

Exhibit A

SETTLEMENT AGREEMENT

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SETTLEMENT AGREEMENT OF CLASS ACTION AND PRIVATE ATTORNEYS

GENERAL ACT CLAIMS

This Settlement Agreement of Class Action and Private Attorneys General Act Claims (“Settlement” or “Settlement Agreement”) is made between Plaintiff Mohamed Ibrahim (“Plaintiff”), as an individual and on behalf of all other similarly situated and alleged aggrieved employees, on the one hand, and Defendant McGee Air Services, Inc. (“Defendant” or “McGee”) on the other hand (collectively, the “Parties” and individually, a “Party”). This Settlement was pursuant to lengthy negotiations between the Parties and a mediator’s proposal accepted on December 8, 2022.

I. DEFINITIONS

A. “Lawsuit” means the action entitled *Ibrahim, et al. v. McGee Air Services, Inc.*, Case No. 3:22-CV-00744-VC, pending in the United States District Court for the Northern District of California.

B. “Class Counsel” means Matthew Kumin of The Law Offices of Matthew Kumin, A.P.C., 1939 Harrison Street, Suite 307, Oakland, CA 94612.

C. “Class Member Payments” means the amount payable from the Net Distribution Fund to each Settlement Class Member, 100% of which shall be allocated to expense reimbursements and penalties. Class Member Payments are separate and distinct from PAGA Payment (defined below) that will be paid to PAGA Aggrieved Employees.

D. “Class Payout Fund” means all funds remaining from the Gross Settlement Amount after deducting the Court-awarded Named Plaintiff Enhancement Payment, Fees Award, Costs Award, Settlement Administration Costs, and PAGA Payment.

E. “Class Settlement” means the non-PAGA portion of the settlement embodied in this Settlement Agreement.

F. “Costs Award” means costs of litigation approved by the Court for Class Counsel’s costs incurred in investigation, litigation, and resolution of the Lawsuit, and administration of the Settlement, including anticipated costs incurred through Final Approval and disbursement of

1 payments under this Settlement Agreement and obtaining entry of the judgment terminating the
2 Lawsuit.

3 **G.** “Court” means the United States District Court for the Northern District of
4 California, located at 450 Golden Gate Avenue, San Francisco, CA 94102.

5 **H.** “Defendant’s Counsel” means Paul Cowie, Patricia Jeng, John Ellis, Melissa
6 Hughes, Hyunki Jung of Sheppard, Mullin, Richter & Hampton LLP, Four Embarcadero Center,
7 17th Floor, San Francisco, CA 94111.

8 **I.** “Effective Date” means the date by which the final judgment becomes final. For
9 purposes of this Settlement Agreement, the final judgment “becomes final” only after the Court
10 grants the motion for final approval of the settlement and enters judgment and upon the latter of (i)
11 the period for filing any appeal, writ, or other appellate proceeding challenging or opposing the
12 Settlement has elapsed without any appeal, writ, or other appellate proceeding having been filed;
13 (ii) any appeal, writ or other appellate proceeding challenging or opposing the Settlement has been
14 dismissed finally and conclusively with no right to pursue further remedies or relief and without
15 impacting this Settlement; or (iii) any appeal, writ or other appellate proceeding has upheld the
16 Court’s final approval order with no right to pursue further remedies or relief. In this regard, it is
17 the intention of the parties that the Settlement shall not become effective, and Defendant will not
18 be obligated to fund this Settlement, until the Court’s order approving the Settlement is completely
19 final, and there is no further recourse by an appellant, objector, intervenor, or otherwise by anyone
20 who seeks to contest the Settlement.

21 **J.** “Fees Award” means attorneys’ fees approved by the Court for Class Counsel’s
22 fees incurred in investigation, litigation, and resolution of the Lawsuit, and administration of the
23 Settlement, including anticipated fees incurred through Final Approval and disbursement of
24 payments under this Settlement Agreement and obtaining entry of the judgment terminating the
25 Lawsuit, and which shall not exceed one-third of the Gross Settlement Amount.

26 **K.** “Final Approval” means the Court’s order granting final approval of the Settlement
27 Agreement.

