

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT AND CLASS NOTICE

This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and between Plaintiffs Austen Shwiyhat (“Plaintiff Shwiyhat”) and Walter L. Raines (“Plaintiff Raines”) (together, the “Plaintiffs”) and Defendants Martin Marietta Materials, Inc. and Martin Marietta Northern California Aggregates, LLC (collectively “MMM” or “Defendant”). The Agreement refers to Plaintiffs and Defendant collectively as “Parties,” or individually as “Party.”

1. DEFINITIONS.

- 1.1. “Action” means Plaintiff Austen Shwiyhat’s lawsuit alleging wage and hour violations against Defendant currently pending in the Northern District of California, Case No. 24-CV-00283-JSC, and Plaintiff Walter L. Raines’s lawsuit alleging wage and hour violations against Defendant currently pending in the Eastern District of California, Case No. 2:23-cv-01539-DJC-CKD. To effectuate approval of this Agreement, the Parties agree that Plaintiff Shwiyhat shall file a consolidated lawsuit in the San Joaquin County Superior Court in substantially the form contained in Exhibit A. Defendant will file a general denial answer within seven business days of receiving a file-stamped copy of the consolidated complaint filed in San Joaquin County Superior Court via email from Plaintiffs’ counsel.
- 1.2. “Administrator” means Atticus Administration LLC, 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 Preliminary Approval of the Settlement.
- 1.4. “Class” means a person employed by Defendant in California and classified as an hourly, non-exempt employee who worked for Defendant during the Class Period. Conditional Certification of the Class is a condition of settlement.
- 1.5. “Class Counsel” means Joseph Lavi, Vincent C. Granberry, Alexander J. Aroeste, and all lawyers affiliated with Lavi & Ebrahimian, LLP, and Leonard Emma, Cody Stroman, and all lawyers affiliated with Employment Lawyers.
- 1.6. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and expenses, respectively, incurred to prosecute the Action.
- 1.7. “Class Data” means Class Member identifying information in Defendant’s possession including the Class Member’s name, last-known mailing address, Social Security number, and number of Class Period Workweeks and PAGA Pay Periods.
- 1.8. “Class Member” or “Settlement Class Member” means a member of the Class, as either a Participating Class Member or Non-Participating Class Member (including a Non- Participating Class Member who qualifies as an PAGA Group Employee).
- 1.9. “Class Member Address Search” means the Administrator’s investigation and search

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for current Class Member 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 Class Members.

- 1.10. "Class Notice" means the COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to Class Members in English with a Spanish translation, without material variation, attached as Exhibit B and incorporated by reference into this Agreement.
- 1.11. "Class Period" means the period from June 20, 2022, through March 31, 2025 unless modified to expand or contract the Class Period pursuant to Paragraph 8 below.
- 1.12. "Class Representative" means the named Plaintiffs in the operative complaint in the Action seeking Court approval to serve as Class Representatives.
- 1.13. "Class Representative Service Payments" means the payments to the Class Representatives for initiating the Action and providing services in support of the Action.
- 1.14. "Court" means the Superior Court of California, County of San Joaquin.
- 1.15. "Defendant" means named Defendants Martin Marietta Materials, Inc. and Martin Marietta Northern California Aggregates, LLC.
- 1.16. "Defense Counsel" means Mike Birrer, Kelli Hinson, and Jordan Brownlow Perry of Carrington, Coleman, Sloman & Blumenthal LLP, and Cassandra Ferrannini and Daria Gossett of Downey Brand LLP.
- 1.17. "Effective Date" means the date by when both of the following have occurred: (1) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (2) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (a) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (b) if one or more Participating Class Members objects to the Settlement, 61 days after the Court enters Judgment; or (c) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.
- 1.18. "Final Approval" means the Court's order granting final approval of the Settlement.
- 1.19. "Final Approval Hearing" means the Court's hearing on the Motion for Final Approval of the Settlement.
- 1.20. "Final Judgment" means the Judgment Entered by the Court upon Granting Final Approval of the Settlement.
- 1.21. "Gross Settlement Amount" means \$1,350,000.00, which is the total amount Defendant agrees to pay under the Settlement except as provided in Paragraph 8 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA PAGA Payment, Class Counsel Fees, Class Counsel Litigation Expenses, Class Representative Service Payments and the Administration Expenses Payment.

