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9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF ALAMEDA

12 ANGELYNA CELIO, MATTHEW LYTLE,  
13 ROBERT MARTIN, and DONELL FORT, on  
14 behalf of themselves and others similarly situated  
and aggrieved,

15 Plaintiffs,

16 v.

17 AIR INTERNATIONAL (US) INC., a Delaware  
18 Corporation; and DOES 1 through 10, inclusive,

19 Defendants.

Case No. RG21098764

**CLASS ACTION AND PAGA  
REPRESENTATIVE ACTION  
SETTLEMENT AGREEMENT AND  
RELEASE OF CLAIMS**

Class Action Complaint Filed: 5-10-21  
First Amended Complaint Filed: 6-07-21

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1 This Class Action Settlement Agreement and Release of Claims (“Agreement”) is between (1)  
2 Plaintiffs ANGELYNA CELIO, DONELL FORT, MATTHEW LYTLE and ROBERT MARTIN—  
3 individually and on behalf of the Class Members and Aggrieved Employees defined below—and  
4 (2) AIR INTERNATIONAL US, INC., subject to judicial approval, as provided below.

5 By this Agreement the Parties intend to settle the Action (defined below) and to fully, finally,  
6 and forever resolve, discharge, and settle the Released Claims (defined below), subject to judicial  
7 approval of the terms set forth herein. If this Agreement is not finally approved, or is otherwise nullified,  
8 then the Parties shall return to their positions preceding this Agreement and Defendant shall retain all  
9 rights to challenge the Plaintiffs’ claims and the certification of any class.

10 **1. DEFINITIONS**

11 For the purposes of this Agreement, the Parties define the following terms. Each defined term  
12 appears throughout in initial capital letters.

13 **1.1. “Action”** refers, to the lawsuit entitled *Angelyna Celio, Matthew Lytle, Robert*  
14 *Martin and Donnell Fort, on behalf of themselves and others similarly situated and aggrieved v. Air*  
15 *International US, Inc., a Delaware Corporation; and DOES 1 Through 10, inclusive*, Case No.  
16 RG21098764, pending in the Superior Court for the State of California, County of Alameda.

17 **1.2. “Administrative Costs”** refers to all costs associated with administration of the  
18 Settlement contemplated by this Agreement. Administrative Costs include all fees and costs for, among  
19 other things, printing, copying, formatting, postage, envelopes, computer searches to locate addresses,  
20 calculation of payments to individual class members, calculation of applicable payroll withholdings and  
21 payroll taxes, preparation and filing of appropriate IRS Forms, any cost associated with the process for  
22 any uncashed settlement checks, and any other expenses the Settlement Administrator incurs to  
23 complete the settlement process according to the terms of this Agreement. Administrative Costs are  
24 borne in the first instance by the Settlement Administrator.

25 **1.3. “Aggrieved Employees”** refers to all hourly, non-exempt employees of  
26 Defendant in California from May 10, 2020 through the earlier of Ninety (90) calendar days after the  
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1 Parties' December 8, 2022 mediation or the date a signed order preliminarily approving the Settlement is  
2 filed.

3 **1.4. "Agreement"** refers to this Class Action and PAGA Representative Action  
4 Settlement Agreement and Release of Claims, which includes all its Recitals herein and all the attached  
5 Exhibit.

6 **1.5. "Class Counsel"** refers to Cohelan Khoury & Singer and Stonebrook Law. For  
7 purposes of providing any notices required under this Agreement, Class Counsel shall refer to Isam  
8 Khoury, Michael D. Singer, Marta Manus and Rosemary C. Khoury of Cohelan Khoury & Singer, 605  
9 C Street Suite 200, San Diego, CA 92101, and Joseph Tojarieh of Stonebrook Law, 10250 Constellation  
10 Boulevard, Suite 100, Los Angeles, CA 90067.

11 **1.6. "Class Counsel Payment"** refers to the amount of attorney's fees and costs that  
12 the Court awards to Class Counsel in connection with the resolution of the Action in accordance with  
13 this Agreement.

14 **1.7. "Class Members"** refers to those individuals who for purposes of this Agreement  
15 will be certified as members of the class, defined as follows: all hourly, non-exempt employees of  
16 Defendant in California from May 10, 2017 through the earlier of Ninety (90) calendar days after the  
17 Parties' December 8, 2022 mediation or the date a signed order preliminarily approving the Settlement is  
18 filed.

19 **1.8. "Class Period"** is deemed to be any time during the period of May 10, 2017  
20 through the earlier of Ninety (90) calendar days after the Parties' December 8, 2022 mediation or the  
21 date a signed order preliminarily approving the Settlement is filed.

22 **1.9. "Class Representatives"** refers to Plaintiffs Angelyna Celio, Donell Fort,  
23 Matthew Lytle and Robert Martin.

24 **1.10. "Class Representative Service Award"** refers to any payment(s) that the Court  
25 awards to the Class Representatives for efforts in prosecuting the Action on behalf of the Class  
26 Members.

27 **1.11. "Celio"** refers to Plaintiff Angelyna Celio.  
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1           **1.12. “Complaint”** refers to all versions of the complaint filed in the Action.

2           **1.13. “Consideration Period”** refers to the sixty (60) calendar day period following  
3 the date when the Settlement Administrator mails the Notice of Class Action Settlement. The  
4 Consideration Period is the period in which a Class Member can submit an Objection or a Request for  
5 Exclusion.

6           **1.14. “Court”** refers to the Superior Court of the State of California for the County of  
7 Alameda, or other court assuming jurisdiction over the Action.

8           **1.15. “Defendant”** refers to Air International US, Inc.

9           **1.16. “Defense Counsel”** refers to Seyfarth Shaw LLP. For purposes of providing any  
10 notices required under this Agreement, Defense Counsel shall refer to Christian J. Rowley and Eric M.  
11 Lloyd, Seyfarth Shaw LLP, 560 Mission Street, Suite 3100, San Francisco, California 94105.

12           **1.17. “Effective Date”** means the date upon which both of the following have  
13 occurred: (i) approval of the Settlement is granted by the Court, and (ii) the Court’s Judgment approving  
14 the Settlement becomes Final. “Final” shall mean the latest of: (i) if there is an appeal of the Court’s  
15 Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the  
16 expiration of the time to file a petition for review to the California Supreme Court, or, (ii) if a petition  
17 for review is filed, the date of the California Supreme Court denies the petition for review or decides not  
18 to respond and take no action, or the date the Judgment is affirmed pursuant to such petition; or (iii) if  
19 no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

20           **1.18. “Eligible Workweeks”** refers to the workweeks each Settlement Class Member  
21 worked during the Class Period.

22           **1.19. “Fairness Hearing”** refers to the hearing at which the Court decides whether the  
23 terms of the Agreement are fair, reasonable, and adequate for the Class Members and meet all  
24 requirements for final approval.

25           **1.20. “Final Approval Order”** refers to the final order by the Court approving the  
26 Settlement following the Fairness Hearing.

27           **1.21. “Fort”** refers to Plaintiff Donell Fort.  
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1                   **1.22. “Gross Settlement Amount”** refers to the payment Defendant is obligated to  
2 make in connection with this Agreement: Six Hundred Thousand Dollars (\$600,000.00), plus any  
3 employer-side payroll withholding taxes. In no event shall Defendant be obligated to pay more than this  
4 amount other than the employer’s share of payroll taxes. The Gross Settlement Amount shall include all  
5 Individual Settlement Payments to Settlement Class Members and Aggrieved Employees,  
6 Administrative Costs, the Class Counsel Payment, any Class Representative Service Awards, and the  
7 PAGA Payment.

8                   **1.23. “Individual Settlement Payment”** refers to the amount calculated by the  
9 Settlement Administrator to distribute to each Settlement Class Member and/or Aggrieved Employee.  
10 The Individual Settlement Payment shall be paid from the Net Settlement Amount.

