

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Office of the Attorney General**



In the Matter of Tricon Construction, Inc.,  
et al.

**SETTLEMENT AGREEMENT**

This Settlement Agreement (the “Agreement”) is entered into by and between the Attorney General for the District of Columbia, on behalf of the District of Columbia (the “District”), and Respondents Tricon Construction, Inc. (“Tricon”), Zepeda Drywall, Inc. (“Zepeda”), RJA Construction, Inc. (“RJA”), G&O Drywall, Inc. (“G&O”), and SGA Construction Corp. (“SGA”). The District, Tricon, Zepeda, RJA, G&O, and SGA are collectively referred to herein as the “Parties.”

WHEREAS, workers were engaged by Tricon’s subcontractors including Zepeda, RJA, G&O, and SGA to perform work on Tricon projects in the District of Columbia during the period from January 1, 2018 through the present;

WHEREAS, disputes have arisen between the District and Tricon, Zepeda, RJA, G&O, and SGA relating to the manner in which the workers were classified by Tricon’s subcontractors as independent contractors and the leave benefits that the workers received, including, but not limited to, alleged violations of the District of Columbia Workplace Fraud Act (“WFA”), D.C. Code § 32-1331.01, *et seq.*, and the Sick and Safe Leave Act (“SSLA”), D.C. Code § 32-531.01, *et seq.*;

WHEREAS, the Parties have entered into this Agreement to resolve a good-faith dispute as to possible entitlements to damages and penalties under the WFA and SSLA in order to avoid any further litigation;

NOW THEREFORE, in consideration of the promises and releases contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, THE PARTIES AGREE AS FOLLOWS:

**1. THE PARTIES:**

**a.** The District of Columbia, a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the seat of the government of the United States. The Attorney General for the District of Columbia is the chief legal officer for the District of Columbia. Pursuant to D.C. Code § 32-1306, the Attorney General for the District of Columbia is authorized to bring civil actions seeking back wages, liquidated damages, civil penalties, costs, attorneys' fees, and equitable relief for violations of the WFA and SSLA.

**b.** Tricon is a Maryland corporation that provides subcontracting services relating to framing and drywall installation in the District of Columbia, Maryland, and Virginia.

**c.** Zepeda is a Virginia corporation that provides subcontracting services relating to framing and drywall installation in the District of Columbia, Maryland, and Virginia.

**d.** RJA is a Virginia corporation that provides subcontracting services relating to framing and drywall installation in the District of Columbia, Maryland, and Virginia.

**e.** G&O is a Maryland corporation that provides subcontracting services relating to framing and drywall installation in the District of Columbia, Maryland, and Virginia.

**f.** SGA is a Virginia corporation that provides subcontracting services relating to framing and drywall installation in the District of Columbia, Maryland, and Virginia.

**2. THE CLAIMS:**

**a.** The District alleges that from 2018 through the present, Tricon completed construction projects in the District of Columbia by entering into agreements with subcontractors (including Zepeda, RJA, G&O, and SGA), who, in turn, supplied Tricon with construction workers (“Workers”). The District’s allegations, as detailed in Paragraphs 2(a) - 2(d) herein and pertaining to the period from January 1, 2018 through the Effective Date (as defined below), are referred to as the “Covered Conduct.”

**b.** The District alleges that the Workers were often misclassified as independent contractors when they should have been classified as employees, in violation of the WFA.

**c.** The District further alleges that the Workers were denied paid sick leave to which they were entitled under the SSLA.

**d.** The District alleges that Tricon exercised extensive supervision and control over the Workers and, as a result, is liable for violations of the WFA and the SSLA as a joint employer of the Workers. The District also alleges that Tricon is strictly liable for its subcontractors’ misclassification violations of the WFA and SSLA.

**e.** Tricon, Zepeda, RJA, G&O, and SGA deny the District’s allegations in Paragraphs 2(a) – 2(d) and further deny that their practices violated District law.

**f.** To avoid delay, uncertainty, inconvenience, and expense of any protracted litigation, the Parties have reached a full and final Settlement Agreement as set forth herein.

**3. THE EFFECTIVE DATE:** The “Effective Date” shall be the last date upon which any Party hereto executes the Agreement.