1 **L.** “Gross Settlement Amount” means a non-reversionary common fund that shall
 2 have a total all-in value of \$420,000.00 and includes without limitation any and all payments
 3 Defendant may be responsible for under the Settlement, including any Fees Award and Costs
 4 Award to Class Counsel, Named Plaintiff Enhancement Payment, the Class Member Payments,
 5 the PAGA Payment (which includes payments to the LWDA), and Settlement Administration
 6 Costs. The total amount that Defendant shall pay for any and all purposes under this Settlement
 7 Agreement is the Gross Settlement Amount.

8 **M.** “LWDA” means the California Labor and Workforce Development Agency.

9 **N.** “Named Plaintiff” means Plaintiff Mohamed Ibrahim.

10 **O.** “Named Plaintiff Enhancement Payment” means the amount to be paid to Named
 11 Plaintiff for his time and effort spent pursuing the Lawsuit; for the risks associated with suing
 12 Defendant; and for his agreement to enter into a general release of all claims, not to exceed
 13 \$5,000.

14 **P.** “PAGA” means the California Private Attorneys General Act, California Labor
 15 Code §§ 2699 *et seq.*

16 **Q.** “PAGA Aggrieved Employees” means all current and former California employees
 17 (both exempt and non-exempt) who worked for McGee as agents, including station agents, aircraft
 18 fleet, aircraft agents, ramp agents, customer service agents, interline agents and/or as supervisors
 19 of those positions during the PAGA Period.

20 **R.** “PAGA Aggrieved Employee List” means the list of all PAGA Aggrieved
 21 Employees that Defendant will diligently and in good faith compile from its records to accurately
 22 reflect employees’ names, last known mailing address, telephone number, Social Security number,
 23 date of birth, and the number of pay periods worked by the PAGA Aggrieved Employees during
 24 the PAGA Period.

25 **S.** “PAGA Payment” means the payment to the State of California LWDA and the
 26 PAGA Aggrieved Employees in settlement of all claims for PAGA penalties as defined in this
 27 Settlement Agreement.

1 **T.** “PAGA Period” means the time period beginning October 26, 2020 through the
2 date of preliminary approval of the Settlement.

3 **U.** “PAGA Settlement” means the PAGA portion of the settlement embodied in this
4 Settlement Agreement.

5 **V.** “Qualified Settlement Account” means the account established by the Settlement
6 Administrator pursuant to Internal Revenue Code section 1.468B-1.

7 **W.** “Released Parties” means Defendant, and each of its past, present and future
8 agents, employees, servants, owners, officers, directors, partners, trustees, representatives,
9 shareholders, stockholders, attorneys, parents, subsidiaries, equity sponsors, related
10 companies/corporations and/or partnerships (defined as a company/corporation and/or partnership
11 that is, directly or indirectly, under common control with Defendant or any of its parents and/or
12 affiliates), divisions, assigns, predecessors, successors, insurers, consultants, joint ventures, any
13 actual or alleged joint employers, affiliates, and alter-egos, and all of their respective past, present
14 and future employees, directors, officers, agents, owners, attorneys, insurers, stockholders,
15 fiduciaries, parents, subsidiaries, and assigns.

16 **X.** “Settlement Administration Costs” means the costs payable from the Gross
17 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
18 but not limited to, the Settlement Administrator’s responsibilities outlined in this Settlement
19 Agreement.

20 **Y.** “Settlement Administrator” means the entity whom the Parties mutually agree shall
21 be responsible for the administration of the Settlement, distribution of amounts owed under this
22 Settlement, and matters necessarily related thereto, pursuant to the terms of this Settlement
23 Agreement.

24 **Z.** “Settlement Class” means all current and former California employees (both
25 exempt and non-exempt) who worked for McGee as agents, including station agents, aircraft fleet,
26 aircraft agents, ramp agents, customer service agents, interline agents and/or as supervisors of
27 those positions during the Settlement Class Period.

1 **AA.** “Settlement Class Members” means individuals in the Settlement Class who do not
2 submit a timely and valid request for exclusion from the Settlement Class.

3 **BB.** “Settlement Class List” means the list of all employees in the Settlement Class that
4 Defendant will diligently and in good faith compile from its records to accurately reflect
5 employees’ names, last known mailing address, telephone number, Social Security number, date
6 of birth, and the number of work weeks worked by Settlement Class during the Settlement Class
7 Period.

8 **CC.** “Settlement Class Period” means the time period from December 30, 2017 through
9 the date of preliminary approval of the Settlement.