11                   **1.24. “Judgment”** refers to the final judgment entered by the Court in this Action  
12 following the Fairness Hearing.

13                   **1.25. “LWDA”** refers to the California Labor & Workforce Development Agency,  
14 which helps to enforce the Private Attorneys General Act (“PAGA”), and which will receive the LWDA  
15 portion of the PAGA Payment.

16                   **1.26. “LWDA Letters”** refers to the March 16, 2021 letter from Cohelan Khoury &  
17 Singer, on behalf of Celio and Lytle, to the LWDA, and, the April 2, 2021 letter from Cohelan Khoury  
18 & Singer, to the LWDA on behalf of Fort and Martin, providing notice of Plaintiffs’ intent to pursue a  
19 PAGA claim.

20                   **1.27. “Lytle”** refers to Plaintiff Matthew Lytle.

21                   **1.28. “Martin”** refers to Plaintiff Robert Martin.

22                   **1.29. “Net Settlement Amount”** refers to the portion of the Gross Settlement Amount  
23 that remains after accounting for the Class Representative Service Awards, the portion of the PAGA  
24 Payment payable to the LWDA, Administrative Costs, and the Class Counsel Payment. The Net  
25 Settlement Amount shall include all Individual Settlement Payments.

26                   **1.30. “Notice of Class Action Settlement”** refers to the Notice of Class Action  
27 Settlement, substantially in the form attached as Exhibit A.

1                   **1.31. “Objection”** refers to a written statement submitted timely by a Settlement Class  
2 Member to the Settlement Administrator that contains (1) the name and case number of this Action (or  
3 reasonable portion thereof), (2) the full name, last four digits of their social security number, and current  
4 address of the Settlement Class Member making the Objection, (3) the specific reason(s) for the  
5 Objection, and (4) all evidence and supporting papers (including, without limitation, all briefs, written  
6 evidence, and declarations) for the Court to consider.

7                   **1.32. “Objector”** refers to a Settlement Class Member who has submitted an  
8 Objection.

9                   **1.33. “PAGA Payment”** refers to a Twenty-Five Thousand Dollar (\$25,000) payment  
10 in settlement of a claim for civil penalties under the Private Attorney General Act of 2004. Seventy-five  
11 percent (75%) of the PAGA Payment shall be payable to the LWDA and twenty-five percent (25%)  
12 shall be payable to the Net Settlement Amount for distribution to Aggrieved Employees. The PAGA  
13 Payment shall be paid from the Gross Settlement Amount.

14                   **1.34. “PAGA Period”** is deemed to be any time during the period of May 10, 2020  
15 through the earlier of Ninety (90) calendar days after the Parties’ December 8, 2022 mediation or the  
16 date a signed order preliminarily approving the Settlement is filed.

17                   **1.35. “Parties”** refers collectively to (1) Plaintiff Angelyna Celio, individually and on  
18 behalf of the Class and the Aggrieved Employees, (2) Plaintiff Donell Fort, individually and on behalf of  
19 the Class and the Aggrieved Employees, (3) Plaintiff Matthew Lytle, individually and on behalf of the  
20 Class and the Aggrieved Employees, (4) Plaintiff Robert Martin, individually and on behalf of the Class  
21 and the Aggrieved Employees, and (5) Defendant Air International US, Inc.

22                   **1.36. “Plaintiffs”** refers collectively to Class Representatives Angelyna Celio, Donell  
23 Fort, Matthew Lytle and Robert Martin, individually and on behalf of the Class and the Aggrieved  
24 Employees.

25                   **1.37. “Preliminary Approval Order”** refers to the order entered by the Court granting  
26 a Motion for Preliminary Approval of the Agreement.

1                   **1.38. “Qualified Settlement Fund (QSF)”** refers to a Qualified Settlement Fund  
2 pursuant to U.S. Treasury Regulation Section 468B-1.

3                   **1.39. “Released Claims”** refers to the Released Class Claims and the Released PAGA  
4 Claims, as defined below.

5                   **1.40. “Released Class Claims”** refers to those claims alleged in Plaintiffs’ Complaint  
6 and First Amended Complaint, as well as all any and all claims, debts, liabilities, demands, obligations,  
7 guarantees, costs, expenses, attorney’s fees, damages, action or causes of action of whatever kind or  
8 nature, whether known or unknown, contingent or accrued, under any legal theory under federal and  
9 state law that were or reasonably could have been brought based on the facts alleged in any version of  
10 the complaints filed in the Action and in the LWDA Letters submitted to the LWDA by Plaintiffs,  
11 regardless of theory of recovery, including: claims under California Labor Code sections 201, 202, 203,  
12 204, 206, 210, 218, 218.5, 226, 226.7, 227, 245 *et seq.*, 510, 511, 512, 515, 517, 551-556, 1182.12,  
13 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802; the California IWC Wage Orders; the Fair Labor  
14 Standards Act (29 U.S.C. Section 201, *et seq.*); and California Business and Professions Code section  
15 17200, *et seq.* The Released Class Claims shall apply to all Class Members who do not timely file a  
16 Request for Exclusion.

17                   **1.41. “Released PAGA Claims”** refers to any and all civil penalty claims or causes of  
18 action under the Private Attorneys General Act, Labor Code section 2699 *et seq.* of whatever kind or  
19 nature which occurred during the PAGA Period that were or reasonably could have been brought based  
20 on the facts alleged in any version of the complaints filed in the Action and in the LWDA Letters  
21 submitted to the LWDA by Plaintiffs, regardless of theory of recovery, including but not limited to, any  
22 alleged violations of or relief under California Labor Code sections 201, 202, 203, 218.5, 218.6, 226,  
23 226.3, 226.7, 245 *et seq.*, 510, 512, 551, 552, 558, 1182.12, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198,  
24 2800, 2802, and the applicable provisions of the applicable IWC Wage Orders.

25                   **1.42. “Released Parties”** refers to Air International US, Inc., all of its present and  
26 former parent companies, subsidiaries, affiliates, shareholders, officers, directors, employees, agents,  
27 servants, registered representatives, attorneys, insurers, successors and assigns.  
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1           **1.43. “Request for Exclusion”** refers to a timely, written, opt-out request signed by a  
2 Class Member who thereby elects to be excluded from this Agreement.

3           **1.44. “Settlement Administrator”** refers to CPT Group, the third-party administrator  
4 the Parties have selected, subject to Court approval.

5           **1.45. “Settlement Class”** refers to all Class Members who do not file a timely and  
6 valid Request for Exclusion.

7           **1.46. “Settlement Class Member”** refers to a member of the Settlement Class.

8           **2. RECITALS AND PROCEDURAL HISTORY**

9           **2.1. Allegations in Complaint.** On May 10, 2021, Plaintiffs filed a complaint in the  
10 Superior Court for the State of California, for the County of Alameda, individually and on behalf of a  
11 class of similarly situated individuals. Plaintiffs asserted claims for 1) Failure to Pay Minimum, Regular  
12 and Overtime Wages; 2) Failure to Provide Meal Periods; 3) Failure to Authorize and Permit Rest  
13 Periods; 4) Failure to Provide Accurate Itemized Wage Statements; 5) Failure to Timely Pay Wages Due  
14 at Separation; 6) Failure to Reimburse Business Expenses; and 7) Violation of the Unfair Competition  
15 Law. On June 7, 2021, Plaintiffs filed a First Amended Class Action and Representative Action  
16 Complaint Under the Private Attorneys General Act individually and on behalf of all others similarly  
17 situated in the Superior Court for the State of California, for the County of Alameda, alleging claims for:  
18 1) Failure to Pay Minimum, Regular and Overtime Wages; 2) Failure to Provide Meal Periods; 3)  
19 Failure to Authorize and Permit Rest Periods; 4) Failure to Provide Accurate Itemized Wage Statements;  
20 5) Failure to Timely Pay Wages Due at Separation; 6) Failure to Reimburse Business Expenses; 7)  
21 Violation of the Unfair Competition Law; and 8) Violation of the California Private Attorneys General  
22 Act, Cal. Labor Code § 2698 *et seq.*

23           **2.2. Defendant’s Denials.** Defendant denies (1) all the material allegations in this  
24 Action, (2) that it violated any applicable laws, (3) that it is liable for damages, penalties, interest,  
25 restitution, attorneys’ fees, or costs, or for any other compensation or remedy with respect to anyone on  
26 account of the claims asserted in the Action, and (4) that class certification or representative treatment is  
27 appropriate as to any claim in the Action. Defendant contends that its policies, procedures, and practices  
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1 comply with all applicable laws asserted in the Action. Nonetheless, without admitting any liability or  
2 wrongdoing whatsoever and without admitting that class certification or representative treatment is  
3 appropriate for any purpose other than for settlement purposes alone, Defendant has agreed to settle the  
4 Action on the terms set forth in this Agreement, to avoid the burden, expense, and uncertainty of  
5 litigation. Any statements by Defendant in this Agreement are made for settlement purposes only.