**4. PAYMENT TERMS:**

**a.** Tricon agrees to pay, in the manner set forth below, a total of three-hundred fifty thousand dollars (\$350,000) (the “Total Settlement Amount”), as detailed herein below. The

Total Settlement Amount shall be comprised of a “Worker Share” equaling two-hundred thousand dollars (\$200,000) to be paid to the affected Workers (as identified by RJA, Zepeda, G&O, and SGA and consistent with the payment terms detailed in subparagraph b. below) and a “Penalty Share” equaling one-hundred fifty thousand dollars (\$150,000) to be paid to the District.

b. The Worker Share shall be paid in five (5) installments, with the first such installment being paid on or before March 31, 2024. Each subsequent installment of the Worker Share shall be paid on the three (3) month anniversary of the prior installment. Notwithstanding the foregoing, Tricon may, at its option, elect to pay out the entire amount of the Worker Share to the affected Workers in fewer than five (5) installments. The Worker Share shall be paid out in equal amounts of not more than \$1,000.00 per worker to each of the affected Workers identified to Tricon by RJA, Zepeda, G&O, and SGA.

- i. **Reasonable Efforts to Distribute Worker Share.** Tricon, RJA, Zepeda, G&O, and SGA shall undertake reasonable and good-faith efforts to identify affected Workers and distribute claim payments. Tricon, RJA, Zepeda, G&O, and SGA may require affected Workers to execute a Release Form as a condition of accepting a claim payment. (A copy of the Release Form is attached as Appendix A.)
- ii. **Claims Ledger.** Tricon, RJA, Zepeda, G&O, and SGA shall maintain a “Claims Ledger” that documents (a) the identity of all affected Workers who received a claim payment and (b) the amounts and dates on which the affected Worker was paid. Tricon shall provide the District with a copy of the Claims Ledger sixty (60) days after the completion of the Worker Share payment installment period (i.e., sixty days after the last of the Worker Share installment payments has been made).
- iii. **Reversion of Undistributed Funds to the District.** The term “Undistributed Funds” refers to the Worker Share less the total amount paid out to affected Workers at the end of the installment period. Tricon will notify the District of the Undistributed Funds amount, if any, through providing the Claims Ledger and pay the District the Undistributed Funds amount within sixty (60) days after submitting the Claims Ledger. Undistributed Funds may be used by the District for any lawful purpose, including but not limited to deposit to the District’s litigation support fund; defrayal of the costs of the inquiry leading

hereto; defrayal of the costs of administration and distribution; or for other uses permitted by District law, at the sole discretion of the Attorney General for the District of Columbia. Tricon agrees to cooperate with the District in obtaining any modification to the language of this paragraph needed to facilitate the District's administration of the payment under this paragraph.

c. The Penalty Share shall be paid in five (5) equal installments of thirty-thousand dollars (\$30,000.00), with the first such installment being paid on or before the fifth (5<sup>th</sup>) business day after the Effective Date of this Agreement. Each subsequent installment of the Penalty Share shall be paid on the three (3) month anniversary of the prior installment. Payments made pursuant to the Penalty Share may be used for any lawful purpose, including but not limited to deposit to the District's litigation support fund; defrayal of the costs of the inquiry leading hereto; defrayal of the costs of administration and distribution; or for other uses permitted by District law, at the sole discretion of the Attorney General for the District of Columbia. Tricon agrees to cooperate with the District in obtaining any modification to the language of this paragraph needed to facilitate the District's administration of the payment under this paragraph.

d. Payment of the Penalty Share shall be by ACH transfer to an account designated by the District in a notice provided to the individual designated in Paragraph 16 within five (5) business days following the Effective Date.

**5. INJUNCTIVE TERMS:**

a. **Subcontractor Compliance.** Zepeda, RJA, G&O, and SGA agree to implement policies and procedures to ensure prospective compliance with the WFA and SSLA including, but not limited to, classifying workers as employees consistent with the requirements of D.C. Code § 32-1331.04 and providing employees with paid sick leave accrual consistent with the requirements of D.C. Code § 32-531.01, *et seq.*

**b. Certified Payroll.** Tricon will require all subcontractors retained for projects in the District of Columbia to submit weekly certified payroll reports to Tricon that certify the subcontractor is in compliance with the WFA and SSLA. Tricon will use a certified payroll form that requires the subcontractor to certify (a) identifying information pertaining to the subcontractor and project, (b) the names of their workers, (c) their classification as employees or independent contractors, (d) their hours worked each day, (e) their rate of pay, (f) their gross earnings, (g) tax deductions, (h) net earnings, and (i) a sworn certification that the subcontractor is in compliance with the District's WFA and SSLA. Certified payroll records may be modeled on U.S. Department of Labor Form WH-347. Tricon shall maintain the above-referenced certified payroll practice and records for a period of four (4) years.

