

PAGA SETTLEMENT AGREEMENT

This PAGA Settlement Agreement (“Agreement”) is made by and between plaintiff Richard Poston (“Plaintiff”) and defendants Austin Building and Design, Inc. (“Austin”), and TEG Staffing, Inc. dba Eastridge Workforce Solutions and dba Eastridge Workforce Recruitment (“TEG”) (collectively, “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means the Plaintiff’s PAGA lawsuit alleging wage and hour violations against Austin and TEG captioned Richard Poston v. Austin Building and Design, Inc., et al., initiated on January 24, 2022, and pending in Superior Court of the State of California, County of Los Angeles, Case No. 22AVCV00056.
- 1.2. “Administrator” means Simpluris, Inc., 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 submitted to the Court in connection with approval of this Settlement.
- 1.4. “Aggrieved Employees” means all current and former non-exempt hourly employees who were employed by Defendants and worked at Austin in the State of California during the PAGA Period, i.e., from November 19, 2020 through the date of the settlement approval, or April 10, 2023, whichever occurs first (the “PAGA Period”).
- 1.5. “Aggrieved Employee Data” means Aggrieved Employee identifying information in Austin and TEG’s possession including each Aggrieved Employee’s name, last-known mailing address, Social Security number, and number of PAGA Pay Periods.
- 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. “Court” means the Superior Court of California, County of Los Angeles.
- 1.8. “Defense Counsel” means Katherine Den Bleyker, Esq. and Tatyana Esmailian of Barber Ranen, LLP, 550 S. Hope Street, Suite 2400, Los Angeles, California 90071 as counsel for Austin; Stacey E. James, Esq. of Littler Mendelson P.C., 501 W. Broadway, Suite 900, San Diego, California 92101; and Shahram Samie, Esq., of Littler Mendelson P.C., 2049 Century Park East, 5th Floor, Los Angeles, California 90067 as counsel for TEG.

- 1.9. "Effective Date" means the date by when both of the following have occurred: (a) the Court enters a Judgment on its Order Approving the PAGA Settlement and (b) the Judgment is final and is no longer appealable. The Judgment is final as of the day the Court enters Judgment. The Judgment is final and no longer appealable upon the later of: (i) the day after the last date by which a notice of appeal to the applicable Court of Appeal of the approval order may be timely filed, and none is filed; (ii) if an appeal is filed, and the appeal is finally disposed of by ruling, dismissal, denial, or otherwise, the day after the last date for filing a request for further review of the order approving the settlement passes, and no further review is requested; or (iii) if an appeal is filed and there is a final disposition by ruling, dismissal, denial, or otherwise by the Court of Appeal, and further review of the order approving the Settlement is requested, the day after the review is finally dismissed or denied with prejudice and/or no further review of the order can be requested.
- 1.10. "Gross Settlement Amount" means \$75,708.33 (Seventy Five Thousand Seven Hundred Eight Dollars and Thirty Three Cents), with Austin paying \$50,000.00 (Fifty Thousand Dollars and Zero Cents), and TEG paying \$25,708.33 (Twenty Five Thousand Seven Hundred Eight Dollars and Thirty Three Cents), which is the total amount Defendants agree to pay under the Settlement. The Gross Settlement Amount will be used to pay Individual PAGA Payments, any general release and incentive award to Plaintiff, Mediation Costs, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's Expenses Payment.
- 1.11. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Pay Periods the Aggrieved Employee worked during the PAGA Period.
- 1.12. "Judgment" means the judgment entered by the Court in its Order Approving the PAGA Settlement.
- 1.13. "LWDA" means the California Labor and Workforce 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. "Mediation Costs" means \$5,708.33 to be paid to Plaintiff to reimburse Plaintiff for Plaintiff's share of the cost of mediation.
- 1.16. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, Mediation Costs, any general release and incentive award to Plaintiff, and the Administration Expenses Payment. The remainder is to be distributed as the LWDA PAGA Payment (75% of Net Settlement

Amount); and as Individual PAGA Payments (25% of Net Settlement Amount on a pro rata basis pursuant to paragraph 3.2.4.1).