6 **2.3. Class Counsel's Investigation.** Class Counsel have investigated the facts relating  
7 to the claims alleged in the Action and also have analyzed all defenses. Class Counsel obtained the  
8 production of relevant documentation and data from Defendant prior to mediation. Class Counsel have  
9 examined Defendant's policies, procedures, and practices.

10 **2.4. Negotiation of Settlement.** Class Counsel engaged in intensive, arms-length  
11 negotiations with Defendant at mediation with experienced mediator Steven Rottman with a view  
12 toward achieving substantial benefits for the Class Members, while avoiding the cost, delay, and  
13 uncertainty of further litigation. Plaintiffs and Class Counsel urge approval by the Court of this  
14 Agreement after considering (1) the factual and legal defenses to the claims asserted, which render  
15 uncertain the ultimate outcome of the Action and class certification, (2) the potential difficulties  
16 Plaintiffs and Class Members would encounter in establishing their claims and maintaining class  
17 treatment, (3) the substantial benefits that Class Members would receive under this Agreement, (4) that  
18 this Agreement provides Class Members relief in an expeditious and efficient manner, compared to any  
19 manner of recovery possible after litigation and potential appeal, and (5) that this Agreement allows  
20 Class Members to opt out of the Action and individually pursue the claims alleged in the Action.

21 **2.5. Certification of Settlement Class.** For settlement purposes only, the Parties  
22 stipulate that the Settlement Class Members described herein who do not submit a timely Request for  
23 Exclusion from the Settlement Class may be conditionally certified as a settlement class and that the  
24 Aggrieved Employees are appropriate for representative treatment for purposes of settlement. This  
25 stipulation to certification and representative treatment is in no way an admission that class action  
26 certification and/or representative treatment is proper and shall not be admissible in this or in any other  
27 action except for the sole purpose of enforcing this Agreement. Nor should Defendant's stipulation to  
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1 conditional class certification and representative treatment be deemed as a waiver to any additional  
2 defenses against class or representative action treatment. Should, for whatever reason, the Court fail to  
3 issue a Final Approval Order, the Parties' stipulation to class certification and representative treatment  
4 as part of the Settlement shall become null and void *ab initio* and shall have no bearing on, and shall not  
5 be admissible in connection with, the issue of whether or not certification and/or representative  
6 treatment would be appropriate in a non-settlement context.

7 **3. NOTICE TO CLASS MEMBERS**

8 **3.1. Content of Notice of Class Action Settlement.** The Notice of Class Action  
9 Settlement shall be substantially in the form attached as Exhibit A and include: (a) the amount of the  
10 Settlement; (b) a calculation of the Class Member's anticipated share of the Net Settlement Amount; (c)  
11 the full amounts of the Class Counsel Payment, Class Representative Service Awards, and  
12 Administrative Costs to be awarded; (d) the terms of the releases and Class Members' waiver of their  
13 right to pursue litigation of the Released Class Claims; (e) the procedure to opt out of the Settlement  
14 through a Request for Exclusion; (f) the procedure to Object to the Settlement; and (g) the date of the  
15 Fairness Hearing. No claim form will be required to participate in the Settlement.

16 **3.2. Settlement Administrator.** The Parties select CPT Group as the Settlement  
17 Administrator. The duties of the Settlement Administrator shall include, without limitation, mailing  
18 notices to Class Members, establishing a QSF, obtaining appropriate tax identification number(s),  
19 calculating Individual Settlement Payments, mailing Individual Settlement Payments and tax forms to  
20 Settlement Class Members, remitting any tax payments and requisite reporting documentation to taxing  
21 authorities, and the other duties associated with settlement administration, including specified in this  
22 Agreement. Any dispute relating to the settlement administration will, after good-faith efforts by the  
23 Parties to resolve the dispute, be referred to the Court.

24 **3.3. Class Data for the Settlement Administrator.** Within Twenty-One (21)  
25 calendar days of the latter of: entry of the Preliminary Approval Order, or Court approval of the Notice  
26 of Class Action Settlement to the Class, Defendant shall provide to the Settlement Administrator a  
27 confidential class list containing the names, last known address, email address and telephone number(s),  
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1 numbers of Eligible Workweeks worked during the Class Period and the PAGA Period, and Social  
2 Security numbers to facilitate the administration of this Agreement. The Settlement Administrator shall  
3 keep the class data provided by Defendant strictly confidential and shall use the class data only for the  
4 purposes described in this Agreement and shall return the class data to Defendant or confirm the  
5 destruction of same upon completing the settlement administration called for by this Agreement.

6 **3.4. Mailing Materials to Class Members.** Upon its receipt of the list of names and  
7 last known addresses of each Class Member, the Settlement Claims Administrator shall access the  
8 National Change of Address (“NCOA”) Database, and update the addresses maintained by Defendant.  
9 Within Ten (10) calendar days of the receipt of the class data discussed immediately above, the  
10 Settlement Administrator shall send the Notice of Class Action Settlement to Class Members at their last  
11 known address via First Class U.S. Mail and Email. Any mailing returned to the Settlement  
12 Administrator as undeliverable shall be sent within Ten (10) calendar days via First Class U.S. Mail to  
13 any available forwarding address. If no forwarding address is available, then the Settlement  
14 Administrator shall attempt to determine the correct address by using a computer-based skip-trace  
15 search, and shall then perform, if feasible, a re-mailing via First Class U.S. Mail within Five (5) calendar  
16 days. If the last known address is not available for a Class Member, then the Notice of Class Action  
17 Settlement for that Class Member will be deemed undeliverable. Only one re-mailing is required. If a  
18 Class Member cannot be located within Two (2) attempts at mailing, then the Notice of Class Action  
19 Settlement for that Class Member will be deemed undeliverable. It is the intent of the Parties that  
20 reasonable means be used to locate Class Members.

21 **3.5. Proof of Mailing.** At least Thirty (30) calendar days prior to the Fairness  
22 Hearing, the Settlement Administrator shall provide a declaration of due diligence and proof of mailing  
23 with regard to mailing of the Notice of Class Action Settlement to Class Counsel and Defense Counsel,  
24 which they shall in turn provide to the Court.  
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1           **4. CLASS MEMBERS' OPTIONS TO RESPOND**

2                   **4.1. Consideration Period.**

3                           **4.1.1. Submission of Objections and Requests for Exclusion.** Class Members  
4 will have sixty (60) calendar days from the date of the mailing of the Notices to postmark their  
5 objections and written Requests For Exclusion to the Settlement Administrator (“Consideration  
6 Period”). A Class Member who excludes himself or herself from the Settlement shall lose standing to  
7 object. Except as specifically provided herein, no Class Member response of any kind that is postmarked  
8 after the Consideration Period shall be considered unless agreed to by the Parties or ordered by the  
9 Court.