**c. Auditing.** For each subcontractor retained by Tricon to perform work on a construction project in the District, Tricon will also complete and include in the Annual Report referenced below at least one (1) random audit for the subcontractor for each project on which the subcontractor is retained during the time period in which the subcontractor is completing the work. The audit shall compare the subcontractor's certified payroll records with a randomized sample of the subcontractor's payment and/or pay stub records to verify the subcontractor's compliance with the District's WFA and SSLA.

**d. Reporting.** Tricon shall submit an Annual Report to the District for calendar years 2024 through 2027 that (i) identifies all subcontractors who performed work for Tricon in the District during the calendar year and a signed certification from each identified subcontractor attesting to compliance with the District's WFA and SSLA and (ii) includes summaries of all audits performed pursuant to Paragraph 5.b. above. Tricon shall submit each Annual Report containing this information to the District by February 28<sup>th</sup> of the following year.

**e. Corrective Action.** If Tricon becomes aware, through an audit or other source, that a subcontractor is in violation of the WFA or SSLA, Tricon will take action within thirty (30) days to ensure the subcontractor comes into compliance and pays any applicable restitution to any affected worker to remedy the violation. If such subcontractor fails to come into compliance and/or pay any applicable restitution to any affected worker to remedy the violation, Tricon will promptly give notice to the District of Columbia of the failure to comply no later than thirty (30) days after Tricon has determined that the subcontractor has failed to come into compliance and/or pay any applicable restitution.

**f. Notice of Settlement.** Tricon will deliver a copy of any final settlement agreement reached with the District of Columbia to each of its current and future officers and/or directors who have authority with respect to the subject matter of the settlement agreement.

**g. Subcontractor Compliance.** Zepeda, RJA, G&O, and SGA agree to comply with each of the above-described injunctive terms (set forth in subparagraphs 5(a) through 5(e) above) with respect to any subcontractors they retain going forward on Tricon projects in the District of Columbia.

**h. Salazar & Valencia Construction, LLC.** Tricon further agrees that it will not engage Salazar & Valencia Construction, LLC as a subcontractor on any of its projects in the District during the period beginning on the Effective Date of this Agreement and ending on the four year anniversary of the Effective Date. To the extent that Salazar & Valencia Construction, LLC is presently engaged as a subcontractor on any Tricon projects in the District, Tricon agrees that it will terminate any such subcontractor relationship based on the District's allegation that Salazar & Valencia Construction, LLC has violated the WFA and/or the SSLA and/or aided or participated in violations of the WFA and/or SSLA.

6. **RELEASE OF CLAIMS:** In exchange for receipt of the full payment of the Worker Share and District Share set forth in Paragraph 4 above and other good and sufficient consideration set forth herein, the District hereby fully and finally releases Tricon, Zepeda, RJA, G&O, and SGA and/or any of their officers, directors, owners, and/or employees (“Releasees”), jointly and/or severally, from any and all civil claims, demands, causes of action, charges, complaints, and/or liabilities of whatever kind and nature, whether known or unknown (“Claims”), that the Attorney General could have asserted prior to the Effective Date under the WFA and SSLA for actions arising out of the Covered Conduct. Notwithstanding the foregoing, nothing in this release and/or Agreement shall prevent or prohibit the District from taking appropriate enforcement action against Releasees with respect to the payment and/or injunctive terms hereof, as set forth in Paragraph 5 above and each of its subparagraphs. Nor shall anything in this release and/or Agreement constrain the right of the District to bring any enforcement action against any entities other than Releasees that performed work at Tricon worksites, including against any Tricon subcontractor; provided that, in the event that the District brings an enforcement action against a non-Releasee Tricon subcontractor with respect to Covered Conduct predating the Effective Date, this release shall apply to preclude any upstream liability with respect to such Covered Conduct (consistent with the terms of the first sentence of this Release of Claims) as to Tricon, Zepeda, RJA, G&O, and/or SGA.

7. **ENFORCEMENT:** If the District has a good-faith belief that Tricon has violated the payment terms of this Agreement and/or that Tricon, Zepeda, RJA, G&O, and/or SGA have violated the injunctive terms of this Agreement, the District shall provide written notice (the “Notice”) to the Party believed to have violated the Agreement, by e-mail and First Class U.S. Mail at least thirty (30) days prior to taking any enforcement action against such Party with



respect to the Agreement. Following the issuance of the Notice, the Parties may attempt to resolve the dispute without enforcement action, provided that nothing in this paragraph prevents the District from taking enforcement action with respect to the Agreement following the expiration of the thirty (30) day period described in this Paragraph.

