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on behalf of himself and all others similarly situated and aggrieved

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**FOR THE COUNTY OF LOS ANGELES – SPRING STREET COURTHOUSE**

MELVIN A. DELGADO, an individual, and  
on behalf of all others similarly situated,

Plaintiff,

v.

CUSTOM ALLOY SALES, INC., a  
California corporation; SOUTHLAND  
EMPLOYMENT SERVICES, INC., a  
California corporation; VENSURE  
EMPLOYER SERVICES, INC., an Arizona  
corporation; VENSURE HR, INC., an  
Arizona corporation; SOUTH EAST  
PERSONNEL LEASING, INC., a Florida  
corporation; SOUTH EAST EMPLOYEE  
LEASING SERVICES, INC., a Florida  
corporation; and DOES 1 through 100,  
inclusive,

Defendants.

CASE NO.: 20STCV26516

[Assigned for all purposes to the Hon.  
Kenneth R. Freeman in Dept. 14]

**PAGA SETTLEMENT AGREEMENT**

Action Filed: July 10, 2020

Trial Date: None set

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This PAGA Settlement Agreement (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between plaintiff Melvin A. Delgado (“Plaintiff”), on behalf of himself, the State of California, and the Aggrieved Employees; and defendants Custom Alloy Sales, Inc. (“Custom Alloy”) and Southland Employment Services, Inc. (“Southland” and collectively with Custom Alloy, “Defendants”). The Agreement refers to Plaintiff and Defendants collectively as “Parties,” or individually as “Party.”

## **1. DEFINITIONS**

**1.1. “Action”** means Plaintiff’s PAGA lawsuit alleging wage and hour violations against Defendants captioned *Melvin Delgado, et al. v. Custom Alloy Sales, Inc., et al.*, Case No. Case No. 20STCV26516, initiated on July 10, 2020, in the Superior Court of the State of California, County of Los Angeles.

**1.2. “Administrator”** means ILYM Group, Inc. (“ILYM”), 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 Employee”** means all persons employed by Custom Alloy as non-exempt hourly-paid employees, including those hired by Southland and placed to work at Custom Alloy, in California at any time during the PAGA Period.

**1.5. “Aggrieved Employee Data”** means Aggrieved Employee identifying information in Defendants’ possession including the Aggrieved Employee’s name, last-known mailing address, Social Security number, hire dates, termination dates (as applicable), and re-hire dates (as applicable).

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1           **1.6. “Aggrieved Employee Address Search”** means the Administrator’s  
2 investigation and search for current Aggrieved Employees’ mailing addresses using all  
3 reasonably available sources, methods and means, including, but not limited to, the National  
4 Change of Address database, skip traces and direct contact by the Administrator with Aggrieved  
5 Employees.

6           **1.7. “Court”** means the Superior Court of California, County of Los Angeles.

7           **1.8. “Defense Counsel”** means Philip J. Azzara of Fisher & Phillips LLP, for  
8 Defendant Southland Employment Services, Inc.; and Brian J. Mills and Anne E. Dwyer of Snell  
9 & Wilmer L.L.P., for Defendant Custom Alloy Sales, Inc.

10           **1.9. “Effective Date”** means the date by when both of the following have occurred:  
11 (a) the Court enters a Judgment on its Order Approving the PAGA Settlement; and (b) the  
12 Judgment is final. The Judgment is final on the day the Court enters Judgment, which is not  
13 subject to appeal.

14           **1.10. “Gross Settlement Amount”** means Four Hundred Thirty-Two Thousand Nine  
15 Hundred Fifty Dollars (\$432,950.00), which is the total amount Defendants agree to pay under  
16 the settlement except as provided in Paragraph 8.1 below. The Gross Settlement Amount will be  
17 used to pay Individual PAGA Payments, the LWDA PAGA Payment, the PAGA Counsel Fees  
18 Payment, the PAGA Counsel Litigation Expenses Payment, and the Administrator’s Expenses  
19 Payment.