10                           **4.1.2. Deficiency Notices.** Within Ten (10) calendar days after receipt by the  
11 Settlement Administrator of each timely-submitted Request For Exclusion, the Settlement Administrator  
12 will send a deficiency notice to Class Members addressing any irregularities in the Request For  
13 Exclusion (such as failure to sign or include last four digits of Social Security Number). The deficiency  
14 notice will provide the Class Members Fourteen (14) calendar days from the mailing of the deficiency  
15 notice to postmark a written response to cure all deficiencies. The failure of a Class Member to cure all  
16 deficiencies in a timely manner shall invalidate a Request For Exclusion and will not be subject to cure.

17                           **4.2. Requests for Exclusion and Opt Out Rights.** Class Members shall be given the  
18 opportunity to opt out of the Settlement as to the Released Class Claims only.

19                           **4.2.1. Opt Out Procedure.** Class Members may opt out of the Settlement as to  
20 the Released Class Claims by mailing the Settlement Administrator a Request for Exclusion. A Request  
21 for Exclusion, to be valid, must include the Class Member’s name, current address, current telephone  
22 number, and the last four digits of the Class Member’s Social Security number. Any Request for  
23 Exclusion that does not include all of the required information or that is not submitted in a timely  
24 manner will be deemed ineffective. If there is a dispute regarding the timeliness or validity of a Request  
25 for Exclusion, then the Settlement Administrator shall make the determination, after consultation with  
26 Class Counsel and Defense Counsel.

1                   **4.2.2. Effect of Exclusion Through Opting Out.** The right to object to or opt  
2 out of the Settlement shall only apply to the Released Class Claims and not the Released PAGA Claims.  
3 Any Class Member who opts out of the Settlement may not submit an Objection and shall not receive a  
4 share of the Net Settlement Value relating to the Released Class Claims and shall not be bound by the  
5 release of the Released Class Claims set forth in this Agreement. The Individual Settlement Payment of  
6 any Class Member who opts out of this Agreement shall consist solely of that Class Member's  
7 proportionate share of the PAGA Payment, if they are an Aggrieved Employee, and such Class Member  
8 shall remain bound by the release of the PAGA Released Claims. If a Class Member submits both a  
9 Request for Exclusion and an Objection, then the Request for Exclusion will be valid and will invalidate  
10 the Objection. Each Class Member who does not submit a timely, valid Request for Exclusion shall be  
11 bound by the Released Claims for which this Agreement provides.

12                   **4.2.3. Tolerance of Opt-Outs—Defendant's Right to Withdraw.** Defendant  
13 shall have the right, in the exercise of its sole discretion, and within Fifteen (15) business days of the end  
14 of any notice and opt out period, to terminate this Settlement and render the Settlement null and void, if  
15 at least Five Percent (5%) of all Class Members opt out of the Settlement. In such event the Parties shall  
16 revert to *status quo ante* prior to this Agreement and Defendant shall bear the cost of any Settlement  
17 Administrator fees incurred as of the date Defendant provides notice of its intent to terminate the  
18 Settlement.

19                   **4.3. Objections.** Class Members who do not submit a Request for Exclusion shall be  
20 entitled to object to the terms of the Agreement. The right to object shall not apply to the Released  
21 PAGA Claims.

22                   **4.3.1. Objection Procedures.** Any Objection to this Agreement must state  
23 (1) the name and case numbers of the Action (or reasonable portion thereof), (2) the full name, last four  
24 digits of their social security number, and current address of the Settlement Class Member making the  
25 Objection, (3) whether it applies only to the objector, to a specific subset of the class, or to the entire  
26 class; and (4) with specificity the grounds for the objection. Settlement Class Members who submit an  
27 Objection remain bound by this Agreement if it is approved by the Court.  
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1                   **4.4. Proof of Class Members' Responses.** At least Thirty (30) calendar days prior to  
2 the Fairness Hearing, the Settlement Administrator will prepare a declaration to submit to the Court  
3 regarding the mailing of the Notice of Class Action Settlement, the inability to deliver any mailing due  
4 to invalid addresses, the number of any Requests for Exclusion and the number of any Objections and  
5 the contents of the Objections.

6                   **4.5. Binding Effect of Settlement.** Although a Class Member might not receive the  
7 Notice of Class Action Settlement and might not timely submit an Objection or Request for Exclusion  
8 because of inability to locate the Class Member's current address, that Class Member shall nonetheless  
9 be bound by this Agreement.

10                   **4.6. No Interference with Class Member Responses.** Each Party and their counsel  
11 agree not to encourage any Class Member to submit an Objection or a Request for Exclusion and agree  
12 not to retaliate against any Class Member for participating or not participating in the Settlement.

13                   **5. DISTRIBUTION OF SETTLEMENT PROCEEDS**

14                   **5.1. Administrative Costs.** The Parties agree to obtain a reasonable estimate of  
15 Administrative Costs of up to Fifteen Dollars Exactly (\$15,000.00), and seek approval of Administrative  
16 Costs to be drawn from the Gross Settlement Amount. If the Court approves only a lesser amount, then  
17 the other terms of this Agreement shall still remain in effect. The amount of Administrative Costs is not  
18 a material term of this Agreement. If this Agreement is not finally effectuated, then any Administrative  
19 Costs incurred to date will be paid in equal parts by Defendant and Plaintiff, except if Defendant  
20 exercises its right to abrogate the Agreement under Section 4.2.3, Defendant shall be responsible for  
21 payment of all Administrative Costs incurred.

22                   **5.2. Class Counsel Payment.** Class Counsel shall request that the Court award a  
23 percentage of the Gross Settlement Amount as the Class Counsel Payment for (a) attorneys' fees, and  
24 (b) litigation costs actually incurred in representing the interests of the Class. Defendant agrees not to  
25 oppose a request for attorneys' fees of up to One-Third (33.33%) of the Gross Settlement Amount plus  
26 reasonable litigation costs. Defendant shall have no liability for any other attorneys' fees or costs, and  
27 Plaintiffs, Class Counsel, the Class and the Aggrieved Employees waive any additional claim for  
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1 attorneys' fees and litigation costs incurred in connection with the Action. To the extent that the Court  
2 approves less than the amount of Class Counsel Payment that Class Counsel request, the difference  
3 between the requested and awarded amounts will be distributed to Settlement Class Members on a  
4 proportional basis relative to the size of their claims as set forth in Section 5.6, below. For purposes of  
5 settling this matter only, Defendant agrees that Cohelan Khoury & Singer and Stonebrook Law are  
6 adequate Class Counsel.

7 **5.2.1. Approval of Class Counsel Payment Not Material.** The Court's  
8 approval of the Class Counsel Payment in the amount requested is not a material term of this  
9 Agreement. If the Court approves only a lesser amount, then the other terms of this Agreement shall still  
10 remain in effect and the difference will remain part of the Net Settlement Amount.

11 **5.2.2. Timing of Class Counsel Payment.** The Settlement Administrator shall  
12 issue the Class Counsel Payment within Thirty (30) calendar days after Defendant advances sufficient  
13 funds, not to exceed the Gross Settlement Amount, to the Settlement Administrator. Within Ten (10)  
14 calendar days after the Effective Date, Class Counsel shall transmit instructions to the Settlement  
15 Administrator as to how any approved attorneys' fees and costs shall be paid. Cohelan Khoury & Singer  
16 and Stonebrook Law, or their assignees, will each provide a completed Form W-9 to the Settlement  
17 Administrator before the payment is made. Class Counsel shall be solely responsible for paying all  
18 applicable taxes on any Class Counsel payment and shall indemnify and hold harmless Defendant from  
19 any claim or liability for taxes, penalties, or interest arising as a result of the Class Counsel Payment.

