

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is entered into by and between Security Management of South Carolina, LLC (“Respondent”) and the United States Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section (“IER”) (together, “the Parties”).

### I. BACKGROUND

WHEREAS, on March 1, 2019, IER received from the Office of Federal Contract Compliance the referral of a charge filed by [REDACTED] (“Injured Party”), DJ # 197-67-65, alleging that Respondent refused to hire the Injured Party because of his citizenship status, in violation of the anti-discrimination provision of the Immigration and Nationality Act, 8 U.S.C. § 1324b (“Act”);

WHEREAS, on March 11, 2019, IER notified Respondent that it had initiated an investigation of the Injured Party’s allegations, DJ # 197-67-65, and on June 17, 2019, notified Respondent that it initiated an independent investigation, DJ # 197-67-67 (together, “the IER Investigations”), into whether Respondent engaged in any pattern or practice of discrimination in violation of 8 U.S.C. § 1324b(a)(1);

WHEREAS, IER concluded based upon the IER Investigations that there is reasonable cause to believe that Respondent unlawfully discriminated against the Injured Party, a naturalized U.S. citizen, by withdrawing its conditional offer of employment for a security officer position in South Carolina, based on his citizenship status;

WHEREAS, Respondent posted job advertisements from at least April 2018 through December 2019, for its security officer positions in Georgia specifying that only U.S. citizen applicants would be considered for employment, and implemented the citizenship restriction in hiring for the positions. The restriction unlawfully excluded work authorized non-U.S. citizens, including lawful permanent residents, asylees, and refugees;

WHEREAS, IER concluded based upon the IER Investigations that there is reasonable cause to believe Respondent engaged in a pattern or practice of discrimination by routinely posting job advertisements for security officers in Georgia that unlawfully excluded work authorized non-U.S. citizens, including lawful permanent residents, asylees, and refugees, in violation of 8 U.S.C. § 1324b(a)(1);

WHEREAS, Respondent, by entering into this Agreement, does not admit to any violations or intentional wrongdoings of any kind;

WHEREAS, the Parties wish to resolve any claims based on the IER Investigations without further delay or expense and hereby acknowledge that they are voluntarily entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual promises contained below and to fully and finally resolve claims based on the IER Investigations as of the date of the latest signature below, the Parties agree as follows:

## **II. TERMS OF SETTLEMENT**

1. This Agreement becomes effective as of the date of the latest signature on the dually-signed Agreement, which date is considered to be and referenced herein as the “Effective Date.” The “term of this Agreement” is defined as and shall be two years following the Effective Date.
2. Respondent shall pay civil penalties to the United States Treasury in the amount of \$60,000.
3. The provisions of paragraph 2 notwithstanding, IER shall not seek from Respondent any additional civil penalty for the refusal to hire the Injured Party or discriminatory job postings in violation of 8 U.S.C. § 1324b that are the subject of the IER Investigations, designated as DJ # 197-67-65 and 197-67-67, through the Effective Date.
4. Respondent shall provide IER with the name, title, email address, and telephone number of the individual responsible for effectuating payment of the civil penalties no later than 10 days from the Effective Date. Respondent shall pay the monies discussed in paragraph 2 via the FedWire electronic fund transfer system within 10 business days of receiving fund transfer instructions from IER. On the day of payment, Respondent shall send confirmation of the payment to Jasmin Lott at [Jasmin.Lott@usdoj.gov](mailto:Jasmin.Lott@usdoj.gov) and Pablo Godoy at [Pablo.Godoy@usdoj.gov](mailto:Pablo.Godoy@usdoj.gov). The email confirming payment shall have Respondent’s name and the investigation numbers, DJ # 197-67-65 and 197-67-67, in the subject line.
5. Respondent shall, within 15 days from the Effective Date, send the Injured Party an IRS Form W-4 and a form permitting the Injured Party to elect a method of payment for the payment referenced in paragraph 6.
6. Respondent shall pay the Injured Party, within 15 days from its receipt of the Injured Party’s IRS Form W-4, the amount of \$7,907.81, less any withholding required by law, which constitutes back pay, plus \$548.81 in accumulated interest. Interest is calculated at the IRS underpayment rate, through the Effective Date. On the day of payment, Respondent shall confirm via email to Jasmin Lott at [Jasmin.Lott@usdoj.gov](mailto:Jasmin.Lott@usdoj.gov) and Pablo Godoy at [Pablo.Godoy@usdoj.gov](mailto:Pablo.Godoy@usdoj.gov) (or any other individual IER designates) that payment was made. Respondent shall pay the Injured Party using the method of payment selected by the Injured Party in paragraph 5.
7. Respondent shall, 45 days after remitting the Injured Party’s W-2 form for calendar year 2020 to the Social Security Administration, file a special report with the Social Security Administration allocating the payment made to the Injured Party pursuant to paragraph 6 to the appropriate period in accordance with the applicable instructions in IRS Publication 957. On the day Respondent submits the documentation, Respondent shall confirm via email to Jasmin Lott at [Jasmin.Lott@usdoj.gov](mailto:Jasmin.Lott@usdoj.gov) and Pablo Godoy at [Pablo.Godoy@usdoj.gov](mailto:Pablo.Godoy@usdoj.gov) (or any other individual IER designates) that such documentation was submitted.