20           **1.11. “Individual PAGA Payment”** means the 25% of the Net Settlement Amount  
21 allocated to each Aggrieved Employee based on their pro rata share of Pay Periods worked in the  
22 PAGA Period.

23           **1.12. “Judgment”** means the judgment entered by the Court based upon the Approval  
24 Order.

25           **1.13. “LWDA”** means the California Labor and Workforce Development Agency.

1           **1.14. “LWDA PAGA Payment”** means the 75% of the Net Settlement Amount  
2 payable to the LWDA under Labor Code section 2699, subd. (i).

3           **1.15. “Net Settlement Amount”** means the Gross Settlement Amount, less the  
4 following payments in the amounts approved by the Court: PAGA Counsel Fees Payment; PAGA  
5 Counsel Litigation Expenses Payment; and the Administration Expenses Payment. The  
6 remainder is the Net Settlement Amount to be paid to the LWDA and to the Aggrieved  
7 Employees as Individual PAGA Payments.

8           **1.16. “Operative Complaint”** means the first amended complaint filed in the Action.

9           **1.17. “PAGA Counsel”** means, David D. Bibiyan and Vedang J. Patel of Bibiyan Law  
10 Group, P.C. The term “PAGA Counsel” shall be used synonymously with the term “Plaintiff’s  
11 Counsel.”

12           **1.18. “PAGA Counsel Fees Payment” and “PAGA Counsel Litigation Expenses**  
13 **Payment”** mean the amounts allocated to PAGA Counsel for reimbursement of reasonable  
14 attorneys’ fees and expenses, respectively, incurred to prosecute the Action.

15           **1.19. “PAGA Pay Period” or “Pay Period”** means any Pay Period during which an  
16 Aggrieved Employee worked for Defendants, or either of them, during the PAGA Period, based  
17 on hire dates, termination dates (if applicable) and re-hire dates (if applicable).

18           **1.20. “PAGA Period”** means the period from June 10, 2019 through August 5, 2024.

19           **1.21. “PAGA”** means the Private Attorneys General Act (Labor Code §§ 2698. *et seq.*).

20           **1.22. “PAGA Notice”** means Plaintiff’s June 10, 2020 letter to Defendants and the  
21 LWDA providing notice pursuant to Labor Code section 2699.3, subd. (a).

22           **1.23. “PAGA Penalties”** means the total amount of PAGA civil penalties to be paid  
23 from the Net Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to  
24 LWDA.

25           **1.24. “Plaintiff”** means Melvin A. Delgado, the named plaintiff in the Action.

1           **1.25. “Approval Order”** means the proposed Court Order Granting Approval of  
2 PAGA Settlement.

3           **1.26. “Released PAGA Claims”** means the claims being released by the Plaintiff and  
4 PAGA Counsel and as described in Paragraph 5, below.

5           **1.27. “Released Parties”** means the Defendants, and each of their former and present  
6 directors, officers, employees, shareholders, owners, members, attorneys, insurers, professional  
7 employer organizations, predecessors, successors, assigns, subsidiaries and affiliates.

8           **1.28. “Settlement”** means the disposition of the Action effected by this Agreement and  
9 the Judgment.

10           **1.29. “Defendants”** means the named Defendants, Custom Alloy Sales, Inc. and  
11 Southland Employment Services, Inc., collectively.

12           **1.30. “Notice”** means the form of notice that will be sent to each Aggrieved Employee  
13 accompanying their Individual PAGA Payments.

14                           **2.     RECITALS**

15           **2.1.**     On June 10, 2020, Plaintiff filed with the LWDA and served on Defendants the  
16 PAGA Notice, stating Plaintiff intended to serve as a proxy of the LWDA to recover civil  
17 penalties on behalf of other non-exempt, hourly-paid employees for various alleged Labor Code  
18 violations.

19           **2.2.**     On July 10, 2020, Plaintiff commenced this Action by filing a class action  
20 complaint against Defendants in Los Angeles Superior Court alleging: failure to pay overtime  
21 and minimum wages; failure to provide meal breaks, rest breaks, or compensation in lieu thereof;  
22 waiting time penalties; wage statement violations; failure to indemnify for work-related  
23 expenses; and unfair competition.