20 **5.3. Class Representative Service Awards.** Class Counsel intends to request that the  
21 Court award a Class Representative Service Award to each of the Class Representatives, in the amount  
22 of Seven Thousand Five Hundred Dollars Exactly (\$7,500.00) each, to be drawn from the Gross  
23 Settlement Amount. Defendant agrees not to oppose these requests. The Class Representative Service  
24 Awards would be in addition to Plaintiffs' respective Individual Settlement Payments. Any amount of  
25 the Class Representative Service Awards to any Plaintiff which is not approved by the Court shall be  
26 allocated to the Net Settlement Amount and distributed to Settlement Class Members on a proportional  
27 basis relative to the size of their claims as set forth in Section 5.6, below. In exchange for their  
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1 respective Class Representative Service Awards, Plaintiffs shall execute a general release of all claims,  
2 as set forth in Section 6.2 below. Further, an award of less than the requested amount to Plaintiffs, or  
3 any of them, will not give rise to a basis to abrogate the general release executed by any Plaintiff so long  
4 as the amount of their respective Class Representative Enhancement Payments is greater than Zero  
5 Dollars (\$0).

6 **5.3.1. Class Representative Service Awards Not Material.** The Court's  
7 approval of Class Representative Service Awards to Plaintiffs is a not material term of this Agreement.  
8 If the Court does not approve or approves only a lesser amount than that requested for Plaintiffs' Class  
9 Representative Service Awards, then the other terms of this Agreement shall still remain in effect.

10 **5.3.2. Timing of Class Representative Service Awards.** The Settlement  
11 Administrator shall pay any Class Representative Service Award within Thirty (30) calendar days after  
12 Defendant advances sufficient funds, not to exceed the amount of the Gross Settlement Amount, to the  
13 Settlement Administrator, and shall issue an IRS Form 1099 to Plaintiffs. Plaintiffs shall be solely  
14 responsible for paying all applicable taxes on their respective Class Representative Service Awards, as  
15 applicable, and shall indemnify and hold harmless Defendant from any claim or liability for taxes,  
16 penalties, or interest arising as a result of the Class Representative Service Award.

17 **5.4. PAGA Payment.** The Parties will seek approval for a Twenty-Five Thousand  
18 Dollar Exactly (\$25,000.00) PAGA Payment. Seventy-Five percent (75%) of the PAGA Payment will  
19 be drawn from the Gross Settlement Amount and paid to the LWDA, and Twenty-Five percent (25%)  
20 will be allocated to the Net Settlement Amount. The portion of the PAGA Payment allocated to the Net  
21 Settlement Amount that shall be distributed to Aggrieved Employees will be determined by dividing  
22 their total Eligible Workweeks within the PAGA Claim Period by the total Eligible Workweeks worked  
23 by all Aggrieved Employees within the PAGA Claim Period. That fraction will then be multiplied by the  
24 Twenty Five Percent (25%) portion of the PAGA Payment to arrive at the Aggrieved Employee's  
25 individual share. These payments to Aggrieved Employees shall be allocated as One Hundred Percent  
26 (100%) penalties; Aggrieved Employees will be responsible for paying any personal income taxes owed  
27 on the amounts they receive. Any uncashed checks will escheat to the State of California's Unclaimed  
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1 Property Fund to be held in the name of each expired check payee, pursuant to applicable unclaimed  
2 property laws.

3 **5.4.1. Amount of PAGA Payment Not Material.** Any change in the requested  
4 PAGA Payment is not a material term of this Agreement. If the Court approves a lesser or greater  
5 amount than that requested, the other terms of this Agreement shall still remain in effect. However,  
6 some approval of a PAGA Payment is a material term of the Settlement and this Agreement. If the Court  
7 does not approve a PAGA Payment, then the entire Agreement will be, at Defendant's sole discretion,  
8 void and unenforceable. In the event Defendant exercises this option, then the Administrative Costs shall  
9 be borne by Defendant.

10 **5.4.2. Timing of LWDA Portion of PAGA Payment.** The Settlement  
11 Administrator shall pay Seventy-Five percent (75%) of any approved PAGA Payment to the LWDA  
12 within Thirty (30) calendar days after Defendant advances sufficient funds, not to exceed the Gross  
13 Settlement Amount, to the Settlement Administrator.

14 **5.5. Individual Settlement Payments.** Each Class Member shall be entitled to an  
15 Individual Settlement Payment consisting of a share of the Net Settlement Amount, in accordance with  
16 the formula set forth below.

17 **5.5.1. Calculation of Amount.** Each Settlement Class Member will be eligible  
18 to receive a portion of the Net Settlement Amount as follows:

19 **a.** For Settlement Class Members, the Individual Settlement Payment shall be calculated by  
20 dividing the number of Eligible Workweeks attributed to the Settlement Class Member during the Class  
21 Period by all Eligible Workweeks during the Class Period attributed to members of the Settlement Class,  
22 multiplied by the portion of the Net Settlement Amount that is not attributable to the PAGA Payment. If  
23 the Settlement Class Member is an Aggrieved Employee, then the Settlement Class Member shall also  
24 receive a share of the PAGA Payment. The Settlement Class Member's share of the PAGA Payment  
25 shall be proportionate to the number of Eligible Workweeks attributed to the Settlement Class Member  
26 during the PAGA Period divided by all Eligible Workweeks attributed to Aggrieved Employees during  
27 the PAGA Period.

1           **b.**       For a Class Member who opts out of the Settlement, and who is an Aggrieved Employee,  
2 the Individual Settlement Payment shall consist solely of a share of the PAGA Payment. The Class  
3 Member's share of the PAGA Payment shall be proportionate to the number of Eligible Workweeks  
4 attributed to the Class Member during the PAGA Period, divided by all Eligible Workweeks attributed  
5 to Aggrieved Employees during the PAGA Period.

6           Defendant's records regarding the number of Eligible Workweeks for each Class Member shall  
7 be used for purposes of calculating Individual Settlement Payments. The Notice of Class Action  
8 Settlement will include an Information Sheet for each Class Member showing how much the individual  
9 Class Member is expected to receive based on this formula and their number of Eligible Workweeks.  
10 The Notice of Class Action Settlement will also provide the Class Members an opportunity to dispute  
11 the number of Eligible Workweeks indicated on the Notice of Class Action Settlement. Such dispute  
12 must be made no later than Sixty (60) calendar days from the date of the mailing of the Notice of Class  
13 Action Settlement. Defendant and/or the Settlement Administrator shall review any documentation  
14 provided by the Class Member to determine whether there was an error in the number of Eligible  
15 Workweeks and adjust any payment to be allocated if necessary.

16                       **5.5.2. Timing of Individual Settlement Payments to Class Members.** The  
17 Settlement Administrator shall issue Individual Settlement Payments no later than Thirty (30) calendar  
18 days after Defendant advances sufficient funds, not to exceed the amount of the Gross Settlement  
19 Amount, to the Settlement Administrator. Any checks from the first distribution that are not cashed  
20 within One Hundred Eighty (180) calendar days from the date of the mailing of the checks shall be  
21 cancelled and said cancellation shall not affect the validity of the releases provided for herein and the  
22 Class Member shall be deemed to, nevertheless, be bound by the releases provided herein. Any  
23 uncashed checks will escheat to the State of California's Unclaimed Property Fund to be held in the  
24 name of each expired check payee, pursuant to applicable unclaimed property laws.