8. **NO CONCESSION THAT CLAIMS WERE NOT WELL-FOUNDED:** The District's agreement to enter into this Agreement does not constitute, and shall not be construed as, a concession that its allegations concerning the Covered Conduct were not well-founded.

9. **NO ADMISSION OF LIABILITY:** The Parties acknowledge and agree that the making of this Agreement is not intended, and shall not be construed, as an admission that any of the Parties has violated any federal, state, or local law or otherwise engaged in any improper action or conduct.

10. **MERGER:** Each of the Parties warrants that no promise, inducement, or agreement not expressed herein has been made in connection with those matters released herein, and that this Agreement constitutes the entire agreement between the Parties as to the matters addressed herein and supersedes all prior or contemporaneous written or oral communications, understandings, and agreements with respect to those matters. In any action undertaken by the Parties, neither prior versions of this Settlement Agreement nor prior versions of any of its terms may be introduced for any purpose whatsoever. It is expressly understood and agreed that this Agreement may not be altered, amended, modified, or otherwise changed in any respect whatsoever except by a writing duly executed by authorized representatives of each of the Parties.

11. **AGREEMENT NOT TO BE CONSTRUED AGAINST ANY PARTY:** Each of the Parties acknowledges that it has participated in the drafting and preparation of this

Agreement, and hence no rule of construction may be used to construe this Agreement against any of the Parties by virtue of her/its role in drafting this Agreement.

12. **THIRD PARTIES:** Respondents shall not knowingly permit third parties authorized by the Respondents to act on their behalf to engage in practices that would be violative of this Settlement Agreement.

13. **GOVERNING LAW AND FORUM:** This Agreement shall be governed by and construed in accordance with the laws of the District of Columbia, without giving effect to its principles or rules of conflict of laws to the extent such principles or rules would require or permit the application of the laws of another jurisdiction. The Parties agree that any action brought to enforce or rescind this Agreement and/or to determine the validity of any of its provisions shall be brought exclusively in the Superior Court for the District of Columbia.

14. **HEADINGS:** The headings in this Agreement are for the purpose of convenience only and are not meant to modify or affect the terms of the Paragraph to which they belong.

15. **COUNTERPARTS:** This Settlement Agreement shall be considered effective and fully executed on the Effective Date. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties agree that a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature. Copies of signature pages transmitted electronically shall have the same effect as originals of those signature pages.

16. **SEVERABILITY:** If any clause, provision, or section of this Settlement Agreement shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Settlement Agreement and this Settlement Agreement shall be construed and enforced as if such

illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

17. **ENTITIES:** Respondents shall not form separate entities or corporations for the purpose of engaging in acts or practices in whole or in part that are prohibited in this Settlement Agreement.

18. **NO WAIVER:** Any failure by any party to this Settlement Agreement to insist upon the strict performance by any other party of any of the provisions of this Settlement Agreement shall not be deemed a waiver of any of the provisions of this Settlement Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Settlement Agreement.

19. **NOTICES:** All notices sent pursuant to this Agreement shall be provided to the following addresses via First Class U.S. Mail and electronic mail (e-mail), unless a different address is specified in writing by the Party changing such address:

**To the District:**

James Graham Lake  
Chief, Workers' Rights and Antifraud Section  
Deepinder Goraya  
Assistant Attorney General  
DC Office of the Attorney General  
400 6<sup>th</sup> Street, N.W., 10<sup>th</sup> Floor  
Washington, D.C. 20001  
[Graham.Lake@dc.gov](mailto:Graham.Lake@dc.gov)  
[Deepinder.goraya@dc.gov](mailto:Deepinder.goraya@dc.gov)

**To Tricon:**

Matthew H. Sorensen, Esq.  
Edward W. Cameron, Esq.  
Cameron McEvoy, PLLC  
4100 Monument Corner Drive, Suite 420  
Fairfax, VA 22030  
[msorensen@cameronmcevoy.com](mailto:msorensen@cameronmcevoy.com)

[ecameron@cameronmcevoy.com](mailto:ecameron@cameronmcevoy.com)

*with a copy to*

Kenneth E. Klinck  
President/CEO  
Tricon Construction, Inc.  
1670 Village Green  
Crofton, MD 21114-0114  
[KKlinck@triconmail.com](mailto:KKlinck@triconmail.com)

**To Zepeda:**

Lester Zepeda  
President  
Zepeda Drywall, Inc.  
7724 Jervis St.  
Springfield, Va. 22151

