

PAGA SETTLEMENT

Bernie Germani v. Horizon Air Industries, Inc.
Los Angeles County Superior Court Case No. 21STCV11163

This Private Attorneys General Act Settlement Agreement and Release ("Settlement") is made pursuant to Labor Code section 2699 *et seq.* by and between Plaintiffs Bernie Germani and Carlos Canizales ("Plaintiffs") on behalf of themselves and as a private attorney general on behalf of the California Labor and Workforce Development Agency ("LWDA") on behalf of all other allegedly aggrieved employees, on the one hand, and Defendant Horizon Air Industries, Inc. ("Defendant") on the other hand. Plaintiffs and Defendant are collectively referred to herein jointly as "the Parties" or, in the singular, "Party." This Settlement, and the settlement embodied herein, shall be binding on Plaintiffs, the PAGA Members (defined below), the California LWDA, and Defendant, subject to the approval of the Court.

RECITALS

WHEREAS, on or around January 12, 2021, Plaintiff Bernie Germani ("Germani") served notice to the LWDA and to Defendant of his intent to pursue a representative action pursuant to the Private Attorneys General Act of 2004, as codified in California Labor Code §§ 2698 *et seq.* ("PAGA"), on behalf of himself and the State of California, as well as on behalf of a group of PAGA Members.

WHEREAS, on or around March 9, 2021, Plaintiff Carlos Canizales ("Canizales") served notice to the LWDA and to Defendant of his intent to pursue a representative action pursuant to the Private Attorneys General Act of 2004, as codified in California Labor Code §§ 2698 *et seq.* ("PAGA"), on behalf of himself and the State of California, as well as on behalf of a group of PAGA Members.

WHEREAS, on or around March 23, 2021, Germani filed this Action (as defined below) against Defendant Horizon Air Industries, Inc. and Alaska Airlines, Inc.

WHEREAS, on or around May 17, 2021, Plaintiffs filed a First Amended Complaint for Damages, adding Plaintiff Canizales to the Action.

WHEREAS, on or around June 9, 2021, Defendant provided information to Plaintiffs demonstrating that Alaska Airlines, Inc. was not the employer of Plaintiffs or the PAGA Members.

WHEREAS, on June 25, 2021, Plaintiffs filed a Request for Dismissal in the Action to dismiss Alaska Airlines, Inc.

WHEREAS, beginning on or around February 28, 2021, the Parties engaged in discussions regarding the size, scope, and other information related to the potential PAGA Members.

WHEREAS, the Parties engaged in negotiations over the next several months regarding potential settlement. The Parties were able to reach agreement to settle the Action conditioned

on the exchange of sample time and pay data from Defendant, which was initially memorialized in a Memorandum of Understanding signed on or about November 5, 2021.

WHEREAS, the Parties have since exchanged sample time and pay data for the purposes of settlement. After the sample time and pay data was exchanged, the Parties re-engaged in negotiations and agreed to revise the Total Settlement Amount (defined below) upward.

WHEREAS, Defendant denies and continues to deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, and contends that it has complied at all times with the California Labor Code, IWC Wage Orders, and all applicable California laws.

WHEREAS, the Parties believe and agree that this Settlement provides for a fair, adequate, and reasonable resolution of the Action, and have arrived at the settlement in extensive, arms-length negotiations, taking into account all relevant factors, present and potential. 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.

WHEREAS, based on their own independent investigations and evaluations, Plaintiffs and their counsel are of the opinion that the amount and terms of the Settlement are in the best interests of the Plaintiffs, the PAGA Members, and the LWDA in light of all known facts and circumstances and the risks inherent in litigation, including the potential for appellate issues. Further, PAGA Counsel (as defined below) believe that the settlement amount entered into is in the best interests of the PAGA Members and that the settlement for each PAGA Member is fair, reasonable, and adequate, given the facts, defenses, and inherent risk of litigation.

NOW, THEREFORE, in consideration of the promises and agreements contained herein, and to avoid the uncertainty, risks, costs, and delays associated with further litigation, the Parties agree to, and seek approval of pursuant to Labor Code § 2699, the following settlement terms.

DEFINITIONS

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

1. “Action” means the action filed in the Superior Court of California, County of Los Angeles entitled *BERNIE GERMANI, as an aggrieved employee pursuant to the Private Attorneys General Act (“PAGA”), Plaintiff, v. HORIZON AIR INDUSTRIES, INC., a Washington Corporation, Alaska Airlines, Inc., and Alaska Corporation; and DOES 1 through 20*, Los Angeles County Superior Court Case No. 21STCV11163.