25                       **5.5.3. Tax Treatment of Individual Settlement Payments to Class Members.**  
26 Of the Net Settlement Amount, One-Third (1/3) shall be allocated to wages, and Two-Thirds (2/3) shall  
27 be allocated to interest, penalties, liquidated damages and/or unreimbursed business expenses. These  
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1 allocations represent the Parties' good faith allocation based on the claims asserted and potential  
2 damages related to wages, liquidated damages, interest and penalties. In accordance with law, the  
3 Settlement Administrator will make required tax withholdings from each Individual Settlement Payment  
4 on the portion designated as wages and will remit the withholding to the appropriate taxing authorities.  
5 The Settlement Administrator shall issue any necessary Form W-2 and 1099 statements to Class  
6 Members for their respective Individual Settlement Payments. No opinion regarding the tax  
7 consequences of this Settlement to any individual Class Member is being given, or will be given, by  
8 Defendant, counsel for Defendant, any other Released Party, or Class Counsel. Class Members must  
9 consult their own tax advisors regarding the tax consequences of this Settlement, including but not  
10 limited to any payments provided or tax reporting obligations. Class Members shall be solely  
11 responsible for paying all other applicable taxes on their respective Individual Settlement Payments and  
12 shall indemnify and hold harmless Defendant and the Released Parties from any claim or liability for  
13 taxes, penalties, or interest arising as a result of Individual Settlement Payments. The Court's approval  
14 of the tax allocation of Individual Settlement Payments is not a material term of this Agreement. If the  
15 Court does not approve or approves a different allocation, then the other terms of this Agreement shall  
16 still remain in effect.

17 **5.6. Effect of Opt Outs On Net Settlement Amount.** This is a non-reversionary,  
18 non-claims-made Settlement. No portion of the Gross Settlement Amount shall remain with Defendant.  
19 If any Class Member chooses to opt out of the Settlement and submits a timely and valid Request for  
20 Exclusion, then that Class Member's Individual Settlement Payment shall be distributed to Settlement  
21 Class Members on a proportional basis relative to the size of their claims.

22 **5.7. Final Funding of Gross Settlement Amount.** Within Thirty (30) days of the  
23 Effective Date, Defendant shall advance the Gross Settlement Amount to the Settlement Administrator.

## 24 **6. RELEASES**

25 **6.1. Releases by Settlement Class Members.** By operation of the entry of the Final  
26 Approval Order and Judgment, and except as to rights this Agreement creates, each Settlement Class  
27 Member releases Defendant and all of its present and former parent companies, subsidiaries, affiliates,  
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1 shareholders, officers, directors, employees, agents, servants, registered representatives, attorneys,  
2 insurers, successors and assigns (collectively the “Released Parties”) from those claims alleged in  
3 Plaintiffs’ Complaint and Plaintiffs’ First Amended Complaint, as well as all any and all claims, debts,  
4 liabilities, demands, obligations, guarantees, costs, expenses, attorney’s fees, damages, action or causes  
5 of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal  
6 theory under federal and state law that were or reasonably could have been brought based on the facts  
7 alleged in any version of the complaints filed in the Action and in the LWDA Letters submitted to the  
8 LWDA by Plaintiffs, regardless of theory of recovery, including: claims under California Labor Code  
9 sections 201, 202, 203, 204, 206, 210, 218, 218.5, 226, 226.7, 227, 245 *et seq.*, 510, 511, 512, 515, 517,  
10 551-556, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802; the California IWC Wage Orders; the  
11 Fair Labor Standards Act (29 U.S.C. Section 201, *et seq.*); and California Business and Professions  
12 Code section 17200, *et seq.* (the “Released Class Claims”). Settlement Class Members shall further  
13 agree to waive their right to pursue individual lawsuits as to any of the Released Class Claims against  
14 the Released Parties to the extent such Released Class Claims accrued during the Class Period.  
15 Additionally, Plaintiffs, on behalf of the State of California, will release Defendant and the Released  
16 Parties from any and all PAGA claims or causes of action of whatever kind or nature which occurred  
17 during the PAGA Period that were or reasonably could have been brought based on the facts alleged in  
18 any version of the complaints filed in the Action and in the LWDA Letters submitted to the LWDA by  
19 Plaintiffs, regardless of theory of recovery, including but not limited to, any alleged violations of or  
20 relief under California Labor Code 201, 202, 203, 218.5, 218.6, 226, 226.3, 226.7, 245 *et seq.*, 510, 512,  
21 551, 552, 558, 1182.12, 1194, 1194.1, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and the applicable  
22 provisions of the applicable IWC Wage Orders. (the “Released PAGA Claims”). Neither the Settlement  
23 Agreement nor any amounts paid to Plaintiffs, Settlement Class Members or any Aggrieved Employee  
24 under the Settlement Agreement will modify any previously credited hours or service under any  
25 employee benefit plan, policy, or bonus program sponsored by Defendant. The release as to the State of  
26 California and Aggrieved Employees only covers claims that arise under the Private Attorneys General  
27 Act and does not cover an Aggrieved Employee’s individual Labor Code claims. The release expressly  
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1 excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social  
2 security, workers' compensation, class claims, and PAGA claims outside of the PAGA Period.

3           **6.2. Additional Release by Class Representatives.** In addition to the releases given  
4 by each Settlement Class Member, each Plaintiff also generally releases all claims against each Released  
5 Party. This general release includes claims arising from Plaintiffs' relationships with Defendant,  
6 including, without limitation, claims for discrimination, harassment, or retaliation pursuant to Title VII  
7 of the Civil Rights Act of 1964, 42 U.S.C. section 2000 *et seq.*, the California Fair Employment and  
8 Housing Act, California Gov't Code Section 12900 *et seq.*, or any claims for violation of public policy,  
9 or claims arising from the California Labor Code and the FLSA. This general release by Plaintiffs also  
10 includes a waiver of rights under California Civil Code Section 1542, which states:

11           A general release does not extend to claims that the creditor or releasing party does not  
12 know or suspect to exist in his or her favor at the time of executing the release and that, if  
13 known by him or her, would have materially affected his or her settlement with the debtor  
or released party.

14 These releases from Plaintiffs, respectively, are only effective upon the Court granting final approval of  
15 the Settlement and only apply to claims that may be released as a matter of law. These releases also do  
16 not include future claims that arise after final approval.

17           **6.3. Settlement is Contingent Upon Release of Claims.** This Agreement is  
18 conditioned upon the releases by the Settlement Class, the Aggrieved Employees and Plaintiffs as  
19 described herein, and upon covenants by the Settlement Class, the Aggrieved Employees and Plaintiffs  
20 that they will not participate in any actions, lawsuits, proceedings, complaints, or charges in any court or  
21 before any administrative body related any claims they have released under this Settlement.

22           **6.4. Inadmissibility of Settlement Documents.** The Parties agree that this Agreement  
23 and all exhibits hereto shall be inadmissible in any proceeding, except an action or proceeding to  
24 approve, interpret, or enforce this Agreement. The Parties agree that, to the extent permitted by law, this  
25 Agreement will operate as a complete defense to—and may be used as the basis for an injunction  
26 against—any action, suit, or other proceeding attempted in breach of this Agreement.  
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1           **7. SETTLEMENT APPROVAL PROCEDURE**

2           **7.1. Preliminary Approval.** Plaintiffs shall submit to the Court a Motion for  
3 Preliminary Approval of Class Action and PAGA Settlement. This motion shall seek an order to  
4 preliminarily approve this Agreement according to the terms in this Agreement and provide for the  
5 Notice of Class Action Settlement to be sent to Class Members as specified in this Agreement,  
6 substantially in the form attached hereto as Exhibit A. This motion shall include the bases for  
7 demonstrating that settlement amounts are reasonable in light of the facts and controlling authorities  
8 pertaining to the claims alleged. The motion shall also be accompanied by a declaration of Class  
9 Counsel discussing the risks of continued litigation and the decision that the best interests of the Class  
10 Members are served by the terms of this Agreement. Class Counsel shall endeavor to file the Motion for  
11 Preliminary approval within forty-five (45) calendar days of execution by the Parties of this Agreement.  
12 Plaintiffs shall provide Defendant with a draft of their Motion for Preliminary Approval at least Five (5)  
13 calendar days prior to filing so that Defendant can review and make comments on the motion. Plaintiffs  
14 shall incorporate Defendant’s comments to the extent they are consistent with this Settlement  
15 Agreement. Defendant agrees not to oppose Plaintiffs’ Motion for Preliminary Approval to the extent it  
16 comports with this Settlement Agreement.