24           **2.3.**     On January 8, 2021, Plaintiff filed an amended complaint in the Action, adding  
25 claims for civil penalties under PAGA against Defendants for the alleged Labor Code violations

1 set out in the PAGA Notice. The first amended complaint is the operative complaint in the Action.  
2 Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the  
3 laws identified in the Operative Complaint, and deny any and all liability for the causes of action  
4 alleged.

5 **2.4.** On November 22, 2021, the parties participated in an all-day mediation presided  
6 over by Mr. Steven J. Serratore, Esq., which was unsuccessful.

7 **2.5.** Thereafter, Defendants filed a motion to enforce a purported arbitration agreement  
8 between the Parties. On May 10, 2022, Defendants' motion was granted, compelling Plaintiff's  
9 individual wage and hour and PAGA claims to arbitration and staying the remaining claims in  
10 the interim. After commencing the arbitration process, the Parties agreed to stay the arbitration  
11 and attend a second mediation.

12 **2.6.** On August 5, 2024, the parties participated in a second mediation presided over by  
13 Katherine J. Edwards, Esq., which lead to the present settlement of the Action.

14 **2.7.** Prior to first mediation, Defendants agreed to informally produce the following:  
15 (1) time and pay records for a substantial number of the Aggrieved Employees from  
16 approximately July of 2016 through the present; (2) data regarding the number of Aggrieved  
17 Employees, work weeks, and pay periods during the PAGA Period; (3) company policies; (4)  
18 exemplars of arbitration agreements; and (5) various other items of information and  
19 documentation necessary to assess the claims. Based on these records and in consultation with  
20 expert consultants, Plaintiff's counsel was able to thoroughly assess the claims in advance of the  
21 mediation.

22 **2.8.** The Parties, PAGA Counsel and Defense Counsel represent that they are not  
23 aware of any other pending matter or action asserting claims that will be extinguished or affected  
24 by the Settlement.

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1                   **3.     MONETARY TERMS**

2           **3.1.     Gross Settlement Amount.** Except as otherwise provided by Paragraph 8.1  
3 below, Defendants promise to pay \$432,950.00 and no more as the Gross Settlement Amount,  
4 payable as follows: (a) Custom Alloy Sales, Inc. will pay two hundred and ninety-five thousand,  
5 four hundred and fifty dollars (\$295,450.00); and (b) Southland Employment Services, Inc. will  
6 pay one hundred and thirty-seven thousand, five hundred dollars and zero cents (\$137,500.00).  
7 Defendants shall have no obligation to pay the Gross Settlement Amount prior to the deadline  
8 stated in Paragraph 4.3 of this Agreement. The Administrator will disburse the entire Gross  
9 Settlement Amount without asking or requiring Aggrieved Employees to submit any claim as a  
10 condition of payment. None of the Gross Settlement Amount will revert to Defendants.

11           **3.2.     Payments from the Gross Settlement Amount.** The Administrator will make  
12 and deduct the following payments from the Gross Settlement Amount, in the amounts specified  
13 by the Court in the Approval Order:

14                   **3.2.1   To PAGA Counsel:** A PAGA Counsel Fees Payment of not more than  
15                   35%, which is currently estimated to be \$151,532.50, and PAGA Counsel  
16                   Litigation Expenses Payment of not more than \$40,000.00. Defendants  
17                   will not oppose requests for Court approval of these payments provided  
18                   that they do not exceed these amounts. Plaintiff and/or PAGA Counsel will  
19                   file an application or motion for PAGA Counsel Fees Payment and PAGA  
20                   Litigation Expenses Payment. If the Court approves a PAGA Counsel  
21                   Fees Payment and/or a PAGA Counsel Litigation Expenses Payment less  
22                   than the amounts requested, the Administrator will allocate the remainder  
23                   to the Net Settlement Amount. Released Parties shall have no liability to  
24                   PAGA Counsel or any other Plaintiff's Counsel arising from any claim to  
25                   any portion any PAGA Counsel Fees Payment and/or PAGA Counsel



Litigation Expenses Payment. The Administrator will pay the PAGA Counsel Fees Payment and PAGA Counsel Litigation 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 the Administrator:** An Administration Expenses Payment not to exceed \$5,850.00 except for a showing of good cause and as approved by the Court. To the extent the Administration Expenses are less or the Court approves payment less than \$5,850.00, the Administrator will allocate the remainder to the Net Settlement Amount.