- 1.22. "Individual Class Payment" means the Participating Class Member's pro rata share of the Net Settlement Amount calculated according to the number of Workweeks worked during the Class Period.
- 1.23. "Individual PAGA Payment" means the PAGA Group Employee's pro rata share of 25% of the PAGA Penalties calculated according to the number of Workweeks worked during the PAGA Period.
- 1.24. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 1.25. "LWDA" means the California Labor and Workforce Development Agency.
- 1.26. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.27. "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, Class Representative Service Payments, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be paid to Participating Class Members as Individual Class Payments.
- 1.28. "Non-Participating Class Member" means any Class Member who opts out of the Settlement by sending the Administrator a valid and timely Request for Exclusion.
- 1.29. "PAGA Group Employee" means a person employed by Defendant in California and classified as an hourly, non-exempt employee who worked for Defendant during the PAGA Period.
- 1.30. "PAGA Pay Period" means any pay period during which a PAGA Group Employee worked for Defendant for at least one day during the PAGA Period.
- 1.31. "PAGA Period" means the period from June 20, 2022 through March 31, 2025, unless modified pursuant to Paragraph 8 below.
- 1.32. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.33. "PAGA Notice" means Plaintiffs' letters to Defendant and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).
- 1.34. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the PAGA Group Employees (\$12,500.00) and the 75% to the LWDA (\$37,500.00) in settlement of PAGA claims.
- 1.35. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion from the Settlement.
- 1.36. "Plaintiffs" means Austen Shwiyhat and Walter L. Raines, the named Plaintiffs in the Action.
- 1.37. "Preliminary Approval Order" means the Court's Order Granting Preliminary Approval of the Settlement.
- 1.38. "Released Class Claims" means the claims being released as described in Paragraph 5.1 below.

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- 1.39. “Released PAGA Claims” means the claims being released as described in Paragraph 5.2 below.
- 1.40. “Released Parties” means: Defendant and each of its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, joint employers, agents, and assigns.
- 1.41. “Request for Exclusion” means a Class Member’s submission of a valid request to be excluded from the Class Settlement, prior to or by the Response Deadline.
- 1.42. “Response Deadline” means 45 calendar days after the Administrator mails Notice to Class Members and PAGA Group Employees, and is the last date on which Class Members may (a) fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail Objection(s) to the Settlement. Class Members to whom Notice Packets are resent after having been returned undeliverable to the Administrator will have an additional 14 calendar days beyond the Response Deadline.
- 1.43. “Settlement” means the disposition of the Action effected by this Agreement and the Judgment.
- 1.44. “Workweek” means any week during which a Class Member worked for Defendant for at least one day during the Class Period.

2. RECITALS.

- 2.1. On December 6, 2022, Plaintiff Shwiyhat commenced his action by filing a Complaint alleging a PAGA cause of action against Defendant for (1) failure to properly calculate and properly pay overtime wages, (2) failure to compensate for all hours worked (off-the-clock work); (3) failure to provide meal periods, (4) failure to provide rest periods, (5) failure to maintain accurate records; (6) failure to furnish accurate itemized wage statements, and (7) failure to pay final wages on time. On January 19, 2023, Defendant removed Plaintiff Shwiyhat’s action to the Northern District of California where it is currently pending. On June 5, 2023, Plaintiff Raines filed a separate class action in San Joaquin County Superior Court for (1) failure to properly pay wages including for all hours worked at minimum wage; (2) failure to pay reporting time pay; (3) failure to provide meal periods; (4) failure to furnish accurate wage statements; (5) failure to pay final wages on time; and (6) unfair business practices. On August 15, 2023, Plaintiff Raines also filed a separate PAGA action for the same claims in the San Joaquin County Superior Court. Defendant removed Raines’ action to Eastern District of California and Plaintiff Raines has since filed a consolidated class and PAGA complaint where Plaintiff Raines’s action is currently pending. Only for the purposes of effectuating and obtaining approval of this Agreement, the Parties agree that Plaintiffs Shwiyhat and Raines will file a consolidated complaint in the San Joaquin County Superior Court alleging all claims and covering all Class Members to be released under this Agreement a copy of which is attached as Exhibit A to this Agreement (the “Operative Complaint”). Defendant denies Plaintiffs’ allegations and denies any failure to comply with the law and denies

any and all liability for any and all causes of action alleged. Defendant will file a general denial answer within seven business days of receiving a file-stamped copy of the consolidated complaint filed in San Joaquin County Superior Court via email from Plaintiffs' counsel.

