

CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE OF ALL CLAIMS

This Confidential Settlement Agreement and Release of All Claims ("Agreement") is made and entered into by and between Plaintiff Stanislav Savinok (referred to herein as "Plaintiff"), acting in a Private Attorney General capacity, on the one hand, and Defendants Airmaxx, Inc., and Alex Glozman ("Defendants"), on the other hand. Plaintiff and Defendants are referred to collectively as the "Parties" and, in the singular, as a "Party." This Agreement is intended to resolve all disputes and extinguish those obligations described below.

I. DEFINITIONS

The following terms, when used in this Settlement, shall have the following meanings:

1. "Action" means the matter entitled *Savinok v. Airmaxx, Inc., et al.*, County of San Diego Superior Court, Case No. 37-2020-00031033-CU-OE-CTL, and as set forth in Plaintiff's Notice to the California Labor and Workforce Development Agency ("LWDA Letter") dated on or about June 16, 2020.
2. "Aggrieved Employees" consist of all current and former hourly-paid or non-exempt employees of Defendants within the state of California at any time between June 30, 2019 and the Effective Date (defined below).
3. "Defendants" means Airmaxx, Inc., and Alex Glozman (owner of Airmaxx, Inc.).
4. "Complaint" means the Representative Action Complaint entitled *Savinok v. Airmaxx, Inc., et al.*, County of San Diego Superior Court, Case No. 37-2020-00031033-CU-OE-CTL, originally filed on September 3, 2020.
5. "Court" means the Superior Court of California for the County of San Diego.
6. "Effective Date" means the date upon entry of and issuance of a Final Order by the Court approving this Settlement Agreement.
7. "LWDA" means the California Labor and Workforce Development Agency.
8. "Settlement Amount" is the total settlement amount to be distributed to the LWDA and Aggrieved Employees. The Settlement amount totals \$9,200.00.
9. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*
10. "PAGA Period" means the time period from June 30, 2019 through the Effective Date.

11. “Released Parties” means Defendants and all of its former, present and future owners, parents, subsidiaries, and all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns, accountants, insurers, or legal representatives.

12. “PAGA Released Claims” mean any and all claims, rights, demands, liabilities and causes of action for civil penalties under the PAGA pled in the operative complaint in the Action, or that could be brought based on the factual allegations that are pled in the operative complaint in the Action, that arose during the PAGA Period, including any PAGA-based claims for unpaid wages (including minimum wages and overtime) or failure to timely pay wages, PAGA-based claims for failure to pay wages upon separation, PAGA-based claims for failure to reimburse, PAGA-based claims for failure to provide legally compliant meal periods or rest periods, PAGA-based claim for failure to provide compliant wage statements, PAGA-based claim for failure to maintain accurate records and any related claims for attorneys’ fees, costs, or interest resulting therefrom.

13. “Parties” mean Plaintiff and Defendants.

14. “Plaintiff” means Stanislav Savinok.

15. “Plaintiff’s Counsel” means Eric Yaeckel and William G. Anderson of Sullivan Law Group APC.

16. “Defendants’ Counsel” means Lonny Zilberman and Naomi Pontious of Wilson Turner Kosmo LLP.

II. RECITALS

A. Plaintiff alleges that Defendants: failed to provide compliant meal periods or maintain a compliant meal period policy, failed to authorize and permit compliant paid rest periods or maintain a compliant rest period policy, failed to provide accurate wage statements, failed to pay all wages owed during employment, including minimum wage and/or overtime, failed to maintain accurate employee records, failed to reimburse employees for business expenditures, and failed to pay all wages owed upon termination.

B. On June 16, 2020, Plaintiff provided written notice to the LWDA and Defendants asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of the California Labor Code described above.

C. On or around September 3, 2020, Plaintiff filed the operative Complaint in the Action, bringing a single cause of action against Defendants under California Labor Code §§ 2698, et seq.

