

SETTLEMENT AGREEMENT

This Settlement Agreement (“Settlement Agreement”) is made and entered into between Plaintiff Robert Irwin (“Plaintiff”) acting in their private attorney general capacity, and Defendant Durabag Company, Inc. (“Defendant”).

I. DEFINITIONS

The following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Actions” means the actions entitled *Robert Irwin v. Durabag Company, Inc.*, Superior Court of California, County of Orange, Case No. 30-2020-01145526-CU-OE-CXC;
2. “Aggrieved Employees” means all individuals who are or previously were employed by Defendant in California who were classified as non-exempt during the time period February 24, 2019 through January 25, 2021. The Aggrieved Employees are estimated to consist of 103 individuals.
3. “Aggrieved Employee List” means the spreadsheet containing the list of Aggrieved Employees with their social security numbers, last known addresses, and their dates of employment and/or pay periods worked as an Aggrieved Employee during the PAGA period.
4. “Court” means the Superior Court of California, County of Orange.
5. “Incentive Payment” means the amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the Action on behalf of Aggrieved Employees. Subject to the Court granting approval of this settlement and subject to the exhaustion of any and all appeals, Plaintiff will request Court approval of an Incentive Payment of \$2,500, as approved by the Court, which Defendant agrees not to oppose.
6. “Individual PAGA Payment” means the amount to be paid to each of the Aggrieved Employees out of 25% of the PAGA Payment under Labor Code section 2699 with such individual shares to be based on the number of pay periods during which an individual worked as an Aggrieved Employee during the PAGA Period divided by the total number of pay periods worked by all Aggrieved Employees during the PAGA Period.
7. “LWDA” means the California Labor Workforce Development Agency.
8. “Gross Fund Value” means the total sum of \$95,000 for payment of the Administration Costs, Attorneys’ Fees, Attorneys’ Expenses, and the PAGA Payment. The Gross Fund Value shall be all-in with no reversion to Defendant. If the total number of Representative Group Members or pay periods increases by more than 15%, then there shall be a corresponding pro-rata increase in the GFV.

9. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698 *et seq.*

10. “PAGA Action” means the PAGA causes of action included in action entitled *Robert Irwin v. Durabag Company, Inc.*, Superior Court of California, County of Orange, Case No. 30-2020-01145526-CU-OE-CXC.

11. “PAGA Approval Date” means the date that the Court signs the Judgment approving the settlement of the PAGA Action.

12. “PAGA Payment” means the total amount remaining in the Gross Fund Value after payment of the Attorneys’ Fees, Attorneys’ Expenses, and the Administration Costs. The PAGA Payment shall be allocated under Labor Code section 2699 with 75% of the Section 2699 payment going to the LWDA and 25% to the Aggrieved Employees. The Aggrieved Employees will be issued a form 1099 for their Individual PAGA Payments.

13. “PAGA Period” means the time period from February 24, 2019 through January 25, 2021.

14. “Parties” means Plaintiff Robert Irwin and Defendant *Durabag Company, Inc.*

15. “Plaintiff Counsel” means the law firms of David Yeremian & Associates, Inc.

16. “Released Parties” means Durabag Company, Inc. TriNet HR II, Inc., TriNet USA, Inc. and TriNet and any of their agents, officers, directors, employees, stockholders, members, parent corporations, subsidiaries, affiliates, partners, predecessors and successors in interest, insurers, and assigns of the foregoing.

17. “Settlement Administrator” means CPT Group, Inc..

II. RECITALS

1. On February 24, 2020, Plaintiff filed a Representative Action Complaint in Orange County Superior Court (*Robert Irwin v. Durabag Company, Inc. et al.* Case No. 30-2020-01145526-CU-OE-CXC) alleging a sole cause of action for Defendant’s and Defendant Trinet HR II, Inc., and Defendant Trinet USA Inc. alleged violation of the PAGA. (“PAGA Action”).

2. On July 14, 2020, Plaintiff filed an individual Action Complaint in Orange County Superior Court (*Robert Irwin v. Durabag Company, Inc. et al.* Case No. 30-2020-01151374-CU-OE-CJC) against Defendant and Defendant Trinet HR II, Inc., and Defendant Trinet USA Inc.: alleging seven causes of action: (1) Failure to Pay Minimum Wages; (2) Failure to Pay Wages and Overtime under Labor Code § 510; (3) Failure to Keep Required Payroll Records Under Labor Code §§ 1174 and 1174.5; (4) Violation of Labor Code § 226(a); (5) Violation of Labor Code § 221; (6) Violation of Labor Code § 203 and (7) Violation of Business & Professions Code § 17200 *et seq.* (“Individual Action”).