- 2.2. Pursuant to Labor Code section 2699.3,[*former*] subd.(a), Plaintiffs gave timely written notice to Defendant and the LWDA by sending the PAGA Notice.
- 2.3. On October 22, 2024, Plaintiffs and Defendant participated in an all-day mediation presided over by Jill Sperber, which led to this Agreement to settle the Action.
- 2.4. Prior to mediation, Plaintiffs obtained, through informal discovery, time records, pay records, and information relating to the size and scope of the Class, as well as data permitting Plaintiffs to fully understand the nature and scope of the allegations in the Complaint. Plaintiffs' investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").
- 2.5. The Court has not granted class certification in any case defined in the Action.
- 2.6. The Parties 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 8 below, Defendant promises to pay \$1,350,000.00 and no more as the Gross Settlement Amount and to separately pay any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendant has no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or PAGA Group Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendant.
- 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 Final Approval:
 - 3.2.1 To Plaintiffs: Class Representative Service Payment to the Class Representatives of not more than \$10,000.00 each (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representatives are entitled to receive as Participating Class Members). Defendant will not oppose Plaintiffs' request for a Class Representative Service Payment that does not exceed this amount. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement

Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099.

- 3.2.2 To Class Counsel: A Class Counsel Fees Payment of not more than 35% of the Gross Settlement Amount, which is currently estimated to be \$472,500.00, and a Class Counsel Litigation Expenses Payment of not more than \$50,000.00. In the event that the escalator clause described in Paragraph 8 herein is triggered and the Gross Settlement Amount is increased, the amount of Class Counsel Fees Payment will increase in order to remain 35% of the Gross Settlement Amount. Defendant will not oppose requests for these payments provided that they do not exceed these amounts. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more IRS 1099-MISC Form(s).
- 3.2.3 To the Administrator: An Administration Expenses Payment not to exceed \$20,000 except for a showing of good cause and as approved by the Court. To the extent the Administrator's expenses are less or the Court approves payment less than \$20,000, the Administrator will retain the remainder in the Net Settlement Amount.
- 3.2.4 To Each Participating Class Member: An Individual Class Payment calculated by (a) dividing the Net Settlement Amount by the total number of Workweeks worked by all Participating Class Members during the Class Period and (b) multiplying the result by each Participating Class Member's Workweeks.
- 3.2.4.1. Tax Allocation of Individual Class Payments. 40% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. The other 60% of each Participating Class Member's Individual Class Payment will be allocated to settlement of claims for interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.
- 3.2.4.2. Effect of Non-Participating Class Members on Calculation of Individual Class Payments. Non-Participating Class Members will not receive any Individual Class Payments. The Administrator will retain amounts equal to their Individual Class Payments in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

3.2.5 To the LWDA and PAGA Group Employees: PAGA Penalties in the amount of \$50,000.00 to be paid from the Gross Settlement Amount, with 75% (\$37,500.00) allocated to the LWDA PAGA Payment and 25% (\$12,500.00) allocated to the Individual PAGA Payments.

3.2.5.1. The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the PAGA Group Employees' 25% share of PAGA Penalties (\$12,500.00) by the total number of PAGA Pay Periods worked by all PAGA Group Employees during the PAGA Period and (b) multiplying the result by each PAGA Group Employee's PAGA Pay Periods.

3.2.5.2. If the Court approves PAGA Penalties of less than the amount requested, the Administrator will allocate the remainder to the Net Settlement Amount. The Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

3.2.6 In the event that the Court reduces or does not approve the requested Class Counsel Fees Payment and/or Class Litigation Expenses Payment, Class Counsel reserve their right to appeal such order, however, in no event shall Plaintiffs and/or Class Counsel request, demand, or be entitled to an increase to the Gross Settlement Amount on that basis.