8. Respondent shall pay, pursuant to the process set forth in Attachment A, back pay up to \$4,000 to each eligible individual who meets the definition of “Eligible Claimant,” up to a maximum of \$75,000 in total. “Eligible Claimant” is defined as an individual who is a “protected individual” under 8 U.S.C. § 1324b(a)(3) and who: (a) applied to Respondent for a security officer position located in Georgia between April 19, 2018 and December 9, 2019, but was rejected, not considered, or had a conditional offer of employment withdrawn because of his or her citizenship status, or (b) was deterred from applying for a security officer position with Respondent in Georgia between April 19, 2018 and December 9, 2019 because of Respondent’s requirement of U.S. citizenship for such a position.
9. Pursuant to 8 U.S.C. § 1324b, Respondent shall not discriminate in the recruiting, hiring, or onboarding processes on the basis of citizenship, immigration status or national origin in violation of 8 U.S.C. § 1324b; discriminate in the employment eligibility verification and reverification process; or intimidate, threaten, coerce, or retaliate against any person for his or her participation in this matter or the exercise of any right or privilege secured by 8 U.S.C. § 1324b.
10. Respondent shall not exclude individuals based on their citizenship or immigration status in its job postings and advertisements or discriminate in hiring or firing based on citizenship or immigration status, unless authorized by 8 U.S.C. § 1324b(a)(2)(C). All job postings for positions that may be filled with individuals working in locations in either Georgia or South Carolina must be reviewed, prior to their publication, by a Respondent employee who has been trained pursuant to paragraph 11, to help ensure that the job posting does not impose restrictions beyond those required by the laws and regulations of the state in question and, where appropriate, ensure the posting distinguishes between the requirements applicable to positions in South Carolina and positions in Georgia.
11. Within 90 days of the Effective Date, Respondent shall ensure that all individuals with any responsibility for recruiting, referral, or hiring are trained on their obligation to comply with 8 U.S.C. § 1324b.
  - (a) The training will consist of viewing a free online IER Employer/HR webinar presentation.
  - (b) Respondent will pay all individuals their regular rate of pay during the training, and such trainings will occur during their normally scheduled workdays and work hours. Respondent shall bear all costs associated with these training sessions.
  - (c) During the term of this Agreement, all new staff Respondent hires or assigns to positions or roles with recruitment, referral, or hiring responsibilities shall view a free IER Employer/HR webinar within 60 days of hire or assignment.
  - (d) Respondent shall compile attendance records listing the individuals who comply with the training as described in this paragraph, including each individual’s full name, job title, signature, and the date of the training, and send the records via

email to Jasmin Lott at [Jasmin.Lott@usdoj.gov](mailto:Jasmin.Lott@usdoj.gov) and Pablo Godoy at [Pablo.Godoy@usdoj.gov](mailto:Pablo.Godoy@usdoj.gov) (or any other individual IER designates) within 10 days of each training session. The emails transmitting attendance records shall have Respondent's name and the investigation numbers, DJ # 197-67-65 and 197-67-67, in the subject line.

12. Respondent shall post an English and Spanish version of the IER "If You Have The Right to Work" poster ("IER Poster"), in color and measuring no smaller than 8.5" x 11", an image of which is available at <https://www.justice.gov/crt/worker-information#poster>, in all places where notices to employees and job applicants are normally posted. Respondent shall post the IER Posters within 14 days from the Effective Date of this Agreement and they will remain posted for three years thereafter or as long as Respondent utilizes E-Verify, whichever is longer.
13. Within 60 days of the Effective Date, Respondent shall review any existing employment policies and revise such policies, or develop and propose new policies, that relate to nondiscrimination in hiring, employment eligibility verification and reverification, and provide them to IER. IER shall review and approve such policies to ensure conformity with the Agreement, and Respondent shall implement final revised policies within 45 days after IER's approval. These revised or new employment policies shall:
  - (a) prohibit discrimination on the basis of citizenship or immigration status, and national origin (1) in the hiring and firing process; and (2) during the employment eligibility verification and reverification process;
  - (b) include citizenship, immigration status, and national origin as prohibited bases of discrimination; Respondent shall include these prohibited bases in any similar Equal Employment Opportunity (EEO) statements Respondent provides in printed or electronic materials to the public or employees;
  - (c) refer applicants and employees who complain, formally or informally, of discrimination in the hiring, firing, or Form I-9 employment eligibility verification and reverification process immediately to the Immigrant and Employee Rights Section by directing the affected individual to the IER Posters, IER's worker hotline, and IER's website ([www.justice.gov/ier](http://www.justice.gov/ier)), and advise the affected individual of his or her right to file a charge of discrimination with the Immigrant and Employee Rights Section; and
  - (d) prohibit any reprisal action against an employee for having opposed any employment practice made unlawful by 8 U.S.C. § 1324b, or for filing any charge, or participating in a lawful manner in any investigation or action under 8 U.S.C. § 1324b.
14. During the term of this Agreement, Respondent shall provide any revisions to employment policies or practices relating to nondiscrimination on the basis of citizenship, immigration status or national origin to IER for review and approval at least 30 days prior to the proposed effective date of such new or revised policies.