D. On or around November 10, 2020, Defendants filed an Answer and Affirmative Defenses to Plaintiff’s Complaint.

E. The Parties engaged in informal settlement discussions, including exchange of informal discovery, prior to any formal discovery being served. Defendants provided Plaintiff's Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees and the claims in the Action in order for Plaintiff's Counsel to investigate Plaintiff's allegations and value the PAGA claim. On December 3, 2020, Plaintiff provided Defendant with a formal Settlement Demand.

F. On December 30, 2020, the Parties agreed to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

NOW THEREFORE, in consideration of and exchange for the covenants, promises, and releases contained in this Agreement and the other good and valuable consideration described herein, the sufficiency of which is hereby acknowledged by the Parties, the Parties mutually agree as follows:

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendants of any liability or wrongdoing as to Plaintiff, Aggrieved Employees or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses and risks. This Settlement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Allocation of Settlement Amount.** The Settlement Amount shall be distributed pursuant to Lab. Code § 2699(i) as follows:

a. \$6,900.00, which is 75% of the Settlement Amount shall be distributed to the LWDA.

b. \$2,300.00, which is 25% of the Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period. There are an estimated 23 Aggrieved Employees who will receive an "average" payment of \$100.00.

3. **Representative PAGA Release.** In his capacity as a Private Attorney General or "aggrieved employee" acting on behalf of himself, the State of California and Aggrieved Employees, Plaintiff hereby releases Defendant and Released Parties, from any and all of the PAGA Released Claims that arose during the PAGA Period.

4. **PAGA Released Claims.** Plaintiff agrees that upon entry of an Order approving the Settlement, all Aggrieved Employees will release any and all PAGA Released Claims against the Released Parties that arose during the PAGA Period. Upon entry of the Order approving the Settlement and judgment entered thereon, Plaintiff and all Aggrieved Employees will be forever

barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties.

5. **No Right to Opt-Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to opt out or otherwise exclude himself or herself from the Settlement.

6. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement.

b. Plaintiff acknowledges that he has read this Settlement, that he fully understands his rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that she had the opportunity to consult with his attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

7. **Confidentiality.** Except as provided below, to the extent necessary to effectuate the Settlement or as required by court or legal process, Plaintiff and Plaintiff's Counsel will keep the terms of this Settlement confidential. Neither Plaintiff nor Plaintiff's Counsel shall issue a press release, hold a press conference, publish information about the Settlement on any website or through any social media or otherwise publicize the Settlement or communicate its terms (including the amount) in public or in private, other than as necessary to obtain Court approval of this Settlement and/or unless otherwise ordered by the Court or required by law. The Parties and Plaintiff's Counsel agree that they will not initiate or have contact with the press, respond to any press inquiry, or have any communication with the press about the Action. Notwithstanding the above, for the limited purpose of establishing adequacy of counsel in future actions, Plaintiff's Counsel may reference the Action by name and case number in a declaration establishing adequacy as class or representative counsel.

To permit judicial review and approval of the PAGA Payment, as required by Labor Code Section 2698, *et seq.*, Plaintiff's Counsel will file the Settlement with the Court and submit the Settlement to the LWDA as part of the Parties' seeking Court approval of the Settlement, pursuant to Lab. Code § 2699(1)(2).

8. **Termination of Settlement.** If the Court does not approve the Settlement, if the Court does not enter judgment, as provided for in this Settlement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement.

9. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and retains jurisdiction over the Action for the purpose of enforcing the terms of

the Settlement following approval of the Settlement. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Distribution.** The Parties agree that Defendants, under the counsel and direction of Defendants' Counsel will disburse the Settlement Amount per the terms of this Agreement.

The Parties have agreed to forego any Third-Party Settlement Administration based on the relatively small number of Aggrieved Employees who will receive a check. Defendants will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

Within five (5) business days of the Effective Date, Defendants shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, in English, along with Individual PAGA Payments to all Aggrieved Employees via regular First Class U.S. Mail.

2. **Undeliverable Notices.** Defendants shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Defendants as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, Defendants will promptly attempt to determine the correct address using a skip-trace or other search using the name, address or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing.

Defendants fully discharge their obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office under the unclaimed property fund laws in the names of the Aggrieved Employees to whom the checks were issued.