4. SETTLEMENT FUNDING AND PAYMENTS.

4.1. Class Data. Not later than 30 days after the Court grants Preliminary Approval of the Settlement, Defendant will deliver the Class Data to the Administrator, in the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator employees who need access to the Class Data to effect and perform under this Agreement. Defendant has a continuing duty to immediately notify Class Counsel if it discovers that the Class Data omitted class member identifying information and to provide corrected or updated Class Data as soon as reasonably feasible. Without any extension of the deadline by which Defendant must send the Class 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 Class Data.

4.2. Funding of Gross Settlement Amount. Defendant shall fully fund the Gross Settlement Amount, and also fund the amounts necessary to fully pay Defendant's share of payroll taxes by transmitting the total funds to the Administrator no later than 14 days after the Effective Date. In no event shall Defendant pay more than the Gross Settlement Amount and its portion of payroll taxes.

4.3. Payments from the Gross Settlement Amount. Within 14 days after Defendant funds the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment, the Class Counsel Fees Payment, the Class

Counsel Litigation Expenses Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service Payment shall not precede disbursement of Individual Class Payments and Individual PAGA Payments.

- 4.3.1 The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members 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. The Administrator will send checks for Individual Settlement Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all PAGA Group Employees including Non-Participating Class Members who qualify as PAGA Group Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment and the Individual PAGA Payment. Before mailing any checks, the Settlement Administrator must update the recipients' mailing addresses using the National Change of Address Database.
- 4.3.2 The Administrator must conduct a Class Member Address Search for all other Class Members 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 Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.
- 4.3.3 For any Class Member whose Individual Class Payment check or 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 Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).
- 4.3.4 The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendant to confer any additional benefits or make any additional payments to Class Members (such as 401(k)

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contributions or bonuses) beyond those specified in this Agreement.

5. **RELEASES OF CLAIMS.** Effective on the date when Defendant fully funds the entire Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the Individual Class Payments, Plaintiffs and Class Members will release claims against all Released Parties as follows:

- 5.1. Release by Participating Class Members: All Participating Class Members release Released Parties from all claims that were alleged, or reasonably could have been alleged, based on the Class Period facts stated in the Operative Complaint including, any claims under the California Labor Code, PAGA, Fair Labor Standards Act, applicable California Wage Orders, and any other local, state, or federal laws on PAGA/wage/hour issues (including but not limited to claims which could have been plead related to or arising from facts or issues alleged within the Operative Complaint or claims which could have been plead related to or arising from facts or issues alleged in the PAGA Notices sent to the LWDA by Plaintiffs Shwiyhat and Raines). This includes but is not limited to claims related to or arising from alleged wages, overtime, calculation of wages and overtime, off-the-clock work, minimum wages, plus related liquidated damages, interest, or penalties. For the avoidance of doubt, workers' compensation benefits claims and unemployment benefits claims are not released. In addition, see *Edwards v. Arthur Andersen*, 44 Cal. 4th 937 (Cal. S. Ct. 2008) (non-waivable claims are excluded from broad, general release).
- 5.2. Release by PAGA Group Employees: All PAGA Group Employees are deemed to release the Released Parties from all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and PAGA Notice during the PAGA Period.
- 5.3. Plaintiffs' Release. Plaintiffs for themselves and on behalf of their respective former and present spouses, representatives, agents, heirs, administrators, successors, and assigns generally, release and discharge Released Parties from all claims, transactions, or occurrences that occurred during the Class Period, 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 (b) all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint or Plaintiffs' PAGA Notices. ("Plaintiffs' Release.") Plaintiffs acknowledge that Plaintiffs may discover facts or law different from, or in addition to, the facts or law that Plaintiffs now knows or believes to be true but agrees, nonetheless, that Plaintiffs' Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiffs' discovery of them. Notwithstanding the above, this does not release claims of wrongful termination or harassment if (1) unrelated to wage/hour/compensation/rest period/meal period issues or PAGA issues and (2) alleged in the lawsuit filed by Plaintiff Austen Shwiyhat in the Alameda County Superior Court in the matter titled Austen Shwiyhat v. Martin Marietta Materials, Inc., Case No. 24CV096407. For the avoidance of doubt,

workers' compensation benefits claims and unemployment benefits claims are not released. In addition, see *Edwards v. Arthur Andersen*, 44 Cal. 4th 937 (Cal. S. Ct. 2008) (all legally non-waivable claims are excluded from the general release).