**3.2.3 To the LWDA and Aggrieved Employees:** PAGA Penalties in the amount of no less than \$235,567.50, to be paid from the Gross Settlement Amount, with 75% (\$176,675.63) allocated to the LWDA PAGA Payment and 25% (\$58,891.88) allocated to the Individual PAGA Payments.

**3.2.3.1** The Administrator will calculate each Individual PAGA Payment by (a) dividing the amount of the Aggrieved Employees' 25% share of PAGA Penalties (\$58,891.88) 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 number of PAGA Pay Periods. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

1                   **3.2.3.2** If the Court approves PAGA Penalties of less than the amount  
2                   requested, the Administrator will allocate the remainder to the Net  
3                   Settlement Amount. The Administrator will report the Individual  
4                   PAGA Payments on IRS 1099 Forms.

5                   **4.     SETTLEMENT FUNDING PAYMENTS**

6                   **4.1.   Aggrieved Employee Pay Periods.** Based on a review of its records to date,  
7 Defendants estimate there are approximately 400 alleged Aggrieved Employees who worked a  
8 total of approximately 18,318 Pay Periods during the PAGA Period.

9                   **4.2.   Aggrieved Employee Data.** Within fourteen (14) days of the Effective Date,  
10 Defendants will deliver the Aggrieved Employee Data to the Administrator in the form of a  
11 Microsoft Excel spreadsheet. To protect Aggrieved Employees' privacy rights, the Administrator  
12 must maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee Data  
13 only for purposes of this Settlement and for no other purpose, and restrict access to the Aggrieved  
14 Employee Data to Administrator employees who need access to the Aggrieved Employee Data  
15 to effect and perform under this Agreement. Defendants have a continuing duty to immediately  
16 notify PAGA Counsel if it discovers that the Aggrieved Employee Data omitted employee  
17 identifying information and to provide corrected or updated Aggrieved Employee Data as soon  
18 as reasonably feasible. Without any extension of the deadline by which Defendants must send  
19 the Aggrieved Employee Data to the Administrator, the Parties and their counsel will  
20 expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any issues related  
21 to missing or omitted Aggrieved Employee Data.

22                   **4.3.   Funding of Gross Settlement Amount.** Defendants shall fully fund the Gross  
23 Settlement Amount by transmitting the funds to the Administrator no later than twenty-eight (28)  
24 days after the Effective Date.

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1           **4.4. Payments from the Gross Settlement Amount.** Within seven (7) days after  
2 Defendants funds the Gross Settlement Amount, the Administrator will mail checks for all  
3 Individual PAGA Payments, the LWDA PAGA Payment, the Administration Expenses Payment,  
4 and the PAGA Counsel Litigation Expenses Payment. Disbursement of the PAGA Counsel  
5 Litigation Expenses Payment shall not precede disbursement of Individual PAGA Payments.

6           **4.4.1.** The Administrator will issue checks for the Individual PAGA Payments  
7 and send them to the Aggrieved Employees via First Class U.S. Mail,  
8 postage prepaid. The face of each check shall prominently state the date  
9 (not less than 180 days after the date of mailing) when the check will be  
10 voided. The Administrator will cancel all checks not cashed by the void  
11 date. Before mailing any checks, the Settlement Administrator must update  
12 the recipients' mailing addresses using the National Change of Address  
13 Database.