3. **Payment of Remainder.** Within five (5) business days of the Effective Date, Defendants will distribute the following additional payments: (1) the 75% share of the Settlement Amount to the LWDA.

4. **Tax Consequences.** Individual PAGA Payments made under this Settlement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any

representations or warranties with respect to tax consequences of any payment under this Settlement.

V. MISCELLANEOUS PROVISIONS

1. **Mutual Preparation and Drafting.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendants shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

2. **Successors.** This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, assigns, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees and other fees incurred in connection with this Settlement, the Action and Plaintiff's claims, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement shall be construed under and governed by the laws of the State of California. This Settlement shall be deemed to have been entered into in the County of San Diego, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of San Diego.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by the Parties hereto.

6. **Nullification of Settlement.** In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions unless otherwise required under this Agreement.

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the claims in the Action.

8. **Amendment or Modification.** This Settlement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

9. **Authorization to Enter into Settlement.** Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

10. **Execution and Counterparts.** This Settlement is subject only to the execution of all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

11. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel and with the assistance of an experienced mediator. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

12. **Invalidity of Any Provision.** Before declaring any provision of this Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement valid and enforceable.

13. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

14. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

15. **Enforcement Action.** In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or

Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions. In any proceeding to enforce the terms of this Agreement, the Parties may disclose the terms of this Agreement to the extent necessary to enforce the Agreement, but shall make all efforts to preserve the confidentiality of this Agreement, including but not limited to filing the relevant provisions of the Agreement and/or discussion of these terms under seal or conditionally under seal to the fullest extent appropriate and possible.

16. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

17. **Defendants' Representations Regarding Ability to Fund Settlement.** Defendants represent that its business is currently solvent, and it currently is and believes it will be able to pay the Settlement Amount within the time frame set forth in this Agreement. Specifically, Defendants have reviewed its financial status in contemplation of this Settlement and believe they will be able to comply with the payment schedule set forth above. Defendants further affirm that they have not consulted or retained bankruptcy counsel or has contemplated a bankruptcy filing in the twelve (12) months prior to the date of this Settlement.

18. **Binding Agreement.** The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement will be fully enforceable and binding on all Parties and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms under California Code of Civil Procedure section 664.6 and any other applicable statute or law, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

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19. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

I, having read the foregoing Confidential Settlement Agreement and Release of All Claims and knowing the contents thereof, am effecting this Settlement and executing this Release after having the opportunity to obtain legal advice from counsel, and I sign the same as my own free act.

Dated: _____

Plaintiff, Stanislav Savinok

Dated: 01-18-2021

Alex Glozman, on Behalf of himself,
Individually and Airmaxx, Inc.

APPROVED AS TO FORM

Dated: 01/19/2021

SULLIVAN LAW GROUP APC

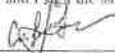
By WGA
Eric K. Yaeckel
William G. Anderson
Attorneys for Plaintiff
Stanislav Savinok

19. **Denial of Liability.** The Parties expressly recognize that the making of this Settlement does not in any way constitute an admission or concession of wrongdoing on the part of Defendant. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the course of this Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement may be used in any Court proceeding that has as its purpose the interpretation, implementation or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

I, having read the foregoing Confidential Settlement Agreement and Release of All Claims and knowing the contents thereof, am effecting this Settlement and executing this Release after having the opportunity to obtain legal advice from counsel, and I sign the same as my own free act.

Dated: 01-05-2021


Plaintiff, Stanislav Savinok

Dated: _____

Alex Glozman, on Behalf of himself,
Individually and Airmacx, Inc.

APPROVED AS TO FORM

Dated: _____

SULLIVAN LAW GROUP APC

By: _____
Eric K. Yaeckel
William G. Anderson
Attorneys for Plaintiff
Stanislav Savinok

Dated: 1/19/21

WILSON TURNER KOSMO LLP

By Leonid M. Zilberman
Lonny Zilberman
Naomi Pontious
Attorneys for Defendants Alex Glozman and
Airmaxx, Inc.