17           **7.2. Final Approval.** Plaintiffs shall submit to the Court a Motion for Final Approval,  
18 which shall include findings and orders: (a) approving the Agreement, (b) adjudging the terms to be fair,  
19 reasonable, and adequate, (c) reciting the Released Claims in full, (d) directing that the terms of the  
20 Agreement be carried out, and (e) retaining jurisdiction to oversee enforcement of this Agreement and  
21 the Court’s orders. Plaintiffs shall provide Defendant with a draft of their Motion for Final Approval at  
22 least Seven (7) days prior to filing so that Defendant can review and make comments on the motion.  
23 Plaintiffs shall incorporate Defendant’s comments to the extent they are consistent with this Settlement  
24 Agreement.

25           **7.3. Motion for Class Counsel Payment.** Along with the Motion for Final Approval,  
26 Class Counsel may file a motion for Court approval of attorneys’ fees and litigation costs. The Parties  
27 agree that the Court’s approval of any request for attorneys’ fees or litigation costs is not a condition of  
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1 this Settlement Agreement and that an award of less than the amounts requested would not give rise to a  
2 basis to abrogate the Settlement Agreement. Any amount of requested attorneys' fees or litigation costs  
3 not approved by the Court shall be allocated to the Net Settlement Amount. Plaintiffs, Class Counsel,  
4 the Class and the Aggrieved Employees waive any additional claim for attorneys' fees and litigation  
5 costs incurred in connection with the Action.

6 **7.4. Motion for Class Representative Service Award.** Along with the Motion for  
7 Final Approval, Class Counsel may file a motion for Court approval of Class Representative Service  
8 Awards to Plaintiffs.

9 **7.5. Timing of Judgment.** After the Final Approval Order, the Parties shall request  
10 that the Court: (a) enter Judgment in accordance with this Agreement, without further fees or costs, and  
11 (b) enter an order permanently enjoining all members of the Settlement Class and the Aggrieved  
12 Employees from pursuing or seeking to reopen claims that have been released by this Agreement.

13 **7.6. Appeal Rights.** Only an Objector has the right to appeal the Judgment, if the  
14 Judgment is in accord with this Agreement. The Class Representatives and Class Counsel hereby waive  
15 any right to appeal any judgment, ruling, or order in this Action, including, without limitation, any Final  
16 Approval Order and any Judgment in the Action. This waiver includes all rights to any post-judgment  
17 proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion  
18 for new trial, and any extraordinary writ, and the Judgment therefore will become non-appealable at the  
19 time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal,  
20 appellate proceedings, or post-judgment proceedings.

## 21 **8. MISCELLANEOUS**

22 **8.1. Materiality of Terms.** Except as otherwise stated herein, each substantive term  
23 of this Agreement is material and has been relied upon by the Parties in entering into this Agreement. If  
24 the Court does not approve any substantive term, or if the Court effects a material change to the  
25 Agreement—such as increasing any amount that Defendant must pay—then the entire Agreement will  
26 be, at Defendant's sole discretion, void and unenforceable. Where this Agreement states that a term is  
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1 not material, then the Court’s refusal to approve that term leaves all the other terms of the Agreement in  
2 effect, and does not give Class Counsel or any Class Member any basis to abrogate this Agreement.

3 **8.2. No Tax Advice.** Neither Class Counsel nor Defense Counsel intend anything  
4 contained in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this  
5 Agreement be relied upon as such within the meaning of United States Treasury Department Circular  
6 230 (31 C.F.R. Part 10, as amended) or otherwise.

7 **8.3. No Impact on Employee Benefits.** No payment made under this Agreement shall  
8 be considered as compensation or hours worked or hours paid for purposes of determining eligibility,  
9 vesting, participation, or contributions with respect to any employee benefit plan. For purposes of this  
10 Agreement, the term “benefit plan” means every ERISA “employee benefit plan,” as defined in the  
11 Employee Retirement and Income Security Act of 1974 (“ERISA”), 29 U.S.C. section 1002(3). The  
12 term also includes any 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation,  
13 welfare, profit sharing, retirement, disability, vacation, severance, hospitalization, insurance, incentive,  
14 deferred compensation, or any other similar benefit plan, practice, program, or policy, regardless of  
15 whether any such plan is considered an ERISA employee benefit plan.

16 **8.4. Language of Settlement Documents.** All settlement-related documents to be  
17 filed with the Court or sent to Class Members must be approved by all Parties before being filed or sent.

18 **8.5. Parties’ Authority.** The signatories hereto represent that they are fully authorized  
19 to bind the Parties to all the term of this Agreement. The Parties agree that Class Members are so  
20 numerous that it is impossible or impractical to have each Class Member execute this Agreement. This  
21 Agreement may be executed on behalf of Class Members by the Class Representatives and by Class  
22 Counsel.

23 **8.6. Entire Agreement.** This Agreement, which includes its Definitions, Recitals, and  
24 all Exhibits attached hereto, constitutes the entire agreement on its subject matter, and supersedes all  
25 prior and contemporaneous negotiations and understandings between the Parties.

26 **8.7. Counterparts.** This Agreement may be executed in counterparts, and each  
27 counterpart signed and delivered shall be deemed an original, and when taken together with other signed  
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1 counterparts, signed and delivered shall constitute one signed Agreement, which shall be binding upon  
2 and effective as to all Parties.

3 **8.8. Facsimile or Scanned Signatures.** A Party may sign and deliver this Agreement  
4 by signing on the designated signature block and transmitting that signature page via facsimile or as an  
5 attachment to an email to counsel for the other Party. Any such signature shall be deemed an original for  
6 purposes of this Agreement and shall be binding upon the Party who transmits the signature page.

7 **8.9. Waivers and Modifications to Be in Writing.** No waiver, modification, or  
8 amendment of this Agreement—whether purportedly made before or after the Court’s approval of this  
9 Agreement—shall be valid unless it appears in a writing signed by or on behalf of all Parties, and then  
10 shall be valid subject to any required Court approval. Any failure by any Party to insist upon the strict  
11 performance by the other Party of any provision of this Agreement shall not be deemed a waiver of  
12 future performance of the same provisions or of any other provision of this Agreement, and such Party,  
13 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of  
14 any provision of this Agreement. The time periods and dates provided in this Agreement with respect to  
15 giving of notices and hearings are subject to Court approval and modification by the Court or by written  
16 stipulation of Class Counsel and Defense Counsel.

17 **8.10. Construction.** Each Party participated jointly in the drafting of this Agreement,  
18 and its terms are not intended to be, and shall not be, construed against any party by virtue of  
19 draftsmanship.

20 **8.10.1. Exhibits Incorporated by Reference.** This Agreement include the terms  
21 set forth in any attached exhibit. Any exhibit to this Agreement is an integral part of it.

22 **8.10.2. Headings.** The headings within this Agreement appear for convenience of  
23 reference only and shall have no effect upon the construction or interpretation of any part of this  
24 Agreement.

25 **8.10.3. Invalidity of Any Provision.** Before declaring any provision of this  
26 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent  
27 possible consistent so as to render all provisions of this Agreement enforceable.

1                   **8.11. Duty to Cooperate.** Each Party, upon the request of another, agrees to perform  
2 such acts and to execute and to deliver such documents as are reasonably necessary to carry out this  
3 Agreement. In the same spirit, the Parties agree to make all reasonable efforts to avoid unnecessary  
4 Administrative Costs.

5                   **8.12. No Prior Assignments or Undisclosed Liens.** The Class Representatives and  
6 Class Counsel represent that they have not assigned, transferred, conveyed, or otherwise disposed of any  
7 Released Claim or claim to attorneys' fees and costs award to be paid under this Agreement. The Class  
8 Representatives and Class Counsel further represent and warrant that there are not any liens or claims  
9 against any amount that Defendant is to pay under this Agreement. The Class Representatives and Class  
10 Counsel agree to defend, to indemnify, and to hold Defendant harmless from any liability, losses,  
11 claims, damages, costs, or expenses, including reasonable attorneys' fees, resulting from a breach of  
12 these representations or from any lien or assignment.