- 1.17. "PAGA Counsel" means Haig B. Kazandjian, Esq. and Cathy Gonzalez, Esq. of Haig B. Kazandjian Lawyers, APC, 801 North Brand Boulevard, Suite 970, Glendale, California 91203, the attorneys representing the Plaintiff in the Action.
- 1.18. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.19. "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for Defendants for at least one day during the PAGA Period.
- 1.20. "PAGA Period" means the period from November 19, 2020 to the date of settlement approval, or April 10, 2023, whichever occurs first.
- 1.21. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.22. "PAGA Notice" means Plaintiff's November 19, 2021 letter to Defendants Austin and TEG, and the LWDA, providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.23. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Net Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of the PAGA claims.
- 1.24. "Plaintiff" means Richard Poston, the named plaintiff in the Action.
- 1.25. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.
- 1.26. "Released PAGA Claims" means the claims being released by the Plaintiff and PAGA Counsel and as described in Paragraph 5 below.
- 1.27. "Released Parties" means Defendants Austin Building and Design, Inc., and TEG Staffing, Inc. dba Eastridge Workforce Solutions and dba Eastridge Workforce Recruitment, and each of their former, present, and future owners, parents, affiliated or related companies and subsidiaries, and all of their current, former, and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, predecessors, successors, assigns, accountants, attorneys, insurers, reinsurers, and/or legal representatives.
- 1.28. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

2. RECITALS.

- 2.1. On January 24, 2022, Plaintiff commenced this Action by filing a Complaint alleging a single cause of action pursuant to PAGA against Austin and TEG based on the following alleged underlying Labor Code violations: (1) failure to provide employment records (Cal. Lab. Code §§ 226, 432, and 1198.5); (2) failure to pay overtime wages (Cal. Lab. Code §§ 510 and 1198); (3) failure to provide meal periods and rest periods (Cal. Lab. Code §§ 226.7 and 512(a)); (4) failure to pay minimum wage (Cal. Lab. Code §§ 1182.12, 1194, 1197, and 1197.1); (5) failure to furnish accurate itemized wage statements (Cal. Lab. Code §§ 226(a), 1174(d), and 1198); (6) failure to pay reporting time wages (California Code of Regulations 11050 (5)(A)); (7) failure to pay split shift wages (Cal. Lab. Code § 1198); (8) waiting time penalties; (9) failure to timely pay wages (Cal. Lab. Code §§ 201, 202, and 203); and (10) failure to reimburse business-related expenses (Cal. Lab. Code §§ 2800 and 2802). The Complaint is the operative complaint in the Action (the “Operative Complaint.”). Defendants Austin and TEG deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in the Operative Complaint and deny any and all liability for the causes of action alleged.
- 2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendants Austin and TEG, and the LWDA by sending the PAGA Notice.
- 2.3. On February 9, 2023, the Parties participated in an all-day mediation presided over by Michael D. Young, Esq. which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiff obtained, through informal discovery, information and documents, including, *inter alia*: (1) Plaintiff’s employment records; (2) Austin’s relevant wage and hour policy documents and employee handbooks in effect during the PAGA Period; (3) time and payroll records for all of Austin’s direct hires; (4) PAGA (and wage statement penalty) group data points, including, for both current and formerly-employed Aggrieved Employees between the start of the PAGA Period (November 19, 2020) and the date of mediation (February 9, 2023), total numbers of Austin’s Aggrieved Employees and approximate total numbers of workweeks worked, pay periods, and wage statements issued, as well as average hourly pay rates. Plaintiff received from TEG similar documents and information for the employees it staffed at Austin during the PAGA period.
- 2.5. The Parties, PAGA Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay \$75,708.33 (with Austin paying \$50,000.00, and TEG paying \$25,708.33) and no more as the Gross Settlement Amount. Defendants have no obligation to pay the Gross Settlement Amount prior to the deadline stated in Paragraph 6.1 of this Agreement. 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.