3. On January 11, 2021, the Parties engaged in a mediation session before mediator Marc J. Feder. Through arms-length negotiations with the assistance of the mediator, the Parties reached an agreement to settle the Actions which led to the signing of a Memorandum of Understanding.

4. As a result of the settlement, the Parties have agreed to fully and finally resolve the PAGA Released Claims alleged in the pending coordinated actions pursuant to this Settlement Agreement. Plaintiff shall separately dismiss the Individual Action claims in the Individual Action with prejudice.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement Agreement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, the Aggrieved Employees, or any other person, and Defendant specifically disclaim any such liability or wrongdoing. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

Nothing in this Settlement Agreement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the negotiations leading to this Settlement Agreement, is intended by the Parties to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, by Defendant or any other Released Party. The Parties themselves agree not to introduce, use, or admit this Settlement Agreement, directly or indirectly, in this case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as purported evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other purpose. Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding before any court that has as its purpose the interpretation, implementation, or enforcement of this Settlement Agreement or any orders or judgments of the Court entered in connection with the Settlement Agreement.

None of the documents produced or created by Defendant or any other Released Party, Plaintiff or the Aggrieved Employees in connection with the claims procedures or claims resolution procedures constitute, and they are not intended to constitute, an admission by Defendant or any other Released Party of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity.

Neither this Settlement Agreement nor any of its terms shall be offered or used as evidence by any of the Parties, or their respective counsel in the Actions or in any other action or proceeding; provided, however, this shall not prevent this Settlement Agreement from being used, offered, or received in evidence in any proceeding to enforce, construe, or finalize this Settlement Agreement.

2. **Timing.** Within thirty (30) days after the Effective Date of this settlement, Defendant shall pay to the Settlement Administrator \$95,000 as the Gross Fund Value and provide the Aggrieved Employee List to the Settlement Administrator. The “Effective Date” of this settlement is the date on which the Court’s order approving the settlement of the PAGA Action and judgment thereon (“Judgment”) becomes final. For purposes of this Settlement Agreement, the Court’s Judgment “becomes final” upon the latter of: (i) if no appeal is filed, the expiration date of the time for the filing or noticing of any appeal from, or other challenge to, the Court’s Judgment (this time period shall not be less than 60 calendar days after the Court’s Judgment is entered); (ii) if an appeal is filed, the date affirmance of an appeal of the Judgment becomes final; or (iii) if an appeal is filed, the date of final dismissal of any appeal from the Judgment or the final dismissal of any proceeding on review of any court of appeal decision relating to the Judgment.

3. **Payments From the Gross Fund Value.** The Parties agree to the following allocations to be paid from the Gross Fund Value:

a. **PAGA Payment:** The PAGA Payment is the total of the Gross Fund Value, less the payments for the Attorneys’ Fees, Attorneys’ Expenses and the Administration Costs, which shall be paid in full settlement of the PAGA Released Claims. Should the amount of the PAGA Payment increase or decrease, the amount to be distributed shall be adjusted according to the changes made by the Court. The PAGA Payment will be subject to Court approval consistent with Labor Code § 2699. Upon approval, the PAGA Payment shall be distributed as follows:

- (1) One Hundred Percent (100%) of the PAGA Payment shall be paid as a Labor Code section 2699 payment with 75% of this amount being paid to the LWDA and 25% being paid to the Aggrieved Employees as their Individual PAGA Payments. Each Individual PAGA Payment shall be based on the number of pay periods each Aggrieved Employee worked during the PAGA Period as a percentage of the total pay periods worked by all Aggrieved Employees during the PAGA Period. This amount shall constitute resolution of all remedies available under Labor Code section 2699, and preclude pursuit by Aggrieved Employees of any PAGA Released Claims.
- (2) The penalty settlement payments set forth in section 4(a)(1) will be reported on IRS Form 1099s. The Parties acknowledge and agree that all payments under this Settlement Agreement as PAGA

Payments are attributable as penalties. None are attributable as wages. Accordingly, the parties acknowledge and agree that Defendant is not responsible for any employer-side taxes in connection with any PAGA Payments under this Settlement Agreement.