**To RJA:**

Juan Segura  
President  
RJA Construction, Inc.  
11316 Falling Creek Dr.  
Bealton, VA 22712-7725

**To G&O:**

Jorge Orellana  
President  
G&O Drywall, Inc.  
11431 Lockwood Dr., Apt. #204  
Silver Spring, MD 20904

**To SGA:**

Cindy Lovato  
Vice President  
SGA Construction Corp.  
4502 Erin Dr.  
Haymarket, VA 20169-2207

The Parties acknowledge that they have read the foregoing Agreement, understand its contents, and accept and agree to the provisions it contains and hereby execute it voluntarily and

knowingly and with full understanding of its consequences. The Parties further acknowledge that they have been represented by counsel of their choice (or had the opportunity to obtain counsel of their own choice before signing this agreement and have elected not to do so), and have been provided with a reasonable period in which to consider the terms of this agreement. The Parties acknowledge this Agreement fairly and reasonably resolves the disputes settled herein.

**[SPACE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed.

**BRIAN L. SCHWALB**  
**ATTORNEY GENERAL FOR THE**  
**DISTRICT OF COLUMBIA**

By: James Graham Lake  
James Graham Lake  
Chief, Workers' Rights and Antifraud  
Section  
Office of the Attorney General  
400 6<sup>th</sup> St., N.W., 10<sup>th</sup> Floor  
Washington, DC 20001

DATE: 2/22/24

**TRICON CONSTRUCTION, INC.**

By: Kenneth E. Klinck  
Kenneth E. Klinck  
President & CEO  
Tricon Construction, Inc.

DATE: 2-13-24

**ZEPEDA DRYWALL, INC.**

Lester Zepeda  
Lester Zepeda  
President  
Zepeda Drywall, Inc.

DATE: 2/15/2024

**RJA CONSTRUCTION, INC.**

By: Juan Segura  
Juan Segura  
President  
RJA Construction, Inc.

DATE: 2/15/2024

**G&O DRYWALL, INC.**

Jorge Orellana  
Jorge Orellana  
President  
G&O Drywall, Inc.

DATE: 2/15/2024

**SGA CONSTRUCTION CORP.**

By: Cindy Lovato  
Cindy Lovato  
Vice President  
SGA Construction Corp.

DATE: 2/20/24

**RECEIPT OF SETTLEMENT PAYMENT**  
**AND RELEASE OF CLAIMS**

The Office of the Attorney General for the District of Columbia (“OAG”) and Tricon Construction, Inc., Zepeda Drywall, Inc., RJA Construction, Inc., G&O Drywall, Inc., and SGA Construction Corp. (together, “Respondents”) have reached a Settlement Agreement to resolve an OAG investigation of Respondents relating to their compliance with the District of Columbia Workplace Fraud Act (“WFA”), D.C. Code § 32-1331.01, *et seq.*, and the Sick and Safe Leave Act (“SSLA”), D.C. Code § 32-531.01, *et seq.*, between 2018-2023.

Pursuant to the Settlement Agreement, it has been determined that you are entitled to compensation of \$ \_\_\_\_\_. You may claim this compensation by signing the agreement below.

By signing below, you acknowledge that:

1. You have received payment from Respondents in the amount of \$ \_\_\_\_\_ and you have accepted this payment.
2. You agree that in exchange for this payment you hereby release Respondents, including their officers, directors, employees, agents, and assigns, of any and all claims, demands, causes of action, charges, complaints, and/or liabilities of whatever kind and nature, whether known or unknown, that you could have asserted prior to this date under the WFA and SSLA for actions arising out of Respondents’ work on District of Columbia worksites.

Payment Amount: \$ \_\_\_\_\_.

**PAYEE**

**TRICON CONSTRUCTION, INC.**

Name: \_\_\_\_\_

By: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ZEPEDA DRYWALL, INC.**

\_\_\_\_\_  
Lester Zepeda  
President  
Zepeda Drywall, Inc.

DATE: \_\_\_\_\_

**RJA CONSTRUCTION, INC.**

By: \_\_\_\_\_  
Juan Segura  
President  
RJA Construction, Inc.

DATE: \_\_\_\_\_

**G&O DRYWALL, INC.**

\_\_\_\_\_  
Jorge Orellana  
President  
G&O Drywall, Inc.

DATE: \_\_\_\_\_

**SGA CONSTRUCTION CORP.**

By: \_\_\_\_\_  
Cindy Lovato  
Vice President  
SGA Construction Corp.

DATE: \_\_\_\_\_