2. “PAGA Members” shall be defined to include any non-exempt hourly employees of Defendant in California, who worked for Defendant from January 12, 2020 to the date which operations ceased on October 18, 2020, at LAX.

3. “Effective Date” means the date on which the Court approves the Settlement and enters judgment.

4. "Settlement Period" means the time period from January 12, 2020, through the date the Settlement is approved by the Court with judgment entered accordingly.

5. "PAGA Counsel" means counsel for Plaintiffs, Ares Law Group, P.C.

SETTLEMENT TERMS

1. **Persons Covered By the Settlement.** This Settlement covers all PAGA Members during the Settlement Period. PAGA Members are not able to opt-out of the Settlement as it is a PAGA settlement and PAGA does not provide for notice or opt out rights.

2. **Duties of the Parties Prior to Approval.** Plaintiff shall apply to the Court for the entry of an order approving this Settlement as required by Labor Code section 2699(l) (the "Motion for Approval"). The Motion for Approval will request Court approval of the following: (1) the terms of this Settlement, (2) the amount of PAGA Counsel fees & costs, and (3) entry of an Order and Judgment. In conjunction with the Motion for Approval, Plaintiff shall submit a proposed Order and Judgment requesting an Order and Judgment for the Total Settlement Amount.

3. **Notice to LWDA.** Pursuant to California Labor Code § 2699(l)(1), Plaintiff shall submit to the LWDA a copy of this Settlement prior to the date that Plaintiff submits the Settlement to the Court for approval. Plaintiff shall be responsible for complying with all such notification requirements.

4. **Total Settlement Amount.** Defendant agrees to pay, in accordance with the terms set forth herein, the total sum of \$227,125.00 (Two Hundred Twenty-Seven Thousand One Hundred Twenty-Five Dollars) (the "Total Settlement Amount") in full settlement of this Action. The Total Settlement Amount is the maximum Defendant can be required to pay under this Settlement, including all (1) penalty payments to the PAGA Members by virtue of payments through Settlement Administrator; (2) PAGA counsels' fees; (3) PAGA counsels' costs; (4) payment of third party Settlement Administrator; (5) PAGA penalties paid to the State of California (LWDA); and (6) service payments to each Plaintiff. All payments to Plaintiffs and PAGA Members shall be made as a 1099 payment and each PAGA Member shall be responsible for paying any taxes due on his or her settlement payment, if any. Subject to approval by the Superior Court, these amounts shall be paid and allocated as set forth below.

a. **Attorneys' Fees and Costs.** Subject to Court approval, one-third of the Total Settlement Amount shall be paid to PAGA Counsel for payment of attorneys' fees, and PAGA Counsel shall seek reimbursement for out-of-pocket costs, according to proof, incurred on behalf of Plaintiff and the PAGA Members. Defendant shall not oppose PAGA Counsel's request for attorneys' fees up to 33.33% of the Total Settlement Amount. Defendant shall not oppose PAGA Counsel's request for reimbursement of litigation costs up to \$10,000.00 (Ten Thousand Dollars). Any fees or costs award approved by the Court shall constitute a full and complete satisfaction of all claims Plaintiffs, PAGA Members, and the LWDA may have for costs and attorneys' fees for work performed on claims arising during the Settlement Period. PAGA Counsel shall submit a declaration to the Court detailing the costs incurred and/or

expected to be incurred in the Action. If the Court awards fees or costs of less than the amount requested by PAGA Counsel, the unawarded amounts shall become part of the Net Settlement Amount (defined below). This Settlement is not contingent upon the Court awarding PAGA Counsel any particular amount in attorneys' fees or costs.

b. **Administration Costs.** The Parties will obtain a not-to-exceed quote from a mutually acceptable qualified settlement administrator ("Settlement Administrator") for claims administration costs. Reasonable settlement administration expenses shall be deducted from the Total Settlement Amount for the payment of the third-party settlement administrator (the "Settlement Administrator Fees"). Any unused portion of the Settlement Administrator Fees shall become part of the Net Settlement Amount.