5.3.1 Plaintiffs' Waiver of Rights Under California Civil Code Section 1542. For purposes of Plaintiffs' Release, Plaintiffs expressly waive 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.

6. **MOTION FOR PRELIMINARY APPROVAL.** The Parties agree that Plaintiffs will prepare a draft motion for preliminary approval ("Motion for Preliminary Approval") and provide it to Defendant for review with sufficient time to review before Plaintiffs file it. If the Court does not grant Preliminary Approval or conditions Preliminary Approval on any material change to this Agreement, the Parties, by and through their respective Counsel, will expeditiously work together by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns. However, in no event, other than the exceptions in Section 8, shall the Gross Settlement Amount increase.

7. **SETTLEMENT ADMINISTRATION.**

7.1. Selection of Administrator. The Parties have selected Atticus Administration LLC to serve as the Administrator and verified that, as a condition of appointment, Atticus Administration LLC agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for the Administration Expenses Payment. 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. Employer Identification Number. The Administrator shall have and use its own Employer Identification Number for purposes of calculating payroll tax withholdings and providing reports state and federal tax authorities.

7.3. 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.

7.4. Notice to Class Members.

7.4.1 No later than three (3) business days after receipt of the Class Data, the

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Administrator shall notify Class Counsel that it has received the list and state the number of Class Members, PAGA Members, Workweeks, and PAGA Pay Periods in the Class Data.

- 7.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service (“USPS”) mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as Exhibit B. The Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.
- 7.4.3 Not later than 3 business days after the Administrator’s receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.
- 7.4.4 The deadlines for Class Members’ written objections, Challenges to Workweeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional 14 days beyond the 45 days otherwise provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.
- 7.4.5 If the Administrator, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

7.5. Requests for Exclusion (Opt-Outs).

7.5.1 Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline.

7.5.2 The Administrator cannot reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator will accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of validity and/or authenticity will be final and not appealable or otherwise susceptible to challenge.

7.5.3 Each Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the releases under Paragraphs 5.1 and 5.2 of this Agreement, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

7.5.4 Each Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are PAGA Group Employees are deemed to release the claims identified in Paragraph 5.2 of this Agreement and are eligible for an Individual PAGA Payment

7.6. Challenges to Calculation of Workweeks. Each Class Member will have until the Response Deadline (plus an additional 14 days for Class Members whose Class Notice is re-mailed) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or

mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or PAGA Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or PAGA Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination of the challenges.

7.7. Objections to Settlement.

7.7.1 Only Participating Class Members may object to the class action components of the Settlement and/or this Agreement (e.g., contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative Service Payment).

7.7.2 Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (plus an additional 14 days for Class Members whose Class Notice was re-mailed).

7.7.3 Non-Participating Class Members have no right to object to the Settlement.

7.8. 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.

7.8.1 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 5 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names and other identifying information of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names and other identifying information of Class Members who have submitted invalid Requests for Exclusion; and (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid).

7.8.2 Weekly Reports. The Administrator must, on a weekly basis, provide

written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include the Administrator’s assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received.

- 7.8.3 Workweek and/or PAGA Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or PAGA Pay Periods. The Administrator’s decision shall be final and not appealable or otherwise susceptible to challenge.
- 7.8.4 Administrator’s Declaration. Not later than 14 days before the date by which Plaintiffs are required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Plaintiffs are responsible for filing the Administrator’s declaration(s) in Court.
- 7.8.5 Final Report by Settlement Administrator. Within 10 days after the Administrator disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel 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, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Plaintiffs are responsible for filing the Administrator's declaration in Court.

8. **CLASS SIZE ESTIMATES AND ESCALATOR CLAUSE.** Based on its records, Defendant estimates that, as of the date of this Settlement Agreement, there are 54,000 Total Workweeks worked by Class Members during the Class Period.