10 **II. RECITALS**

11 **A. Background and Procedural History**

12 1. On September 2, 2021, Named Plaintiff submitted a PAGA notice to the
13 LWDA in accordance with the requirements of Labor Code section 2699.3(a). The PAGA notice
14 alleged, among other things, that Defendant violated various California Labor Code sections. The
15 LWDA declined to investigate the alleged violations, permitting Named Plaintiff to assert a claim
16 under the PAGA against Defendant.

17 2. On December 30, 2021, Named Plaintiff together with Sulamain Esmyatar,
18 and Oswaldo Daniel Ramos Montes De Oca filed a class action and PAGA complaint in Alameda
19 County Superior Court, Case No. 21CV004842, alleging causes of action against Defendant for:
20 (1) Failure to Reimburse in Violation of Cal. Lab. Code § 2802; (2) Failure to Provide Accurate,
21 Itemized Wage Statements in Violation of Cal. Lab. Code § 226; (3) Unfair Competition in
22 Violation of Cal. Bus. & Prof. Code § 17200; and (4) Violation of the Private Attorneys General
23 Act (PAGA) § 2698 *et seq* (the Complaint). On February 3, 2022, Defendant filed an Answer to
24 the Complaint.

25 3. On February 4, 2022, Defendant filed a Notice of Removal to the United
26 State District Court, Northern District of California. On June 24, 2022, pursuant to a stipulation of
27 the Parties, Named Plaintiff, Sulamain Esmyatar, and Oswaldo Daniel Ramos Montes De Oca
28 filed a First Amended Complaint in the Lawsuit, dismissing their second cause of action for

1 Failure to Provide Accurate, Itemized Wage Statements in Violation of Cal. Lab. Code § 226.
2 Accordingly, the operative First Amended Complaint in the Lawsuit alleges the following three
3 causes of action: (1) Failure to Reimburse in Violation of Cal. Lab. Code § 2802; (2) Unfair
4 Competition in Violation of Cal. Bus. & Prof. Code § 17200; and (3) Violation of the Private
5 Attorneys General Act (PAGA) § 2698 et seq (the “FAC”). On June 27, 2022, Defendant
6 answered the FAC.

7 4. The Parties engaged in formal discovery targeted at the claims in the FAC,
8 and attended mediation on September 22, 2022, after additional informal exchange of documents
9 and information. The case did not resolve at mediation. After additional negotiations, several
10 weeks after mediation, the mediator issued a mediator’s proposal, which was accepted by the
11 Parties on December 8, 2022, the terms of which are now more fully memorialized in this
12 Settlement Agreement.

13 **B.** Named Plaintiff has fully investigated the factual and legal bases for the causes of
14 action asserted in the Lawsuit. As a result of their investigation, Named Plaintiff continues to
15 believe his claims are viable and that Defendant violated the California Labor Code. Defendant
16 has denied all allegations and contends that the claims asserted in the Lawsuit have no merit and
17 cannot give rise to liability on behalf of Defendant. Given the disagreement between the Parties as
18 to the viability of these claims, the Parties believe the Settlement provided for herein is a fair,
19 adequate and reasonable settlement.

20 **C.** Named Plaintiff recognizes the expense and length of continued proceedings
21 necessary to continue the litigation against Defendant through trial and through any possible
22 appeals. Named Plaintiff has also taken into account the uncertainty and risk of the outcome of
23 further litigation, the difficulties and delays inherent in such litigation, and Defendant’s
24 contentions regarding its policies and defenses. Named Plaintiff is also aware of the burdens of
25 proof necessary to establish liability for the claims asserted in the Lawsuit, Defendant’s defenses
26 thereto, and the difficulties in establishing damages for the Settlement Class and PAGA Aggrieved
27 Employees. Named Plaintiff has also taken into account the documents and information produced
28 and settlement negotiations conducted, which negotiations resulted in the material settlement

1 terms set forth herein. Based on the foregoing, Named Plaintiff has determined that the Settlement
2 set forth in this Settlement Agreement is a fair, adequate and reasonable settlement, and is in the
3 best interests of the Settlement Class and PAGA Aggrieved Employees.