15. During the term of this Agreement, IER reserves the right to make such reasonable inquiries as it, in its discretion, believes necessary or appropriate to assess Respondent's compliance with this Agreement, including but not limited to, requiring written reports from Respondent concerning its compliance; inspecting Respondent's premises; interviewing Respondent's employees, officials or other persons; and requesting copies of Respondent's documents relating to its recruitment and hiring processes. At IER's discretion, Respondent shall provide such documents in Excel or .csv format unless the Parties agree otherwise.
16. Every four months during the term of this Agreement, starting 60 days from the Effective Date of this Agreement, Respondent shall provide IER with copies of all job advertisements for available positions in Georgia from the Kwantek System used to advertise job openings within the previous four month period, together with a spreadsheet detailing the name, phone number, email address, job title and identifying job number for each applicant.
17. Nothing in this Agreement limits IER's right to inspect Respondent's Forms I-9 within three business days pursuant to 8 C.F.R. § 274a.2(b)(2)(ii). Respondent shall, at IER's discretion, provide data fields from such documents in Excel spreadsheet format unless requested otherwise.
18. If IER has reason to believe that Respondent is in violation of any provision of this Agreement, IER may, in its sole discretion, notify Respondent of the purported violation rather than initiate a new discrimination investigation or seek to judicially enforce the Agreement. If IER has exercised its discretion to notify Respondent of the purported violation, Respondent shall have 30 days from the date IER notifies it of the purported violation(s) to cure the violation(s) to IER's satisfaction.
19. This Agreement does not affect the right of any individual to file a charge under the Act alleging an unfair immigration-related employment practice against Respondent, IER's authority to investigate Respondent or file a complaint on behalf of any such individual, or IER's authority to conduct an independent investigation of Respondent's employment practices occurring after the Effective Date or outside of the scope of the IER Investigations.

### **III. ADDITIONAL TERMS OF SETTLEMENT**

20. This Agreement sets forth the entire agreement between the Parties and fully supersedes any and all prior agreements or understandings between the Parties pertaining to the IER Investigations. This Agreement is governed by the laws of the United States. This Agreement shall be deemed to have been drafted by both Parties and shall not be presumptively construed against any one party in the event of a subsequent dispute concerning the terms of the Agreement. The Parties agree that the paragraphs set forth in Part II of this Agreement (entitled "Terms of Settlement") are material terms, without waiver of either Party's right to argue that other terms in the Agreement are material.

21. This Agreement resolves any and all differences under 8 U.S.C. § 1324b between the Parties relating to the IER Investigations, DJ # 197-67-65 and 197-67-67, through the Effective Date.
22. The United States District Court for the District of South Carolina shall be the preferred venue for enforcement of any claims over which that court has subject matter jurisdiction. Otherwise, a party must bring any claim or counterclaim to enforce the agreement in a court of competent jurisdiction. This provision does not constitute a waiver of sovereign immunity or any other defense the United States might have against a claim for enforcement or counterclaims asserted against it.
23. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected and the term or provision shall be deemed not to be a part of this Agreement. The Parties agree that they will not, individually or in combination with another, seek to have any court declare or determine that any provision of this Agreement is invalid.
24. The Parties agree to bear their own costs, attorneys' fees and other expenses incurred in the IER Investigations.
25. This Agreement may be executed in multiple counterparts, each of which together shall be considered an original but all of which shall constitute one agreement. The Parties agree to be bound by facsimile or electronically transmitted signatures.

**Security Management of South Carolina, LLC**

By:

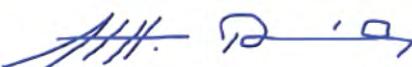


Paul Gillam  
President and Chief Executive Officer

Dated: 9/8/2020

**Immigrant and Employee Rights Section**

By:



Alberto Ruisanchez  
Deputy Special Counsel

Dated: 10/6/20

Jodi Danis  
Special Litigation Counsel

Pablo A. Godoy  
Jasmin Lott  
Trial Attorneys