13                   **8.13. Waiver of Right to Request Exclusion by Class Representatives.** The Class  
14 Representatives, by signing this Agreement, each agree not to request exclusion from the Settlement.  
15 The Class Representatives, by signing this Agreement, each further represent that they have no objection  
16 to the terms of the Agreement and that each believes the terms to be fair, reasonable and adequate.

17                   **8.14. Confidential Information.** Class Counsel will destroy all confidential documents  
18 and information provided by Defendant within Sixty (60) calendar days after the completion of the  
19 administration of this Agreement. Class Counsel further agree that none of the information provided by  
20 Defendant shall be used for any purpose other than prosecution of this Action.

21                   **8.15. Publicity.** Neither Plaintiffs nor Class Counsel shall cause to be publicized,  
22 directly or indirectly, any discussion resulting in or the existence of this Settlement Agreement or its  
23 terms in any type of mass media, including, but not limited to, speeches, press conferences, press  
24 releases, interviews, television or radio broadcasts, newspapers, website postings, messages on the  
25 Internet, Facebook, Twitter or any other social media, prior to preliminary approval. Breach of this  
26 provision shall entitle Defendant, in the exercise of its sole discretion, to nullify this Settlement  
27 Agreement at any time before the Effective Date. Nothing in this Agreement shall preclude Class  
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1 Counsel from communicating with members of the Settlement Class after preliminary approval, nor  
2 from including publicly-available information in their declarations describing their qualifications as  
3 counsel in other cases.

4 **8.16. Continuing Jurisdiction.** The Court shall retain jurisdiction over the  
5 implementation of this Agreement as well as any matter arising out of, or related to, the implementation  
6 of this Agreement. The Court shall not have jurisdiction to modify the terms of this Agreement without  
7 the consent of all Parties.

8 **8.17. Disputes.** If the Parties dispute the interpretation of this Agreement, they shall  
9 first attempt to resolve the dispute informally through good faith negotiations, and, if those efforts are  
10 unsuccessful, they agree to mediate any such dispute. The Parties will split the costs of the mediator, and  
11 all parties will bear their own fees and costs.

12 **8.18. Interim Stay of the Action.** Pending completion of all of the prerequisites  
13 necessary to effectuate this Settlement, the Parties agree, subject to Court's approval, to a stay of all  
14 proceedings in the Action except such as are necessary to effectuate the Settlement.

15 **8.19. Governing Law.** All terms of this Agreement shall be governed by and  
16 interpreted according to California law.

17 **SO AGREED:**

18 Dated: January 11, 2023

19   
Plaintiff ANGELYNA CELIO

20 Dated: January \_\_\_\_, 2023

21 \_\_\_\_\_  
Plaintiff DONELL FORT

22 Dated: January \_\_\_\_, 2023

23 \_\_\_\_\_  
Plaintiff MATTHEW LYTLE

24 Dated: January \_\_\_\_, 2023

25 \_\_\_\_\_  
Plaintiff ROBERT MARTIN

1 Counsel from communicating with members of the Settlement Class after preliminary approval, nor  
2 from including publicly-available information in their declarations describing their qualifications as  
3 counsel in other cases.

4 **8.16. Continuing Jurisdiction.** The Court shall retain jurisdiction over the  
5 implementation of this Agreement as well as any matter arising out of, or related to, the implementation  
6 of this Agreement. The Court shall not have jurisdiction to modify the terms of this Agreement without  
7 the consent of all Parties.

8 **8.17. Disputes.** If the Parties dispute the interpretation of this Agreement, they shall  
9 first attempt to resolve the dispute informally through good faith negotiations, and, if those efforts are  
10 unsuccessful, they agree to mediate any such dispute. The Parties will split the costs of the mediator, and  
11 all parties will bear their own fees and costs.

12 **8.18. Interim Stay of the Action.** Pending completion of all of the prerequisites  
13 necessary to effectuate this Settlement, the Parties agree, subject to Court's approval, to a stay of all  
14 proceedings in the Action except such as are necessary to effectuate the Settlement.

15 **8.19. Governing Law.** All terms of this Agreement shall be governed by and  
16 interpreted according to California law.

17 **SO AGREED:**

18 Dated: January \_\_\_\_, 2023

\_\_\_\_\_  
Plaintiff ANGELYNA CELIO

19 Dated: January 12, 2023

*Donell Fort*

\_\_\_\_\_  
Plaintiff DONELL FORT

20 Dated: January \_\_\_\_, 2023

\_\_\_\_\_  
Plaintiff MATTHEW LYTLE

21 Dated: January \_\_\_\_, 2023

\_\_\_\_\_  
Plaintiff ROBERT MARTIN

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17 **SO AGREED:**

18 Dated: January \_\_\_\_, 2023

\_\_\_\_\_  
Plaintiff ANGELYNA CELIO

19 Dated: January \_\_\_\_, 2023

\_\_\_\_\_  
Plaintiff DONELL FORT

20 Dated: January 11\_\_, 2023

*Matthew Lytle*  
\_\_\_\_\_  
Plaintiff MATTHEW LYTLE

21 Dated: January \_\_\_\_, 2023

\_\_\_\_\_  
Plaintiff ROBERT MARTIN

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18 Dated: January \_\_\_\_, 2023

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Plaintiff ANGELYNA CELIO

19 Dated: January \_\_\_\_, 2023

\_\_\_\_\_  
Plaintiff DONELL FORT

20 Dated: January \_\_\_\_, 2023

\_\_\_\_\_  
Plaintiff MATTHEW LYTLE

21 Dated: January 11th, ~~2023~~

  
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Plaintiff ROBERT MARTIN

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Dated: January \_\_\_\_, 2023

By \_\_\_\_\_  
AIR INTERNATIONAL (US) INC.

Its: \_\_\_\_\_

**Approval As To Form And Content By Counsel:**

Dated: January \_\_\_\_, 2023

SEYFARTH SHAW LLP

By \_\_\_\_\_  
Christian J. Rowley  
Eric M. Lloyd  
Attorneys for Defendants AIR INTERNATIONAL US,  
INC.

Dated: January 11, 2023

COHELAN KHOURY & SINGER

By  \_\_\_\_\_  
Isam C. Khoury  
Attorney for Plaintiffs ANGELYNA CELIO, DONELL  
FORT, MATTHEW LYTLE and ROBERT MARTIN

Dated: January 11, 2023

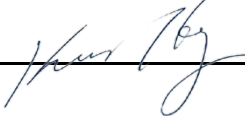
STONEBROOK LAW

By  \_\_\_\_\_  
Joseph Tojarieh  
Attorney for Plaintiffs ANGELYNA CELIO, DONELL  
FORT, MATTHEW LYTLE and ROBERT MARTIN



1 Dated: January \_11\_, 2023

2  
3 By     Kwangtaek Hong      
4 AIR INTERNATIONAL (US) INC.

5 Its: 

6 **Approval As To Form And Content By Counsel:**

7 Dated: January <sup>1/12/2023</sup>\_\_\_\_, 2023

8 SEYFARTH SHAW LLP

9 By     Eric Lloyd      
10 Christian J. Rowley  
11 Eric M. Lloyd  
12 Attorneys for Defendants AIR INTERNATIONAL US,  
13 INC.

14 Dated: January \_\_\_\_ , 2023

15 COHELAN KHOURY & SINGER

16 By     Isam C. Khoury      
17 Attorney for Plaintiffs ANGELYNA CELIO, DONELL  
18 FORT, MATTHEW LYTLE and ROBERT MARTIN

19 Dated: January \_\_\_\_ , 2023

20 STONEBROOK LAW

21 By     Joseph Tojarieh      
22 Attorney for Plaintiffs ANGELYNA CELIO, DONELL  
23 FORT, MATTHEW LYTLE and ROBERT MARTIN