4 **D.** Defendant has concluded that defense of this litigation would be protracted and
5 expensive for all Parties. Defendant has devoted substantial amounts of time, energy and
6 resources to the investigation and defense of the claims asserted in the Lawsuit and, unless this
7 Settlement is made, will continue to do so for the foreseeable future. For these reasons, Defendant
8 has agreed to settle the matter upon the terms set forth in this Settlement Agreement, to put to rest
9 the claims as set forth in the Lawsuit.

10 **E.** Defendant has denied and continues to deny each of the claims and contentions
11 alleged in the Lawsuit. Defendant has repeatedly asserted and continues to assert defenses thereto,
12 and has expressly denied and continues to deny any wrongdoing or legal liability arising out of
13 any of the facts or conduct alleged in the Lawsuit. Defendant also has denied and continues to
14 deny, *inter alia*, the allegations that the Settlement Class and PAGA Aggrieved Employees have
15 suffered damages; that Defendant provided the Settlement Class and PAGA Aggrieved Employees
16 with inaccurate wage statements; that Defendant failed to reimburse business expenses; that
17 Defendant violated any provisions of the California Labor Code or any IWC Wage Order; that
18 Defendant engaged in any unlawful, unfair or fraudulent business practices; that Defendant
19 engaged in any other wrongful conduct alleged in the Lawsuit; or that the Settlement Class and
20 PAGA Aggrieved Employees were harmed by the conduct alleged in the Lawsuit. Neither this
21 Settlement Agreement, nor any document referred to or contemplated herein, nor any action taken
22 to carry out this Settlement Agreement, is, may be construed as, or may be used as, an admission,
23 concession or indication by or against Defendant or any of the Released Parties of any fault,
24 wrongdoing or liability whatsoever.

25 **F.** Named Plaintiff claims and continues to claim that the claims released by this
26 Settlement Agreement have merit and give rise to liability on the part of Defendant. Neither this
27 Settlement Agreement nor any documents referred to herein, or any action taken to carry out this
28 Settlement Agreement is, may be construed as, or may be used as an admission, by or against

1 Settlement Class Members, PAGA Aggrieved Employees, or Class Counsel as to the merits or
 2 lack thereof of the claims asserted.

3 **I.** The Parties stipulate, subject to the approval of the Court, that the Lawsuit is being
 4 compromised and settled pursuant to the terms and conditions set forth in this Settlement
 5 Agreement. The Court shall retain jurisdiction with respect to the interpretation, implementation,
 6 and enforcement of the terms of this Settlement Agreement and all orders and judgments entered
 7 in connection therewith.

8 **III. SETTLEMENT TERMS**

9 **A. Funding and Allocation of Settlement**

10 1. Gross Settlement Amount. Provided the Court approves the Settlement and
 11 the Effective Date occurs, Defendant will pay the Gross Settlement Amount of \$420,000, which is
 12 the maximum monetary amount payable by Defendant.

13 2. Funding the Settlement. Within thirty days (30 days) after the Settlement
 14 Administrator has provided Parties with the accounting pursuant to III.A.3, Defendant shall wire
 15 the Gross Settlement Amount into the Qualified Settlement Fund that the Settlement
 16 Administrator has set up for the benefit of the Class. At no time shall Defendant have the
 17 obligation to segregate the funds comprising the Gross Settlement Amount from other assets and
 18 will retain exclusive authority over, and responsibility for, those funds until the date those
 19 amounts are required to be funded pursuant to this Settlement Agreement.

20 3. Settlement Accounting. No more than seven (7) days after the Effective
 21 Date, or at a reasonable time thereafter if not reasonably practicable, the Settlement Administrator
 22 will provide the Parties with an accounting of all anticipated payments from the Qualified
 23 Settlement Account, including: (a) Class Member Payments, (b) the PAGA Payment; (c) the
 24 Named Plaintiff Enhancement Payment; (d) the Fees Award and Costs Award to Class Counsel,
 25 and (f) Settlement Administration Expenses, all as specified in this Settlement Agreement and
 26 approved by the Court.