14           **4.4.2.** The Administrator must conduct an Aggrieved Employee Address Search  
15 for all Aggrieved Employees whose checks are returned undelivered  
16 without USPS forwarding address. Within three (3) days of receiving a  
17 returned check, the Administrator must re-mail checks to the USPS  
18 forwarding address provided or to an address ascertained through the  
19 Aggrieved Employee Address Search. The Administrator need not take  
20 further steps to deliver checks to Aggrieved Employees whose re-mailed  
21 checks are returned as undelivered. The Administrator shall promptly send  
22 a replacement check to any Aggrieved Employee whose original check  
23 was lost or misplaced, requested by the Aggrieved Employee prior to the  
24 void date.

1                   **4.4.3.** For any Aggrieved Employee whose Individual PAGA Payment check is  
2                   uncashed and cancelled after the void date, the Administrator shall  
3                   transmit the funds represented by such checks to the California Controller's  
4                   Unclaimed Property Fund in the name of the Aggrieved Employee.

5                   **4.4.4.** The payment of Individual PAGA Payments shall not obligate Defendants  
6                   to confer any additional benefits or make any additional payments to the  
7                   Aggrieved Employees (such as 401(k) contributions or bonuses) beyond  
8                   those specified in this Agreement.

9                   **5.       RELEASES OF CLAIMS**

10                  Effective on the date when Defendants fully fund the entire Gross Settlement Amount,  
11                  Plaintiff and PAGA Counsel will release claims against all Released Parties as follows:

12                  **5.1.**     Plaintiff's Release. Plaintiff and his or her respective former and present spouses,  
13                  representatives, agents, attorneys (including PAGA Counsel), heirs, administrators, successors  
14                  and assigns generally release and discharge Released Parties from all claims, transactions or  
15                  occurrences that occurred prior to the execution of this Agreement, including, but not limited to,  
16                  all claims for civil penalties that were, or reasonably could have been alleged based on the facts  
17                  contained in the Operative Complaint and the PAGA Notice ("Plaintiff's Release"). Plaintiff's  
18                  Release does not extend to any claims or actions to enforce this Agreement or to any claims for  
19                  individual wage and hour claims, vested benefits, unemployment benefits, disability benefits,  
20                  social security benefits, or workers' compensation benefits. Plaintiff acknowledges that Plaintiff  
21                  may discover facts or law different from, or in addition to, the facts or law that Plaintiff now  
22                  knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain  
23                  effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery  
24                  of them.

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1                   **5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542.**

2                   For purposes of Plaintiff's Release, Plaintiff expressly waives and  
3                   relinquishes the provisions, rights and benefits, if any, of section 1542 of  
4                   the California Civil Code, which reads:

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

9                   **5.1.2.** The above release expressly excludes Plaintiff's individual wage and hour  
10                  claims which were compelled to arbitration.

11               **5.2. Release of PAGA Claims.** For the duration of the PAGA Period, and to the extent  
12               permitted by law, the LWDA, the State of California, and the Aggrieved Employees, by and  
13               through Plaintiff as an agent and proxy of the LWDA, release the Released Parties from all claims  
14               for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts  
15               stated in the Operative Complaint and the PAGA Notice, including, but not limited to, claims for  
16               PAGA penalties pursuant to Labor Code sections 210, 226.3, 558, 1174.5, 1197.1, and 2699 in  
17               connection with alleged violations of Labor Code sections Labor Code sections 200, 201, 202,  
18               203, 204, 210, 226, 226.3, 226.7, 246 *et seq.*, 432, 510, 512, 558, 1174, 1174.5, 1194, 1194.2,  
19               1197, 1197.1, 1198.5, 2699, 2802, and 2810.5.

20               **5.3. Release by PAGA Counsel:** PAGA Counsel releases, on behalf of its present and  
21               former attorneys, employees, agents, successors and assigns, the Released Parties from all claims  
22               for PAGA Fees incurred in connection with the Action, the Operative Complaint, the PAGA  
23               Notice, and the PAGA Period facts stated in the Operative Complaint and the PAGA Notice.

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1                               **6.       MOTION OR APPLICATION FOR APPROVAL OF**  
2   **SETTLEMENT**

3               The Parties agree to jointly prepare and file an application or motion for approval of this  
4 Settlement.