3.2. Payments from the Gross Settlement Amount. The Administrator will make and deduct the following payments from the Gross Settlement Amount, in the amounts specified by the Court in the Order Approving the PAGA Settlement:

3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than \$25,233 (1/3 of the Gross Settlement Amount); and PAGA Counsel's Litigation Expenses Payment of up to \$1,000.¹ Defendants will not oppose requests for Court approval of these payments provided that they 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 using one or more IRS 1099 Forms. PAGA Counsel assumes full responsibility and liability for taxes owed on the PAGA Counsel Fees Payment and the 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.

3.2.2. To Plaintiff,

3.2.2.1. General Release & Incentive Award: Defendants will pay up to \$12,500.00 to Plaintiff, subject to Court approval, in exchange for Plaintiff's efforts in this action and for Plaintiff agreeing to the general release of claims pursuant to section 5.1.1.

¹ Mediation Costs: Defendant TEG is responsible for reimbursing Plaintiff's Counsel \$5,708.33 for Plaintiff's share of the cost of mediation. This payment is part of TEG's total contribution of \$25,708.33, and under no circumstances shall TEG's total contribution exceed \$25,708.33.

3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed \$5,000.00. To the extent the Administration Expenses are less or the Court approves payment less than \$5,000.00, the Administrator will allocate the remainder to the Net Settlement Amount.

3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of the Net Settlement Amount, with 75% allocated to the LWDA PAGA Payment and 25% allocated to the Individual PAGA Payments.

3.2.4.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties by the total number of PAGA Period Pay Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the result by each Aggrieved Employee's PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Aggrieved Employee Pay Periods. Based on a review of their records to date, Defendants estimate there are 31 Aggrieved Employees (7 Austin employees and 24 TEG employees) who worked a total of 759 PAGA Pay Periods (281 pay periods for Austin and 478 pay periods for TEG) during the PAGA Period.

4.2. Aggrieved Employee Data. Within 15 days of the Effective Date, Defendants will deliver the Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel spreadsheet from each Defendant. To protect Aggrieved Employee' 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. Defendants have 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 Defendants 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.

4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross Settlement Amount by transmitting the funds to the Administrator no later than 30 days after the Effective Date.

4.4. 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 LWDA PAGA Payment, the Mediation Costs, the PAGA Counsel Fees Payment, the PAGA Counsel Litigation Expenses Payment, and any general release and incentive award to Plaintiff. Disbursement of the Mediation Costs, the PAGA Counsel Fees Payment and the PAGA Counsel Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

4.4.1. 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.

4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for all Aggrieved Employees whose checks are returned undelivered without USPS forwarding address. 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.

4.4.3. For any Aggrieved Employee whose 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 Controller's Unclaimed Property Fund in the name of the Aggrieved Employee.

4.4.4. The payment of Individual PAGA Payments shall not obligate TEG and/or Austin to confer any additional benefits or make any additional payments to the Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

5. 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:

5.1. 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, for civil penalties pursuant to PAGA for: (1) failure to provide employment records (Cal. Lab. Code §§ 226, 432, and 1198.5); (2) failure to pay overtime wages (Cal. Lab. Code §§ 510, 515 and 1198 and the applicable Wage Orders); (3) failure to provide meal periods and rest periods (Cal. Lab. Code §§ 226.7 and 512(a) and the applicable Wage Orders); (4) failure to pay minimum wage (Cal. Lab. Code §§ 1182.12, 1194, 1197, and 1197.1); (5) failure to furnish accurate itemized wage statements (Cal. Lab. Code §§ 226(a), 1174(d), and 1198 and the applicable Wage Orders); (6) failure to pay reporting time wages (California Code of Regulations 11050 (5)(A)); (7) failure to pay split shift wages (Cal. Lab. Code § 1198; California Code of Regulations 11050 (4)(C)); (8) waiting time penalties; (9) failure to timely pay wages during employment and upon discharge (Cal. Lab. Code §§ 201, 202, 203, 204, and 206); (10) failure to reimburse business-related expenses (Cal. Lab. Code §§ 2800 and 2802); (11) failure to maintain employment records (Cal. Lab. Code § 1174.5); (12) failure to pay all wages or otherwise causing violations of the Labor Code (Cal. Lab. Code §§ 558 and 558.1); (13) misclassifying an employee as an independent contractor (Cal. Lab. Code §§ 226.8 and 2753; and (14) failure to provide sick pay (Cal. Lab. Code § 246) ("Plaintiff's Release"). 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, or based on occurrences outside the PAGA Period. Plaintiff acknowledges that Plaintiff 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 Plaintiff's discovery of them.

