltd. dba Karl Strauss Brewing Company ("Defendant") in California and classified as a non-exempt brewpub employee who worked for Defendant during the PAGA Period.

#### **2. CALCULATION OF INDIVIDUAL PAGA PAYMENT**

The Court approved Gross PAGA Settlement Amount is \$200,000. \$8,347.00 is set aside to pay for administrative costs related to the notice and distribution of individual payments to Aggrieved Employees. Of the Gross PAGA Settlement Amount less administrative costs, attorneys' fees and litigation costs approved by the Court, and the named plaintiff's service payment, 75% shall be paid directly to the LWDA as required by law. The remaining 25% shall be distributed proportionately to the Aggrieved Employees based on the amount of time each Aggrieved Employee worked for Defendants. Each Aggrieved Employee will receive a fraction of the total amount going to Aggrieved Employees with the numerator based on the number of workweeks the Aggrieved Employee worked and the denominator based on the total workweeks worked by all Aggrieved Employees.

#### **3. RELEASE**

All Aggrieved Employees are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the PAGA Period facts stated in the Operative Complaint, and the PAGA Notice.

“Released Parties” means: Defendants and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, subsidiaries, and affiliates.

“PAGA Period” means the period from January 10, 2019 to September 11, 2024.

4. **SETTLEMENT ADMINISTRATION**

**PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.**

**The Administrator** is Simpluris. It may be contacted at: \_\_\_\_\_.

Settlement checks will be null and void 60 days after issuance if not deposited or cashed. In such event, all unclaimed funds shall be directed the California Department of Industrial Relations Unpaid Wage Fund in the name of the Aggrieved Employee to who the check was issued.