c. **Named Plaintiffs' Service Payment:** Defendant agrees not to oppose Plaintiffs' request for a service payment of up to Five Thousand Dollars (\$5,000.00) to each named Plaintiff (the "Service Award"). Each of the two Service Awards are to compensate Plaintiffs for their service as named PAGA representatives, and in consideration of the Service Award, Plaintiffs agree to execute a full release of all claims as set forth in Paragraph 5(b) below. Any Service Awards will be paid out of the Total Settlement Amount. If the Court reduces the amount of Plaintiffs' Service Award in the course of the settlement approval process, only the amount approved by the Court will be paid to Plaintiffs as a Service Award. Any amount of the Service Award not approved by the Court shall become part of the Net Settlement Fund.

d. **Net Settlement Amount.** The remaining and any unused funds (the Total Settlement Amount less the Settlement Administrator Fees, and PAGA Counsel's fees and costs, and Service Awards) shall be referred to as the "Net Settlement Amount." The Net Settlement Amount shall be designated as PAGA penalties to be allocated between the LWDA and PAGA Members pursuant to Labor Code section 2699(i) with seventy-five percent (75%) paid to the LWDA, and twenty-five percent (25%) paid to the PAGA Members, including Plaintiffs as PAGA Members.

5. **Releases.**

a. **PAGA Release.** Pursuant to the terms of this Settlement and the subsequent agreements and motions in support thereof, Plaintiffs, the LWDA, and the PAGA Members agree to release any and all claims they have arising out of or in connection with any claim, theory, or primary right asserted in the Action, or which could have been asserted in the Action based on such facts, claims, theories, or primary rights alleged in the Action, for civil penalties and all available relief under the California Private Attorneys General Act of 2004 ("Released Claims") for the period of January 12, 2020 until the date the Court approves the Settlement.

As of the Effective Date, Plaintiffs, the PAGA Members, and the LWDA fully and finally release Defendant, and each of its past, present and future agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related or affiliated companies/corporations and/or partnerships (defined as a company/corporation and/or partnership that is, directly or indirectly, under common control with Defendant or any of their parents and/or affiliates),

divisions, assigns, predecessors, successors, insurers, consultants, any actual or alleged joint employers, and alter-egos, and all of their respective past, present and future employees, directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, insurers, and assigns (collectively, the "Released Parties"), from all "Released Claims," as defined herein. "Released Claims" means any and all claims alleged in the Action, and all claims arising from or related to the facts, theories, primary rights, or claims as those alleged in the Action, and includes all claims under PAGA associated with all claims for or arising in connection with: (a) unpaid wages, including failure to pay minimum wages; failure to pay for travel time; failure to pay straight time compensation, overtime compensation, double-time compensation; failure to timely pay wages; and/or interest; (b) missed, late, short or interrupted meal and/or rest periods, including any claim for any alleged failure to pay premiums for missed, late, short or interrupted meal or rest periods, or to pay such premiums at the regular rate of compensation; (c) unlawful deduction of pay; (d) penalties arising out of or related to any or all of the aforementioned claims, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; (e) inaccurate or otherwise improper wage statements and/or failure to keep or maintain accurate records; and (f) attorneys' fees and costs. For purposes of clarification, the claims released by the PAGA Members and the LWDA include any and all claims under PAGA that arise out of or in connection with the claims, facts, theories or primary rights alleged in the Action, and any claims which could have been asserted in the Action arising from the alleged facts, claims, theories, and/or primary rights alleged to have been invaded to the fullest extent permitted by law. Without limitation by any other language in this agreement, the release includes claims under the PAGA alleging violation of the Wage Orders of the California Industrial Welfare Commission; and/or alleging violation of California Labor Code §§ 201-203, 204, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1182.12, 1194, 1197, 1198, 2698 *et seq.* This release does not release any individual's claims except under PAGA as defined herein.

b. General Release by Named Plaintiffs. In consideration of the Service Award, Plaintiffs' release of claims include all claims, whether known or unknown, under federal, state, and/or local law, including, but not limited to claims arising from or related to Plaintiffs' employment with Released Parties ("Plaintiffs' General Release") during the Settlement Period. Plaintiffs' General Release includes, but is not limited to, all claims alleging violation of the Wage Orders of the California Industrial Welfare Commission; and/or alleging violation of California Labor Code §§ 201-203, 204, 218.5, 218.6, 226, 226.3, 226.7, 510, 512, 558, 1174, 1182.12, 1194, 1197, 1198, 2698 *et seq.* Even if Plaintiffs discover facts in addition to or different from those that Plaintiffs now know or believe to be true with respect to the subject matter of Plaintiffs' claims, those claims will remain released and forever barred. Thus, Plaintiffs expressly waive and relinquish the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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

Notwithstanding the foregoing, Plaintiffs do not waive or release any claim which cannot be waived or released by private agreement. Further, nothing in this Settlement shall prevent Plaintiffs from filing a charge or complaint with, or from participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH, NLRB or any other federal, state or local agency charged with the enforcement of any employment or other applicable laws. Plaintiffs, however, understand that by signing this Settlement, they waive the right to recover any damages or to receive other relief in any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral agency on their behalf to the fullest extent permitted by law, but expressly excluding any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA whistleblower award, or other awards or relief that may not lawfully be waived.