5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. 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.

5.2. Release by Aggrieved Employees and the State of California:

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, for civil penalties pursuant to PAGA for alleged underlying California Labor Code violations including, but not limited to: (1) failure to provide employment records (Cal. Lab. Code §§ 226, 432, and 1198.5); (2) failure to pay overtime wages (Cal. Lab. Code §§ 510, 515 and 1198 and the applicable Wage Orders); (3) failure to provide meal periods and rest periods (Cal. Lab. Code §§ 226.7 and 512(a) and the applicable Wage Orders); (4) failure to pay minimum wage (Cal. Lab. Code §§ 1182.12, 1194, 1197, and 1197.1); (5) failure to furnish accurate itemized wage statements (Cal. Lab. Code §§ 226(a), 1174(d), and 1198 and the applicable Wage Orders); (6) failure to pay reporting time wages (California Code of Regulations 11050 (5)(A)); (7) failure to pay split shift wages (Cal. Lab. Code § 1198; California Code of Regulations 11050 (4)(C)); (8) waiting time penalties; (9) failure to timely pay wages during employment and upon discharge (Cal. Lab. Code §§ 201, 202, 203, 204, and 206); (10) failure to reimburse business-related expenses (Cal. Lab. Code §§ 2800 and 2802); (11) failure to maintain employment records (Cal. Lab. Code § 1174.5); (12) failure to pay all wages or otherwise causing violations of the Labor Code (Cal. Lab. Code §§ 558 and 558.1); (13) misclassifying an employee as an independent contractor (Cal. Lab. Code §§ 226.8 and 2753; and (14) failure to provide sick pay (Cal. Lab. Code § 246) for the time period beginning on November 19, 2020 through April 10, 2023.

5.3. Release by Defendants: Defendants Austin Building and Design, Inc., and TEG Staffing Inc., will release each other from all claims for indemnification and/or contribution stemming from this Action.

5.4. 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 PAGA Expenses incurred in connection with the Operative Complaint and the facts stated in the Operative Complaint and the PAGA Notice.

6. MOTION OR STIPULATION FOR APPROVAL OF SETTLEMENT. The Parties agree to jointly prepare and file a stipulation or motion for approval of this Settlement.

6.1. Plaintiff's Responsibilities. Plaintiff will prepare and deliver to Defense Counsel and the Court all documents necessary for obtaining approval of this Settlement under Labor Code Section 2699, subd. (f)(2)).

6.2. Responsibilities of PAGA Counsel. PAGA Counsel and Defense Counsel are jointly responsible for expeditiously finalizing and filing the stipulation or motion for approval of this Settlement no later than 30 days after the full execution of this Agreement and, if necessary, obtaining a prompt hearing date for the motion and

appearing in Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering the Court's order approving the settlement to the Administrator.

6.3. 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 on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant the motion for approval of this Settlement or conditions its approval on any material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

7. SETTLEMENT ADMINISTRATION.

7.1. Selection of Administrator. The Parties have jointly selected Simpluris, Inc. to serve as the Administrator and verified that, as a condition of appointment, Simpluris, Inc. 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.

7.2. Qualified Settlement Fund. The Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

7.3. 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.