b. Attorneys' Fees and Attorneys' Expenses: One-Third of the Gross Fund Value, which is presently \$31,666.35, shall be paid to Plaintiff's Counsel for payment of Attorney's Fees, and up to \$15,000 shall be paid to Plaintiff's Counsel for Attorneys' Expenses as set forth in the clients' billing statement (pursuant to Declarations by Plaintiff's Counsel) in prosecuting the PAGA claims. Defendant shall not oppose Plaintiff's request for Attorneys' Fees and Attorneys' Expenses in these amounts. In the event that Court approval is required and a payment of less than One-Third of the Gross Fund Value in Attorneys' Fees or \$31,666.35 in Attorneys' Expenses to Plaintiff's Counsel is approved, the unawarded difference will be added to the PAGA Payment and not to Plaintiff's Counsel or the Defendant. This payment will be reported on IRS Form 1099 issued to Plaintiff's Counsel. Except as set forth herein, each party shall bear their own costs and fees of the Actions. The payment of Attorneys' Fees shall be made to David Yeremian & Associates, Inc. The Attorneys' Expenses shall be allocated based upon the costs incurred by each Plaintiff's Counsel as set forth in their declarations for the approval of costs.

c. Administration Costs: A Settlement Administrator shall be selected after receipt of bids and shall be mutually agreed to by the Parties. Administration costs shall not exceed the estimate of the Settlement Administrator to administrate the settlement. Administration Costs shall include the cost of the Settlement Administrator selected by the Parties to administer the settlement in the amount of up to \$8,000. In the event that Court approval of these payments is required and a payment of less than \$8,000 is approved, or if the actual cost to administer the settlement is less than \$8,000, the difference will be added to the PAGA Payment.

d. Representative PAGA Release. In their capacity as private attorney generals "aggrieved employees" acting on behalf of themselves, the State of California and the Aggrieved Employees, and in consideration of the PAGA Payment and the payment to Plaintiff's Counsel for Attorney's Fees and Attorney's Expenses, upon entry of the Judgment, Plaintiff will release Defendant from any and all PAGA Released Claims.

4. PAGA Released Claims.

a. Upon the Effective Date, the Released Parties shall be entitled to a release from the State of California and the Aggrieved Employees only as to all PAGA claims based on the alleged facts and legal claims in the operative complaints of *Robert Irwin v. Durabag Company, Inc. et al.* Case No. 30-2020-01145526-CU-OE-CXC and expressly excluding claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, class claims, and PAGA claims outside of the PAGA Period ("PAGA Released Claims"). The PAGA Released Claims expressly exclude all PAGA claims outside the PAGA Period, all PAGA claims not alleged in the operative complaints in the Actions, all claims

under Cal. Labor Code § 558(a)(3), and all non-PAGA claims. **In no event shall the release of the PAGA Released Claims in this Settlement Agreement release any individual claims of any individuals other than Plaintiff.**

b. As part of this Settlement, in addition to the Gross Fund Value Defendant has agreed to pay Plaintiff an agreed to sum certain of \$5,000 pursuant to a separate agreement in exchange for a general release of all individual claims arising out of employment with Defendant, including a waiver of any unknown claims pursuant to California Civil Code section 1542. Plaintiff represent that he does have individual claims other than his PAGA claims which Plaintiff is separately settling. Pursuant to California Rules of Court, Rule 3.770, PAGA Counsel will be filing a declaration with the court disclosing the consideration given for settling these individual claims and confirming that the consideration is unrelated to and separate from the settlement of their PAGA claims. Plaintiff represents and agrees that he will separately dismiss the Individual Action with prejudice.

5. Covenants and Representations by Plaintiff and Plaintiff's Counsel.

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement.

b. Plaintiff acknowledges that he has read this Settlement Agreement, that he fully understand his rights, privileges and duties under the Settlement Agreement, and enter into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that he had the opportunity to consult with his attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

c. Plaintiff further agrees to seek a Judgment in the PAGA Action on the PAGA Released Claims.

6. No Publicity. Neither Plaintiff nor Plaintiff's Counsel shall issue a press release, hold a press conference, or otherwise publicize the settlement other than in documents submitted to the Court.

7. Court Approval of the PAGA Payment. Subject to Defendant's review and approval prior to filing, Plaintiff's Counsel shall be responsible for preparing and filing a Motion for Approval of the PAGA Payment with the proposed Judgment ("Motion"). Plaintiff's Counsel will provide Defendant's counsel with an opportunity to propose revisions to that Motion before it is filed. This Motion shall also be served on the LWDA when filed with the Court.