27 **B. Payments from the Gross Settlement Amount.**

1 1. Named Plaintiff Enhancement Payment. The Settlement Administrator
2 shall pay any Named Plaintiff Enhancement Payment within forty-five (45) days of the Effective
3 Date either by check or wire to an account(s) designated by Class Counsel. Named Plaintiff
4 agrees to provide the Settlement Administrator with an executed IRS Form W-9 within five (5)
5 days after the Effective Date and before the Named Plaintiff Enhancement Payment is issued. The
6 Settlement Administrator shall issue an IRS Form 1099 to Named Plaintiff for this payment.
7 Named Plaintiff shall be solely and legally responsible for paying any and all applicable taxes on
8 the Named Plaintiff Enhancement Payment and shall hold Released Parties harmless from any
9 claim or liability for taxes, penalties or interest arising as a result of the Named Plaintiff
10 Enhancement Payment. The Named Plaintiff Enhancement Payment shall be in addition to any
11 Class Member Payment or PAGA Payment the Named Plaintiff receives as a Settlement Class
12 Member and a PAGA Aggrieved Employee. If the Court awards a Named Plaintiff Enhancement
13 Payment less than the amount specified, the unawarded amount shall remain in the Class Payout
14 Fund and be distributed to Settlement Class Members.

15 2. Class Counsel's Attorneys' Fees and Costs. Class Counsel may request a
16 Fees Award of up to one-third of the Gross Settlement Amount, plus a Costs Award of
17 reimbursement of Class Counsel's out-of-pocket costs and expenses incurred pursuing the
18 Lawsuit. Class Counsel shall submit a declaration to the Court, in support of the motion for
19 preliminary approval, detailing the costs incurred and/or expected to be incurred in the Lawsuit to
20 substantiate the Costs Award. Defendant reserves the right to challenge Class Counsel's requests
21 for fees and costs if Defendant deems it appropriate after reviewing Class Counsel's motion for
22 preliminary approval.

23 a. The Settlement Administrator shall pay any Fees Award and/or
24 Costs Award within forty-five (45) days of the Effective Date either by check or wire to an
25 account designated by Class Counsel. Class Counsel agrees to provide the Settlement
26 Administrator with an executed IRS Form W-9 within five (5) days after the Effective Date and
27 before payments for Class Counsel's Fees Award and Costs Award are issued. The Settlement
28 Administrator shall issue an IRS Form 1099 to Class Counsel for the payments made pursuant to

1 this section. Class Counsel shall be solely and legally responsible for paying any and all
2 applicable taxes on their Fees Award or Costs Award and shall hold Released Parties harmless
3 from any claim or liability for taxes, penalties or interest arising as a result of any payments
4 received by Class Counsel pursuant to this Settlement Agreement. If the Court awards a Fees
5 Award or a Costs Award less than the amount requested by Class Counsel, the unawarded
6 amounts shall remain in the Class Payout Fund and be distributed to Settlement Class Members.
7 This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in
8 attorneys' fees and costs.

9 b. Neither Class Counsel nor any other current or past counsel for
10 Named Plaintiff shall be permitted to petition the Court for, or accept, any additional payments for
11 fees, costs, or interest, and the Fees Award and Costs Award shall be for all claims for attorneys'
12 fees and costs whenever incurred, including past, present and future fees and costs incurred in the
13 Lawsuit to date and through and including the Effective Date, as well as final distribution of all
14 payments under this Settlement Agreement and through and after final judgment. Upon the
15 Effective Date, payment of the Fees Award and Costs Award to Class Counsel as set forth herein
16 shall constitute full satisfaction of the obligation to pay any amounts to any person, attorney or law
17 firm for attorneys' fees, expenses or costs arising out of and/or in connection with the Lawsuit
18 incurred by any attorney on behalf of Named Plaintiff and/or any of the Settlement Class Members
19 or PAGA Aggrieved Employees, and shall relieve the Settlement Class Members, PAGA
20 Aggrieved Employees, Released Parties, the Settlement Administrator, the Qualified Settlement
21 Account, and Defendant's Counsel of any other claims or liability to any other attorney or law
22 firm for any attorneys' fees, expenses and/or costs to which any of them may claim to be entitled
23 on behalf of Named Plaintiff and/or any of the Settlement Class Members or PAGA Aggrieved
24 Employees in connection with the claims released in this Settlement.

25 3. PAGA Payment. The PAGA Payment amount is \$20,000, which the Parties
26 have agreed is to be paid in settlement of all PAGA claims released in this Settlement Agreement,
27 which shall be allocated as follows:
28

1 a. Within forty (45) days of the Effective Date, the Settlement
2 Administrator shall pay from the Qualified Settlement Account \$15,000 to the State of California
3 LWDA. This amount is 75% of the \$20,000 PAGA Payment.