ADMINISTRATION OF SETTLEMENT

6. **Settlement Administrator.** The Settlement Administrator shall be responsible for sending the explanatory letters, for calculating Individual Settlement Payments, and preparing all checks and mailings in compliance with all requirements set forth in Paragraph 9. The Settlement Administrator Fees (including settlement administration costs) shall be paid out of the Total Settlement Amount. The Parties agree to use a mutually agreeable Settlement Administrator. Defendant is not responsible or liable for any errors in the calculation of pay periods or settlement amount to be awarded to each PAGA Member. Defendant is also not liable or responsible for any errors made by the Settlement Administrator in the administration of the settlement.

7. **Distribution of the Net Settlement Amount.** The Net Settlement Amount shall be allocated between the LWDA and PAGA Members pursuant to Labor Code section 2699(i) with seventy-five percent (75%) paid to the LWDA, and twenty-five percent (25%) paid to Plaintiffs and PAGA Members. The twenty-five percent (25%) of the Net Settlement Amount paid to Plaintiffs and PAGA Members shall be referred to as "PAGA Member Payment." The PAGA Member Payment shall be divided among the PAGA Members based on the number of total pay periods in the Settlement Period to establish the amount of the settlement allocation for each PAGA Pay Period ("Pay Period Amount").

8. **Individual Settlement Payment Calculation.** Plaintiffs and each of the PAGA Members shall receive a pro rata value equal to the number of PAGA Pay Periods Plaintiffs and the PAGA Members worked during the Settlement Period, as provided by Defendant to the Settlement Administrator, multiplied by the Pay Period Amount (the "Individual Settlement Payments"). Each PAGA Member's number of pay periods will be derived from the hire and termination dates and payroll data contained in the records kept by Defendant in the ordinary course of business during the Settlement Period. All Individual Settlement Payments made to PAGA Members will be reported on an IRS Form 1099, if such reporting is required. The Individual Settlement Payments shall be allocated 100% as penalties.

9. **PAGA Settlement Payment Procedures.**

a. **Timing of Funding and PAGA Member list to Settlement Administrator.** Within thirty (30) calendar days of the Effective Date, Defendant shall: (1)

deposit with the Settlement Administrator the Total Settlement Amount; and (2) within fifteen (15) days after the Effective Date, Defendant shall provide to the Settlement Administrator a list of the PAGA Members that identifies for each PAGA Member his/her full name, social security number, last known address, last known telephone number(s), and the number of pay periods for each PAGA Member during the Settlement Period. However, no funds will be distributed to anyone until all deadlines to appeal have passed, or if an appeal is filed, after all appeals have been resolved without impacting the effectiveness of this Settlement, whichever is later.

b. Defendant agrees to consult with the Settlement Administrator as required to provide the list of PAGA Members in a format reasonably acceptable for the performance of the duties of the Settlement Administrator. The Settlement Administrator will keep the list confidential, use it only for the purposes described herein, take adequate safeguards to protect confidential or private information and return or certify the destruction of the information upon completion of the Settlement Administration process. The list of PAGA Members shall not be shared with Plaintiffs or their counsel, including PAGA Counsel.

c. Within thirty (30) calendar days after all deadlines to appeal the Settlement have passed, or if an appeal is filed, after all appeals have been resolved without impacting the effectiveness of this Settlement, whichever is later, the Settlement Administrator shall run all the addresses of PAGA Members through the United States Postal Service NCOA database to obtain current address information, and shall remit (1) Settlement Administrator Fees to itself, (2) PAGA Counsel's fees and costs to PAGA Counsel, (3) any Service Awards to Plaintiffs; and (4) the remaining Net Settlement Amount, as awarded by the Court, in the amount of 25% of the Net Settlement Amount to the PAGA Members and 75% of the Net Settlement Amount to the LWDA. Parties are to inform Settlement Administrator of the date which triggers the Settlement Administrator to perform its duties under this paragraph.