8. Court Approval of the PAGA Settlement. The Settlement Agreement is contingent upon the approval by the Court. If the Court should fail to approve this Settlement Agreement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court's questions or concerns. If after the Parties make at least three (3) good faith efforts, the Court does not approve this Settlement Agreement, or if appellate review is sought and on

such review the Court's decision is materially modified or reversed, or if one or more of the terms of the Settlement Agreement are not approved or is materially modified or reversed or found to be invalid and the Parties in good faith do not believe that it would be possible to make non-material modifications that would address any concerns raised by the Court, then each of the Parties by and through Counsel shall have the right within fifteen (15) business days of written notice thereof to elect to terminate the Settlement Agreement, in which event it shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement.

IV. ADMINISTRATION OF SETTLEMENT

1. After the execution of this Settlement Agreement, Plaintiff shall file the Motion and will submit the Motion and this Settlement Agreement on the LWDA consistent with Labor Code § 2699(l)(2).

2. Settlement Administrator will administer the settlement and shall be paid for Administration Costs, which are estimated to be up to \$8,000 . Defendant will provide the necessary information about the Aggrieved Employees and payment of the Gross Fund Value to the Settlement Administrator within 30 days of the approval of the PAGA settlement by the Court.

3. Within fifteen (15) days after receipt of the Gross Fund Value from Defendant, the Settlement Administrator will issue to each Aggrieved Employee a check for their Individual PAGA Payment at their last known home address along with an explanatory letter which will be mutually approved by the parties. Checks will remain negotiable for one hundred eighty (180) days. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address, Social Security number, phone number, credit reporting and social media of the Aggrieved Employee involved and will then perform a re-mailing. The amount of any individual settlement payments that remain undeliverable or uncashed 180 calendar days after the postmarked date of the initial mailing of the individual settlement payments will be sent to the California State Controller's office to be held as "unclaimed property" in the name of the Aggrieved Employee. The settlement administrator shall notify Plaintiff's Counsel and Defendant's counsel of any undeliverable checks. The Individual PAGA Payments are 100% penalties and shall be reported using IRS tax form 1099.

4. Within fifteen (15) days after receipt of the Gross Fund Value from Defendant, the Settlement Administrator will pay the Attorneys' Fees, the Attorneys' Expenses, the Administration Costs, and the portion of the PAGA Payment allocated to the LWDA from the Gross Fund Value.

5. The Settlement Administrator will provide an accounting under oath to the parties of the amounts paid out.

6. Defendant makes no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement and expressly disclaims any and all liabilities, assessments, fines, attorney fees, and any other costs or fees arising from, related to, or in connection with any and all assessments made by any governmental agency arising out of any payment under this Settlement Agreement.

V. MISCELLANEOUS PROVISIONS

1. Drafting. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party.

2. No Impact on Benefit Plans. Neither the Settlement Agreement nor any amounts paid to Plaintiff or any Aggrieved Employee under the Settlement Agreement will modify any previously credited hours or service under any employee benefit plan, policy, or bonus program sponsored by Defendant. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Defendant's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any of Defendant's benefit plans, policy, or bonus program. Defendant retains the right, if necessary, to modify the language of their benefit plans, policies and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

3. Successors. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns.

4. Costs and Fees. The Parties shall each bear their own costs, attorneys' fees, mediator fees, and other fees incurred in connection with this Settlement Agreement and in connection with the Action and Plaintiff's claims, except as otherwise set forth specifically herein.

5. Authority. Defendant represents and warrant that the undersigned has the authority to act on behalf of Defendant and to bind Defendant to the terms of this Settlement Agreement. Plaintiff represents and warrant that he has the capacity to act on his own behalf and on behalf of all who might claim through him to bind them to the terms and conditions of this Settlement Agreement.

6. Governing Law. This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in Orange, California and all questions of validity, interpretation or

performance of any of its terms or of any rights or obligations of the parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Orange.

7. Complete Agreement. The Parties acknowledge and represent that this Settlement Agreement contains the entire understanding between them with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings between them, written and oral, with respect to the subject matter hereof. This Settlement Agreement cannot be amended or modified except by a writing signed by the Parties hereto or their successors-in-interest.

8. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve the settlement of the PAGA Action as provided herein; or (ii) the settlement of the PAGA Action does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

9. Judgment and Continued Jurisdiction. After approval of this settlement, the Court will have continuing jurisdiction pursuant to California Code of Civil Procedure section 664.6 solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement Agreement.

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

11. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic, facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

12. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Actions and have arrived at this Settlement Agreement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they

have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement Agreement.

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

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

15. **Severability.** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, the remaining portions of this Settlement Agreement will continue to be valid and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

16. **Mutual Preparation.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

17. **Representation By Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

18. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement and receive approval from the Court.

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

20. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement Agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant or an admission or concession regarding the validity of the claims in the Actions. Nothing in this Settlement Agreement, nor any action taken in implementation thereof,

nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of the Actions, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation or lack of violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement Agreement may be used in any proceeding in any court that has as its purpose the interpretation, implementation, or enforcement of the Settlement Agreement or any orders or judgments of the Court entered into in connection therewith.

21. No Admission of Liability or Wrongdoing by Defendant. Defendant contends that all of its employees were compensated in compliance with the law, and that their conduct was not willful with respect to any alleged failure to pay any wages or penalties. Defendant has denied, and continue to deny, each of the claims and contentions alleged in the Actions. Defendant has asserted and continue to assert defenses thereto, and have expressly denied and continue to deny any wrongdoing or legal liability arising out of any of the facts or conduct alleged in the Actions. Neither this Settlement Agreement, nor any action taken to carry out the terms of this Settlement Agreement, shall ever be construed as, offered, admitted, received or deemed to be evidence in any civil, criminal, administrative, or other proceeding against Defendant or any of the Released Parties, or may be used as an admission, concession, or indication by or against Defendant of any fault, wrongdoing, or liability whatsoever.

22. Waiver of Right to Appeal. Provided that the Judgment is consistent with the terms and conditions of the Settlement Agreement, Plaintiff and Defendant, inclusive, hereby waive any and all rights to appeal in connection with any issue in the Judgment, including, but not limited to, all rights to any post-judgment proceeding and/or appellate proceeding, such as a motion to vacate or set-aside judgment, a motion for new trial, and any extraordinary writ, and the Judgment will become final and non-appealable at the time it is entered.

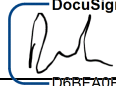
23. Stay of Litigation. The Parties agree that the continuing litigation of the Action shall be stayed and that the time to bring the State Court action to trial shall be extended pending the outcome of the settlement process.

24. Disputes. Any dispute between the Parties as to the remaining terms of the Settlement Agreement shall be presented to the mediator for resolution.

IN WITNESS THEREOF, the Parties each acknowledge that he/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement and hereby executes it voluntarily and with full understanding of its consequences.

PLAINTIFF:

Dated: 4/21/2021

DocuSigned by:

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Robert Irwin

DEFENDANT:

Dated: _____ Durabag Company, Inc.

By: _____

APPROVED AS TO FORM AND CONTENT:

DAVID YEREMIAN & ASSOCIATES, INC.