5               **6.1.    Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel  
6 all documents necessary for obtaining approval of this Settlement under Labor Code Section  
7 2699, subd. (f)(2) including (i) a draft proposed Order Granting Approval of PAGA Settlement;  
8 (ii) a signed declaration from the Administrator attaching its "not to exceed" bid for administering  
9 the Settlement and attesting to its willingness to serve; competency; operative procedures for  
10 protecting the security of Aggrieved Employee Data; amounts of insurance coverage for any data  
11 breach, defalcation of funds or other misfeasance; all facts relevant to any actual or potential  
12 conflicts of interest with Aggrieved Employees or the LWDA; and the nature and extent of any  
13 financial relationship with Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed  
14 declaration from PAGA Counsel attesting to its timely transmission to the LWDA of all  
15 necessary PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)),  
16 the Operative Complaint (Labor Code section 2699, subd. (l)(1)), and this Agreement (Labor  
17 Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential conflict of  
18 interest with Aggrieved Employees and/or the Administrator. In their Declarations, Plaintiff and  
19 PAGA Counsel shall aver that they are not aware of any other pending matter or action asserting  
20 claims that will be extinguished or adversely affected by the Settlement.

21               **6.2.    Responsibilities of PAGA Counsel.** PAGA Counsel and Defense Counsel are  
22 jointly responsible for expeditiously finalizing and filing the application or motion for approval  
23 of this Settlement after the full execution of this Agreement and, if necessary, obtaining a prompt  
24 hearing date for the motion and appearing in Court to advocate in favor of the motion. PAGA  
25 Counsel is responsible for delivering the Court's Approval Order to the Administrator.

1           **6.3. Duty to Cooperate.** If the Parties disagree on any aspect of the proposed  
2 application or motion for approval of this Settlement and/or the supporting declarations and  
3 documents, PAGA Counsel and Defense Counsel will expeditiously work together on behalf of  
4 the Parties by meeting and conferring, in good faith, to resolve the disagreement. If the Court  
5 does not grant the motion for approval of this Settlement or conditions its approval on any  
6 material change to this Agreement, PAGA Counsel and Defense Counsel will expeditiously work  
7 together on behalf of the Parties by meeting and conferring, in good faith, to modify the  
8 Agreement and otherwise satisfy the Court’s concerns.

9                           **7. SETTLEMENT ADMINISTRATION**

10           **7.1. Selection of Administrator.** The Parties have jointly selected ILYM to serve as  
11 the Administrator and verified that, as a condition of appointment, ILYM agrees to be bound by  
12 this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange  
13 for payment of Administration Expenses. The Parties and their Counsel represent that they have  
14 no interest or relationship, financial or otherwise, with the Administrator other than a professional  
15 relationship arising out of prior experiences administering settlements.

16           **7.2. Employer Identification Number.** The Administrator shall have and use its own  
17 Employer Identification Number for purposes of calculating payroll tax withholdings and  
18 providing reports to state and federal tax authorities.

19           **7.3. Qualified Settlement Fund.** The Administrator shall establish a settlement fund  
20 that meets the requirements of a Qualified Settlement Fund (“QSF”) under US Treasury  
21 Regulation section 468B-1.

22           **7.4. Administrator Duties.** The Administrator has a duty to perform or observe all  
23 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

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1                   **8.     AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR**  
2                   **CLAUSE**

3           Based on its records, Defendants estimate that, as of the date of this Settlement Agreement  
4 there are approximately 400 Aggrieved Employees who worked approximately 18,318 Pay  
5 Periods during the PAGA Period.