4 b. The remaining 25% of the PAGA Payment (\$5,000) shall be
5 distributed to all PAGA Aggrieved Employees, with each receiving a pro rata share based on the
6 number of pay periods worked during the PAGA Period. To establish the pay period value, the
7 Settlement Administrator will first determine the total number of pay periods worked by the
8 PAGA Aggrieved Employees during the PAGA Period. The pay period value will be equal to
9 25% of the PAGA Payment divided by the total number of pay periods worked by PAGA
10 Aggrieved Employees during the PAGA Period. The pay period value will be rounded to the
11 nearest cent. The amount of the PAGA Payment to be paid to each PAGA Aggrieved Employee
12 will be determined by multiplying the pay period value by the total number of pay periods each
13 PAGA Aggrieved Employee worked during the PAGA Period.

14 c. The portion of the PAGA Payment paid to the PAGA Aggrieved
15 Employees shall be treated entirely as penalties. In the event that the Court awards less than the
16 full amount requested for the PAGA Payment, the un-awarded amount shall remain in the Class
17 Payout Fund and be distributed to Settlement Class Members. If for any reason additional funds
18 are allocated to the PAGA Payment, such monies shall be drawn from other amounts in this
19 Settlement with the other components of the Gross Settlement Amount being reduced
20 proportionately, including the Fees Award and the Class Payout Fund, but the Gross Settlement
21 Amount will not exceed \$420,000.

22 4. Settlement Administration Costs. The Settlement Administrator shall pay
23 from the Qualified Settlement Account the Court-approved Settlement Administration Costs,
24 within sixty (60) days of the Effective Date, in an amount not to exceed \$25,000. In the event that
25 the Court awards less than the full amount requested for Settlement Administration Costs, the
26 unawarded amounts shall remain in the Class Payout Fund and shall be distributed to Settlement
27 Class Members.

1 5. Calculation of Class Member Payments. All Settlement Class Members
 2 will receive a Class Member Payment, paid from the Class Payout Fund without the need to make
 3 a claim. The Parties agree that 100% of the Class Member Payments shall be allocated to expense
 4 reimbursements and penalties for tax purposes.

5 a. The amount of each Class Member Payment will be calculated on a
 6 pro rata basis, based on the number of workweeks each Settlement Class Member worked during
 7 the Settlement Class Period. To establish the workweek value, the Settlement Administrator will
 8 first determine the total number of workweeks worked by the Settlement Class during the
 9 Settlement Class Period. The workweek value will be equal to the Class Payout Fund divided by
 10 the total number of workweeks worked by the Settlement Class during the Settlement Class
 11 Period. The workweek value will be rounded to the nearest cent. The Class Member Payment to
 12 each Settlement Class Member will be determined by multiplying the workweek value by the total
 13 number of workweeks each Settlement Class Member worked during the Settlement Class Period.
 14 The total of all Class Member Payments to all Settlement Class Members shall equal the Class
 15 Payout Fund. There is no need for a Settlement Class Member to submit a claim form in order to
 16 be eligible for and to receive a Class Member Payment. Any partial workweek will be rounded up
 17 to the nearest full workweek.

18 6. Method and Timing of Payments to Settlement Class Members and PAGA
 19 Aggrieved Employees.

20 a. Class Member Payments and the PAGA Aggrieved Employees'
 21 portion of the PAGA Payment will be mailed by the Settlement Administrator by First Class U.S.
 22 Mail within forty (45) calendar days following the Effective Date.

23 b. Checks paid to PAGA Aggrieved Employees and Settlement Class
 24 Members shall remain valid and negotiable for 180 days from the date of their issuance. After
 25 one-hundred eighty (180) calendar days from the date of mailing, the checks shall become null and
 26 void. If the remaining in the distribution account exceeds \$25,000, the Settlement Administrator
 27 will write a make a second distribution to Class Members who cash their checks in relative
 28 proportion to their share of the Settlement Fund. If the remaining amount is \$25,000 or less, the

1 Settlement Administrator will donate that amount to the Justice and Diversity Center of the Bar
2 Association of SF or another organization to which the parties mutually agree and is approved by
3 the Court.