Dated: 4/21/2021

By: 
DAVID YEREMIAN
ATTORNEYS FOR PLAINTIFF

Goldberg Segalla

Dated: _____

By: _____
KAREN LUH
ATTORNEYS FOR DEFENDANT

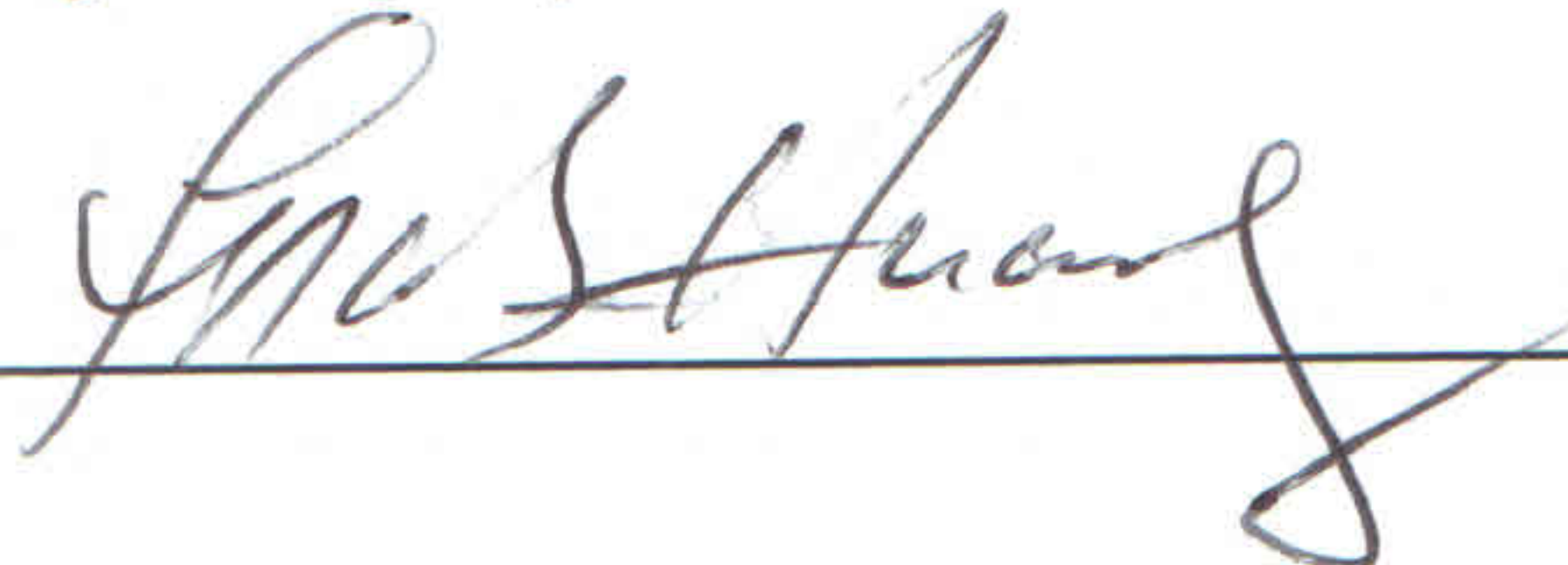
Dated: _____

Robert Irwin

DEFENDANT:

Dated: 6/2/2021

Durabag Company, Inc.

By: 

APPROVED AS TO FORM AND CONTENT:

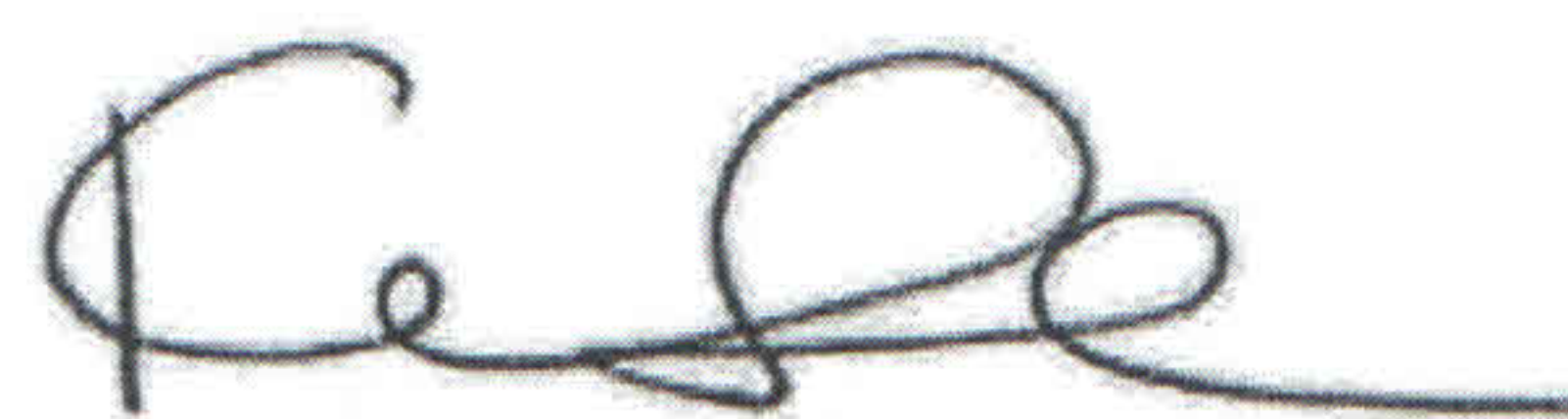
DAVID YEREMIAN & ASSOCIATES, INC.

Dated: _____

By: _____
DAVID YEREMIAN
ATTORNEYS FOR PLAINTIFF

Goldberg Segalla

Dated: 5/19/2021

By: 
KAREN LUH
ATTORNEYS FOR DEFENDANT