8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE. Based on their records, Defendants Austin and TEG estimate that, as of the date of this Settlement Agreement, (1) there are 31 Aggrieved Employees who worked approximately 759 Pay Periods during the PAGA Period. At the mediation, the Parties believed that there were between 850 and 1,034 pay periods at issue. Plaintiff negotiated settlement based on the 850 pay period count. Defendants now believe that there are approximately 759 pay periods at issue. If the actual number of pay periods in the PAGA Period is ten percent (10%) higher than 850 pay periods or 85 more pay periods worked, then the cut-off date for the release period will end on the date that the pay period total hits 935 (10% more than the 850 pay periods believed to have been at issue during mediation).

9. CONTINUING JURISDICTION OF THE COURT. The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing

settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including, but not limited to, the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, 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 Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. ADDITIONAL PROVISIONS.

10.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. 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 that 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. If, for any reason the Court does not approve this Settlement, Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to contest Defendants' defenses. The Settlement, this Agreement and 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).

10.2. 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.

10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, 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.

10.4. 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 the Settlement 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.

- 10.5. 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 any portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.
- 10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendants, 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.
- 10.7. 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.
- 10.8. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.
- 10.10. 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.
- 10.11. 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.
- 10.12. Use and Return of Aggrieved Employee Data. Information and documents provided to PAGA Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Aggrieved Employee Data provided to PAGA Counsel by Defendants in connection with the mediation, other settlement negotiations, or in connection with the Settlement, may be used only with respect to this Settlement, 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 shall destroy all paper and electronic versions of Aggrieved Employee Data received from Defendants unless, prior to the Administrator's payment of all Settlement Funds, Defendants make a written request to

PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee Data.

10.13. 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.

10.14. 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.

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

To Plaintiff:

Haig B. Kazandjian
Cathy Gonzalez
Haig B. Kazandjian Lawyers, APC
801 North Brand Boulevard, Suite 970
Glendale, California 91203.

To Defendant Austin:

Katherine Den Bleyker, Esq.
Tatyana Esmailian, Esq.
Barber Ranen, LLP
550 S. Hope Street, Suite 2400
Los Angeles, California 90071

To Defendant TEG:

Stacey E. James, Esq.
Littler Mendelson P.C.
501 W. Broadway, Suite 900
San Diego, California 92101

Shahram Samie, Esq.
Littler Mendelson P.C.
2049 Century Park East, 5th Floor
Los Angeles, California 90067

- 10.16. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, or email which for purposes of this Agreement shall be accepted as an original. 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.
- 10.17. 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 ON FOLLOWING PAGE]

Dated: 06 / 05 / 2023

By: Richard Poston
Plaintiff Richard Poston

Dated: 06/05/2023

By: 
By: Haig B. Kazandjian
Counsel for Plaintiff Richard Poston

Dated: 06/05/23

By: 
Defendant Austin Building and Design, Inc.
By: MARK PHILLIPS
Its: V P RISK MANAGMENT

Dated: 6/5/23

By: 
By: Katherine C. Den Bleyker
Counsel for Defendant Austin Building and Design, Inc.

Dated: _____

By: _____
Defendant TEG Staffing, Inc.
By: _____
Its: _____

Dated: _____

By: _____
By: _____
Counsel for Defendant TEG Staffing, Inc.

Dated: _____

By: _____
Plaintiff Richard Poston

Dated: _____

By: _____
By: _____
Counsel for Plaintiff Richard Poston

Dated: _____

By: _____
Defendant Austin Building and Design, Inc.
By: _____
Its: _____

Dated: _____

By: _____
By: Katherine C. Den Bleyker
Counsel for Defendant Austin Building and
Design, Inc.

Dated: Jun 9, 2023

By:  _____
Dion Trieb (Jun 9, 2023 17:52 PDT)
Defendant TEG Staffing, Inc.
By: Dion Trieb
Its: Senior Vice President

Dated: June 12, 2023

By:  _____
By: Stacey E. James
Counsel for Defendant TEG Staffing, Inc.