6           **8.1     Increase in the Gross Settlement Amount.** Defendants represent that there are  
7 no more than 18,318 total Pay Periods at issue during the PAGA Period. In the event the number  
8 of Pay Periods worked by Aggrieved Employees during the PAGA Period increases by more  
9 than 10% (e.g., more than 20,150 total Pay Periods), then the Gross Settlement Amount shall be  
10 increased proportionally by the number of Pay Periods in excess of 20,150. Thus, for example,  
11 if the number of Pay Periods worked by the Aggrieved Employees during the PAGA Period  
12 actually were to increase by 12%, the Gross Settlement Amount to be paid would be increased  
13 by 2%, \$8,659.00, for a total Gross Settlement Amount of \$441,609.00. This provision shall  
14 only be triggered in the event the actual number of Pay Periods worked by Aggrieved Employees  
15 exceeds 20,150.

16                   **9.     CONTINUING JURISDICTION OF THE COURT**

17           The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the  
18 Parties, the Action, and the Settlement solely for purposes of (i) enforcing this Agreement and/or  
19 Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-  
20 Judgment matters as are permitted by law.

21           **9.1.     Waiver of Right to Appeal.** Provided the Judgment is consistent with the terms  
22 and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and  
23 PAGA Counsel Litigation Expenses Payment, the Parties and their respective counsel waive all  
24 rights to appeal from the Judgment, including all rights to post-judgment and appellate  
25 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 the Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

**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

1 to effectuate its terms, and to execute any other documents reasonably required to effectuate the  
2 terms of this Agreement including any amendments to this Agreement.

3 **10.4. Cooperation.** The Parties and their counsel will cooperate with each other and  
4 use their best efforts, in good faith, to implement the Settlement by, among other things,  
5 modifying the Settlement Agreement, submitting supplemental evidence and supplementing  
6 points and authorities as requested by the Court. In the event the Parties are unable to agree upon  
7 the form or content of any document necessary to implement the Settlement, or on any  
8 modification of the Agreement that may become necessary to implement the Settlement, the  
9 Parties will seek the assistance of a mediator and/or the Court for resolution.

10 **10.5. No Prior Assignments.** The Parties separately represent and warrant that they  
11 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,  
12 or encumber to any person or entity and portion of any liability, claim, demand, action, cause of  
13 action, or right released and discharged by the Party in this Settlement.

14 **10.6. No Tax Advice.** Neither Plaintiff, PAGA Counsel, Defendants nor Defense  
15 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this  
16 Settlement be relied upon as such within the meaning of United States Treasury Department  
17 Circular 230 (31 CFR Part 10, as amended) or otherwise.

18 **10.7. Modification of Agreement.** This Agreement, and all parts of it, may be  
19 amended, modified, changed, or waived only by an express written instrument signed by all  
20 Parties or their representatives and approved by the Court.

21 **10.8. Agreement Binding on Successors.** This Agreement will be binding upon, and  
22 inure to the benefit of, the successors of each of the Parties.

23 **10.9. Applicable Law.** All terms and conditions of this Agreement and its exhibits will  
24 be governed by and interpreted according to the internal laws of the state of California, without  
25 regard to conflict of law principles.

1           **10.10. Cooperation in Drafting.** The Parties have cooperated in the drafting and  
2 preparation of this Agreement. This Agreement will not be construed against any Party on the  
3 basis that the Party was the drafter or participated in the drafting.

4           **10.11. Confidentiality.** To the extent permitted by law, all agreements made, and orders  
5 entered during Action and in this Agreement relating to the confidentiality of information shall  
6 survive the execution of this Agreement.

7           **10.12. Use of Aggrieved Employee Data.** Information provided to PAGA Counsel  
8 pursuant to Cal. Evid. Code §1152, and all copies and summaries of the PAGA Data provided to  
9 PAGA Counsel by Defendants in connection with the mediation, other settlement negotiations,  
10 or in connection with the Settlement, may be used only with respect to this Settlement, and no  
11 other purpose, and may not be used in any way that violates any existing contractual agreement,  
12 statute, or rule of court.

13           **10.13. Headings.** The descriptive heading of any section or paragraph of this Agreement  
14 is inserted for convenience of reference only and does not constitute a part of this Agreement.

15           **10.14. Calendar Days.** Unless otherwise noted, all reference to “days” in this Agreement  
16 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a  
17 weekend or federal legal holiday, such date or deadline shall be on the first business day  
18 thereafter.