- 8.1. First Escalator Provision. If the total number of Workweeks as of the end of the Class Period exceeds the above figure by greater than 59,400, then the Gross Settlement Amount shall increase pro rata based on the number of additional Workweeks above 10% (i.e., if the number of Workweeks is 11% greater than the above figure, then the Gross Settlement Amount shall increase by 1%). In the event that any increase in payment pursuant to this provision exceeds \$50,000, Defendant shall have the option to modify the end of the Class Period to the last day that the increased payment pursuant to this provision does not exceed \$50,000 (e.g., to modify it from March 31, 2025, to March 15, 2025).
- 8.2. Second Escalator Provision. In addition, Defendant shall have the option to extend the end of the Class Period beyond March 31, 2025 up until the date of the Court's order granting preliminary approval provided that each additional Class Member Workweek worked after March 31, 2025 will be paid at \$25.00 (\$1.35 million divided by 54,000) regardless of whether the First Escalator Provision was triggered.
9. **DEFENDANT'S RIGHT TO WITHDRAW.** If the number of valid Requests for Exclusion identified in the Exclusion List exceeds 10% of the total of all Class Members, Defendant may, but is not obligated, elect to withdraw from the Settlement. The Parties agree that, if Defendant withdraws, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendant will remain responsible for paying all settlement administration expenses incurred to that point. Defendant must notify Class Counsel and the Court of its election to withdraw not later than 7 days after the Administrator sends the final Exclusion List to Defense Counsel; late elections will have no effect.
10. **MOTION FOR FINAL APPROVAL.** Plaintiffs will file in Court a motion for final approval of the Settlement that includes a request for approval of the PAGA settlement under Labor Code section 2699,[*former*] subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for Final Approval"). Prior to filing, Plaintiffs will provide a draft of the documents to Defendant for its review.
- 10.1. Response to Objections. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.
- 10.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. However, in no event, other than the exceptions in Section 8, shall the Gross Settlement Amount increase. The Court's decision to award less than the amounts requested for the Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or

Administration Expenses Payment shall not constitute a material modification to the Agreement within the meaning of this paragraph.

- 10.3. 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.
- 10.4. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their respective counsel, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, 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 an objector 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.
- 10.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on a 50-50 basis, any additional administration expenses reasonably incurred after remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.
11. **AMENDED JUDGMENT.** If any amended judgment is required under California Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed amended judgment.
12. **ADDITIONAL PROVISIONS.**
- 12.1. No Admission of Liability, Class Certification 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 Defendant that any of the allegations in the Operative Complaint have merit or that Defendant has any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiffs that Defendant's defenses in the

Action have merit. The Parties agree that class certification and representative treatment is conditional and for purposes of this Settlement only. If, for any reason the Court does not grant Preliminary Approval, Final Approval or enter Final Judgment, Defendant reserves the right to contest certification of any class for any reasons, and Defendant reserves all available defenses to the claims in the Action, and Plaintiffs reserve the right to move for class certification on any grounds available and to contest Defendant's 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).

- 12.2. Confidentiality Prior to Preliminary Approval. The Parties separately agree that, until the Motion for Preliminary Approval of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or cause or permit another person to disclose, disseminate or publicize, any of the terms of the Agreement directly or indirectly, specifically or generally, to any person, corporation, association, government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses, all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter; (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal government agency. Each Party agrees to immediately notify each other Party of any judicial or agency order, inquiry, or subpoena seeking such information. The Parties separately agree not to, directly or indirectly, initiate any conversation or other communication, before the filing of the Motion for Preliminary Approval, with any third party regarding this Agreement or the matters giving rise to this Agreement except to respond only that "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's communications with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.3. No Solicitation. The Parties separately agree that they and their respective counsel and employees will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.
- 12.4. 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.
- 12.5. Attorney Authorization. The Parties separately warrant and represent that they have authorized their respective Counsel to take all appropriate action required or permitted to be taken 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.