d. PAGA Members shall not be required to make claims, but shall simply be delivered a check for Individual Settlement Payments. The Settlement Administrator shall send Individual Settlement Payments to each PAGA Member by U.S. First Class mail to the PAGA Member's address with directions to the Postmaster to forward the payment checks and return all undeliverable payment checks to the Settlement Administrator. The Settlement Administrator shall send the PAGA Members an explanatory letter, which will be mutually approved by the Parties, with the Individual Settlement Payment checks. It will be conclusively presumed that a PAGA Member's Individual Settlement Payment check was received if the payment check has not been returned within thirty (30) days of the original mailing of the payment check.

e. Settlement Checks issued to PAGA Members pursuant to this Settlement will expire one hundred and eighty (180) calendar days from the date they are mailed by the Settlement Administrator. Funds represented by settlement checks returned as undeliverable and those settlement checks remaining un-cashed for more than 180 days after mailing will be tendered by Settlement Administrator to the State Controller's Office, Unclaimed Property Division in the name of each PAGA Member.

f. Neither Defendant nor Plaintiffs shall bear any liability for lost or stolen checks, forged signatures on checks, or unauthorized negotiation of checks. Unless responsible by its own acts of omission or commission, the same is true for the Settlement Administrator.

10. **Tax Treatment of Settlement Amounts.** With regard to the Service Awards to Plaintiff and, if applicable, the Individual Settlement Payments to PAGA Members, IRS Form 1099s will be issued. Nothing in this Settlement is intended to constitute legal or tax advice regarding federal, state, and/or local tax obligations. Plaintiffs acknowledge that they have obtained no tax advice from Defendant and that neither Defendant nor its attorneys have made any representation concerning the tax consequences, if any, of the settlement payments in this Settlement or any payment to be made pursuant to this Settlement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendant is not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of PAGA Counsel's fees and costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility and liability for the payment of taxes due on such payments.

11. **Circular 230 Disclaimer.** EACH PARTY TO THIS AGREEMENT (FOR PURPOSES OF THIS SECTION, THE "ACKNOWLEDGING PARTY" AND EACH PARTY TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN "OTHER PARTY") ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

MISCELLANEOUS

12. **Judgment and Continued Jurisdiction.** After entry of the Order and Judgment, the Court will have continuing jurisdiction under California Code of Civil Procedure § 664.6 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.

13. **Non-Admission of Wrongdoing.** The Parties agree that this Settlement does not constitute an admission by Defendant or any of the Released Parties, of any of the matters alleged in the Action or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Settlement nor anything in this Settlement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Plaintiffs, Defendant or the Released Parties.

14. **No Credit Toward Benefit Plans.** Payments to PAGA Members as referenced herein will not be utilized to calculate any additional benefits under any benefit plans to which any PAGA Members may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement will not affect any rights, contributions, or amounts to which any PAGA Member may be entitled under any benefit plans.

15. **Nullification of PAGA 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, after which neither this Settlement nor any of its terms will be usable or admissible for any purpose whatsoever.

16. **No Claim for Distributions or Payments.** No person shall have any claim against Defendant, Defendant's Counsel, Plaintiffs, PAGA Members, PAGA Counsel or the Settlement Administrator based on distributions and payments made in accordance with this Settlement.

17. **Nondisclosure and Nonpublication.** The Parties and their counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communications with the press about the facts, amount or terms of the Settlement prior to approval. Plaintiffs and PAGA Counsel agree that, prior to final court-approval of the Settlement, they will keep the terms of the Settlement confidential except for purposes of communicating with Plaintiffs only, their spouses, or their tax professionals. The terms of this Settlement shall be kept strictly confidential until such time as the Settlement is submitted to the Court and the LWDA. Plaintiffs agree not to publicize the Settlement, the fact of the Settlement, its terms or contents, and the negotiations underlying the Settlement, in any manner or form, directly or indirectly, to any person or entity, beyond filing the Settlement with the Court and submitting a copy to the LWDA. Plaintiffs further agree that they shall not discuss or communicate the terms of this Settlement with any current or former employee of any of Defendant or the Released Parties, unless contacted by a PAGA Member with questions about the Settlement. This non-disclosure agreement specifically applies to not informing counsel in other actions, if any, against Defendant or the Released Parties, about the fact or terms of the Settlement before filing for approval of the Settlement.