4 7. No Effect on Employee Benefits. The Named Plaintiff Enhancement
5 Payment, Class Member Payments, and PAGA Payment paid to Named Plaintiff, PAGA
6 Aggrieved Employees, and Settlement Class Members shall be deemed not to be pensionable
7 earnings and shall not have any effect on the eligibility for, or calculation of, any employee
8 benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the respective Named Plaintiff,
9 PAGA Aggrieved Employees, or Settlement Class Members. The Parties agree that any Named
10 Plaintiff Enhancement Payment, Class Member Payments, and PAGA Payment paid to Named
11 Plaintiff, PAGA Aggrieved Employees, and Settlement Class Members under the terms of this
12 Settlement Agreement do not represent any modification of Named Plaintiff's, PAGA Aggrieved
13 Employees', or Settlement Class Members' previously credited hours of service or other eligibility
14 criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by
15 Defendant or any of the Released Parties. Further, any Named Plaintiff Enhancement Payment,
16 Class Member Payments, or PAGA Payment shall not be considered "compensation" in any year
17 for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit
18 plan or employee welfare benefit plan sponsored by Defendant or any of the Released Parties.

19 **C. Taxation**

20 1. Tax Treatment of Class Member Payments. Each Class Member Payment
21 shall be allocated as 100% to alleged penalties, reimbursement of expenses and any applicable
22 interest for which an IRS Form 1099 will issue, if required by law. Each Settlement Class
23 Member shall be responsible for ensuring that any and all taxes due on his or her settlement are
24 paid.

25 2. Tax Treatment of PAGA Payment. The PAGA Payment distributed to each
26 PAGA Aggrieved Employee will be treated entirely as civil penalties, and will be reported as such
27 to each PAGA Aggrieved Employee on an IRS Form 1099 misc., if required.
28

1 3. Tax Liability. The Parties make no representation as to the tax treatment or
2 legal effect of the payments called for hereunder, and the Parties, Settlement Class Members, and
3 PAGA Aggrieved Employees are not relying on any statement, representation, or calculation by
4 any of the Parties or by the Settlement Administrator in this regard. Named Plaintiff, Settlement
5 Class Members, and PAGA Aggrieved Employees understand and agree that Named Plaintiff,
6 Settlement Class Members, and PAGA Aggrieved Employees will be solely responsible for the
7 payment of any taxes and penalties assessed on the payments described herein. Each Party to this
8 Settlement Agreement (for purposes of this section, the “acknowledging party” and each party to
9 this agreement other than the acknowledging party, an “other party”) acknowledges and agrees
10 that (1) no provision of this Settlement Agreement, and no written communication or disclosure
11 between or among the Parties or their attorneys and other advisers, is or was intended to be, nor
12 shall any such communication or disclosure constitute or be construed or be relied upon as, tax
13 advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10,
14 as amended); (2) the acknowledging party (a) has relied exclusively upon their own, independent
15 legal and tax counsel for advice (including tax advice) in connection with this Settlement
16 Agreement, (b) has not entered into this Settlement Agreement based upon the recommendation of
17 any other party or any attorney or advisor to any other party, and (c) is not entitled to rely upon
18 any communication or disclosure by any attorney or advisor to any other party to avoid any tax
19 penalty that may be imposed on the acknowledging party; and (3) no attorney or advisor to any
20 other Party has imposed any limitation that protects the confidentiality of any such attorney’s or
21 adviser’s tax strategies (regardless of whether such limitation is legally binding) upon disclosure
22 by the acknowledging party of the tax treatment or tax structure of any transaction, including any
23 transaction contemplated by this Settlement Agreement.

24 **D. Conditional Certification**

25 For the purposes of this Settlement Agreement only, the Parties agree to the certification of
26 the Settlement Class. If, for any reason, the Settlement Agreement is not approved, the stipulation
27 to certification will be void. Should the Settlement Agreement not become final, for whatever
28 reason, the fact that the Parties were willing to stipulate to class certification as part of the

1 Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of
 2 whether a class should be certified in a non-settlement context in the Lawsuit, and shall have no
 3 bearing on, and shall not be admissible in connection with, the issue of whether a class should be
 4 certified in any other lawsuit.