19           **10.15. No Publicity.** Plaintiff and PAGA Counsel agree that they will not issue any press  
20 releases, initiate any contact with the press, respond to any press inquiry or have any  
21 communication with the press about this case and/or the fact, amount or terms of this Settlement.  
22 Plaintiff and PAGA Counsel agree that they will not engage in any advertising or distribute any  
23 marketing materials relating to this Settlement, including but not limited to any postings on any  
24 websites maintained by PAGA Counsel; provided, however, that PAGA Counsel may state that  
25

1 it has settled a PAGA action against a manufacturing and a staffing company so long as neither  
2 Defendants nor the Plaintiff are identified.

3 **10.16. Notice.** All notices, demands or other communications between the Parties in  
4 connection with this Agreement will be in writing and deemed to have been duly given as of the  
5 third business day after mailing by United States mail, or the day sent by email or messenger,  
6 addressed as follows:

7 To Plaintiff:

8 Bibiyan Law Group, P.C.

9 1460 Westwood Boulevard

10 Los Angeles, California 90024.

11 To Defendant Southland Employment Services, Inc.:

12 Fisher & Phillips LLP

13 Philip J. Azzara, Esq.

14 2050 Main Street, Suite 1000

15 Irvine, CA 92614;

16 To Defendant Custom Alloy Sales, Inc.:

17 Snell & Wilmer L.L.P

18 600 Anton Boulevard, Suite 1400


19 Costa Mesa, California 92626-7689

20 **10.17. Execution in Counterparts.** This Agreement may be executed in one or more  
21 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this  
22 Agreement shall be accepted as an original. All executed counterparts and each of them will be  
23 deemed to be one and the same instrument if counsel for the Parties will exchange between  
24 themselves signed counterparts. Any executed counterpart will be admissible in evidence to  
25 prove the existence and contents of this Agreement.

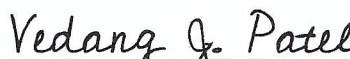
1           **10.18. Stay of Litigation.** The Parties agree that upon the execution of this Agreement  
2 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further  
3 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the  
4 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement  
5 process.


6           **10.19. Severability.** In the event that one or more of the provisions contained in this  
7 Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such  
8 invalidity, illegality, or unenforceability shall in no way effect any other provision if Defendants'  
9 Counsel and PAGA Counsel, on behalf of the Parties and the Aggrieved Employees, mutually  
10 elect in writing to proceed as if such invalid, illegal, or unenforceable provision had never been  
11 included in this Agreement.

12 **IT IS SO AGREED:**

13   
14 Melvin Delgado (Mar 2, 2025 12:13 PST)  
For Plaintiff, Melvin A. Delgado

  
For Defendant, Custom Alloy Sales, Inc.

16  
17  
18   
19 David D. Bibiyan  
Vedang J. Patel  
20 Counsel for Plaintiff

For Defendant, Southland Employment  
Services, Inc.  
  
Brian J. Mills, Esq.  
Anne E. Dwyer, Esq.  
Counsel for Defendant, Custom Alloy Sales,  
Inc.

22 Philip J. Azzara  
Counsel for Defendant, Southland  
23 Employment Services, Inc.  
24  
25

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11 included in this Agreement.

12 **IT IS SO AGREED:**

13  
14 \_\_\_\_\_  
For Plaintiff, Melvin A. Delgado

\_\_\_\_\_

15  
16 \_\_\_\_\_  
For Defendant, Custom Alloy Sales, Inc.  
17 For Defendant, Southland Employment  
Services, Inc.

18  
19 \_\_\_\_\_  
David D. Bibiyan  
Vedang J. Patel  
20 Counsel for Plaintiff

\_\_\_\_\_

21 \_\_\_\_\_  
22 Brian J. Mills, Esq.  
Anne E. Dwyer, Esq.  
23 Counsel for Defendant, Custom Alloy Sales,  
Inc.  
24 \_\_\_\_\_  
Philip J. Azzara  
25 Counsel for Defendant, Southland  
Employment Services, Inc.