18. **Waiver and Amendment.** The Parties may not waive, amend, or modify any provision of this Settlement except by a written agreement signed by all of the Parties, and

subject to any necessary Court approval. A waiver or amendment of any provision of this Settlement will not constitute a waiver of any other provision.

19. **Communications.** All communications to be provided concerning this Settlement shall be in writing by e-mail to the addresses set forth below, or such other addresses as either Party may designate in writing from time to time:

To Defendant: Paul Cowie and Patricia Jeng of Sheppard, Mullin, Richter & Hampton, LLP, Four Embarcadero Center, 17th Floor, San Francisco, CA 94111, pcowie@sheppardmullin.com and pjeng@sheppardmullin.com.

To Plaintiffs: Matt D'Abusco of Ares Law Group, P.C., 23 Corporate Plaza, Suite 150, Newport Beach, CA 92660, matt@areslawgroup.com.

20. **Entire Settlement.** This Settlement contains the entire agreement between the Parties with respect to the transactions contemplated hereby, and supersedes all negotiations, presentations, warranties, commitments, offers, contracts and writings prior to the date hereof relating to the subject matters hereof. The Parties are not relying on any representations (or omissions of fact) not expressly stated in this Settlement. Any representation, promise or agreement not specifically included in this Settlement shall not be binding upon or enforceable against either Party. This is a fully integrated agreement. No other promises or agreements shall be binding or shall modify this Settlement unless in writing and signed by the Parties or their successors-in-interest.

21. **Waiver of Certain Appeals/Appellate rights.** The Parties agree to waive appeals; except, however, that either Party may appeal any court order that approves the Settlement but materially alters the Settlement's terms, so long as the appealing Party provides written notice to counsel for the other Party of their intent to appeal within ten (10) business days after entry of the Order of Judgment.

22. **Invalidity and Severability.** Before declaring any provision of this Settlement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement valid and enforceable, including minimally reforming any offending provision to make it valid and enforceable to the extent permitted by law. If any provision of this Settlement or the application thereof is held invalid or unenforceable, the invalidity or unenforceability shall not affect other provisions or applications of the Settlement which can be given effect without the invalid or unenforceable provision(s) or application, and to this end the provisions of this Settlement are declared to be severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Settlement, except upon waiver in writing by Defendant.

23. **Authorization to Enter Into Settlement.** Counsel for all Parties warrant and represent 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 implement the Settlement. If the Parties are unable to reach agreement on the form or content of any document to implement the Settlement, or any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may first seek the assistance of a mediator, and in the event that does not resolve the dispute, then the Court to resolve such disagreement.

24. **No Construction Against the Drafter.** Each Party has cooperated in the drafting and preparation of this Settlement. Hence, in any construction to be made of this Settlement, the same shall not be construed against any Party on the basis that the Party was the drafter.

25. **Choice of Law.** This Settlement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereunder shall be construed and enforced in accordance with, and governed by, the laws of the State of California without regard to principles of conflict of laws.

26. **Counterparts.** This Settlement may be executed by one or more of the Parties on any number of separate counterparts and delivered electronically, and all of said counterparts taken together shall be deemed to constitute one and the same instrument. Photographic, electronic or facsimile copies of any such signed counterparts may be used in lieu of the original for any said purpose.

27. **Cooperation.** Each Party, on behalf of themselves, and their respective business entities, heirs, executors, and assigns, agrees that they will abide by this Settlement and will do all such acts, and prepare, execute, and deliver all such documents, as may be reasonably required to carry out the stated objectives of this Settlement.

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

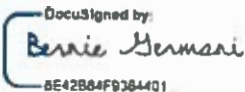
PLAINTIFF:

Dated: 1/11/2022

By: 
DocuSigned by:
5873C3D34D27488
CARLOS CANIZALES

PLAINTIFF:

Dated: 1/13/2022

By: 
DocuSigned by:
Bernie Germani
5E42B84F9D384401
BERNIE GERMANI

DEFENDANT HORIZON AIR INDUSTRIES, INC:

Dated: 1/24/2022

By: 
NAME: JOE WONDERLY
SENIOR CORPORATE COUNSEL
TITLE

APPROVED AS TO FORM:

Dated: 1/11/2022

By: 
DocuSigned by:
Matt D'Abusco
3E24E83A43E48D
Matthew S. D'Abusco
ARES LAW GROUP, P.C.
Attorneys for Plaintiffs

Dated: 1/24/2022

By: 
Patricia Jeng, Esq.
SHEPPARD MULLIN RICHTER & HAMPTON LLP
Attorneys for Defendant