- 12.6. 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. However, in no event shall the Gross Settlement Amount increase except as adjusted pursuant to Paragraph 8's Escalator Clause.
- 12.7. 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.
- 12.8. No Tax Advice. The Parties are not 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.
- 12.9. 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. After the Preliminary Approval Order is entered, such amendment, modification, change, or waiver also requires Court approval.
- 12.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
- 12.11. Applicable Law. The internal laws of the State of California govern all terms and conditions of this Agreement and its exhibits, without regard to conflict of law principles.
- 12.12. 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.
- 12.13. 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.
- 12.14. Use and Return of Class Data. Information provided to Class Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class 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 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 date when the Court discharges the Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement funds, Plaintiffs shall destroy all paper and electronic versions of Class Data received from Defendant unless, prior to the Court's discharge of the Administrator's obligation, Defendant makes a written request to Class Counsel for the return, rather than the destruction, of Class Data.

- 12.15. 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.
- 12.16. 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.
- 12.17. 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, to the other Party's respective counsel of record.
- 12.18. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (e.g., DocuSign), or email which for purposes of this Agreement shall be accepted as an original. If an electronic method of execution is chosen, like DocuSign, said signatory must provide the associated authentication certification. 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.
- 12.19. 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 or comply with any applicable Court Orders. 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.
- 12.20. Bankruptcy. In the event that any Defendant files for bankruptcy prior to the final disbursement of the Gross Settlement Amount, Plaintiffs shall be permitted to file the claims asserted in the Action in the bankruptcy proceedings, and such claims are not limited by the amount of the Gross Settlement Amount as set forth in this Settlement Agreement. If any settlement funds have been disbursed as provided in this agreement as of the date Defendant files for bankruptcy, Defendant shall not be entitled to a return of such funds from the recipients. However, Defendant will be entitled to claim a credit for any previously disbursed funds in the bankruptcy proceedings.
- 12.21. Enforcement Action. In the event that one or more of the Parties institutes any legal

action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorney's fees and costs, including expert witness fees in connection with any enforcement actions.

Dated: _____

AUSTEN SHWIYHAT

Dated: 07/22/2025

WALTER RAINES

W. L. Raines

Dated: _____

**DEFENDANTS MARTIN MARIETTA
MATERIALS, INC. AND MARTIN
MARIETTA NORTHERN CALIFORNIA
AGGREGATES, LLC**

Name: _____

Title: _____

APPROVED AS TO FORM ONLY:

Dated: 07/22/2025

LAVI & EBRAHIMIAN, LLP

Joseph Lavi

Joseph Lavi, Esq.

Vincent C. Granberry, Esq.

Alexander J. Aroeste, Esq.

Attorneys for WALTER L. RAINES, on behalf
of Himself and all others similarly situated

Dated: _____

EMPLOYMENT LAWYERS

Leonard Emma, Esq.

Cody Stroman, Esq.

Attorneys for AUSTEN SHWIYHAT, on behalf
of Himself and all others similarly situated

Dated: _____

AUSTEN SHWIYHAT

Dated: _____

WALTER RAINES

Dated: 7/22/25

**DEFENDANTS MARTIN MARIETTA
MATERIALS, INC. AND MARTIN
MARIETTA NORTHERN CALIFORNIA
AGGREGATES, LLC**

Name: Robert Holland

Title: Assist. Gen. Counsel

APPROVED AS TO FORM ONLY:

Dated: _____

LAVI & EBRAHIMIAN, LLP

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Vincent C. Granberry, Esq.
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of Himself and all others similarly situated

Dated: _____

EMPLOYMENT LAWYERS

Leonard Emma, Esq.
Cody Stroman, Esq.
Attorneys for AUSTEN SHWIYHAT, on behalf
of Himself and all others similarly situated

Dated: 7/24/25

**CARRINGTON, COLEMAN, SLOMAN
AND BLUMENTHAL, LLP**



Mike Birrer, Esq.
Attorney for Defendants

Dated: 7/22/2025

Dated: _____

Dated: _____

AUSTEN SHWIYHAT

DocuSigned by:

Austen Shwiyhat

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WALTER RAINES

**DEFENDANTS MARTIN MARIETTA
MATERIALS, INC. AND MARTIN
MARIETTA NORTHERN CALIFORNIA
AGGREGATES, LLC**

Name: _____

Title: _____

APPROVED AS TO FORM ONLY:

Dated: _____

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Joseph Lavi, Esq.
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Attorneys for WALTER L. RAINES, on behalf
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Dated: 7/22/2025

EMPLOYMENT LAWYERS

Leonard Emma

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