5 **E. Release of Claims**

6 1. Class Member Release. As of the Effective Date, all Settlement Class
 7 Members, fully and finally release the Released Parties from any and all claims that arose during
 8 the Settlement Class Period based on, or arising out of, the facts, theories, and/or primary rights
 9 alleged in the Complaint or First Amended Complaint in the Lawsuit, including without limitation
 10 for reimbursement for business expenses or any other claim that Defendant allowed or required
 11 employees to bear any of the costs associated with the operation of Defendant's business,
 12 including without limitation the use of personal cell phones; inaccurate or otherwise improper
 13 wage statements and/or failure to keep or maintain accurate records; any claim for unfair business
 14 practices arising out of or related to any or all of the aforementioned claims; any claim for
 15 penalties arising out of or related to any or all of the aforementioned claims, including, but not
 16 limited to, recordkeeping penalties, wage statement penalties, and waiting time penalties; and
 17 attorneys' fees and costs. The claims released by the Settlement Agreement also include any and
 18 all claims that are based on, or arise out of, the claims and facts alleged in the Complaint or First
 19 Amended Complaint in the Lawsuit, and any claims which could have been asserted in the
 20 Lawsuit arising from the alleged facts, theories, and/or primary rights alleged to have been
 21 invaded to the fullest extent permitted by law. This release includes claims alleging a violation of
 22 the Wage Orders of the California Industrial Welfare Commission; California Business and
 23 Professions Code section 17200, *et seq.*; the California Civil Code sections 3287, 3289, 3336, and
 24 3294; California Code of Civil Procedure section 1021.5; and/or alleging a violation of California
 25 Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 266.3, 558(a), 558.1, 1174, 1174.1, 1174.5,
 26 1175, 1194, 1197, 1197.1(a), 2698 *et seq.*, and 2802.

27 2. Release of PAGA Claims. As of the Effective Date, PAGA Aggrieved
 28 Employees and the LWDA fully and finally release the Released Parties from all claims under the

1 PAGA associated with any and all claims that arose during the PAGA Period based on, or arising
 2 out of, the facts, theories, and/or primary rights alleged in the Complaint or First Amended
 3 Complaint in the Lawsuit and/or and included in the letter sent to the LWDA on September 2,
 4 2021, including without limitation for reimbursement for business expenses or any other claim
 5 that Defendant allowed or required employees to bear any of the costs associated with the
 6 operation of Defendant's business, including without limitation the use of personal cell phones;
 7 inaccurate or otherwise improper wage statements and/or failure to keep or maintain accurate
 8 records; any claim for unfair business practices arising out of or related to any or all of the
 9 aforementioned claims; any claim for penalties arising out of or related to any or all of the
 10 aforementioned claims, including, but not limited to, recordkeeping penalties, wage statement
 11 penalties, and waiting time penalties; and attorneys' fees and costs. The claims released by the
 12 PAGA Aggrieved Employees also include any and all claims under the PAGA that are based on,
 13 or arise out of the facts, theories, and/or primary rights alleged in the Complaint or First Amended
 14 Complaint in the Lawsuit, and any claims which could have been asserted in the Lawsuit arising
 15 from the alleged facts, theories, and/or primary rights alleged to have been invaded to the fullest
 16 extent permitted by law. This release includes claims under the California Private Attorneys
 17 General Act of 2004 alleging a violation of the Wage Orders of the California Industrial Welfare
 18 Commission; and/or alleging a violation of California Labor Code §§ 201, 202, 203, 204, 210,
 19 226, 226.3, 266.3, 558(a), 558.1, 1174, 1174.1, 1174.5, 1175, 1194, 1197, 1197.1(a), 2698 *et seq.*,
 20 and 2802.

21 3. General Release By Named Plaintiff Only. As of the Effective Date,
 22 Named Plaintiff fully and finally releases the Released Parties from any and all claims, known and
 23 unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or
 24 other source of law, including but not limited to claims arising from or related to Named
 25 Plaintiff's employment with Defendant and/or the termination of Named Plaintiff's employment
 26 ("Named Plaintiff's Released Claims"). The Named Plaintiff's Released Claims include, but are
 27 not limited to, all claims asserted in, arising in connection with, or related in any way to the
 28 Lawsuit, including without limitation any and all claims that could have been asserted as part of

1 the Lawsuit based on the facts alleged. Named Plaintiff's Released Claims include all claims for
2 unpaid wages, including, but not limited to, failure to pay minimum wages; failure to pay straight
3 time compensation, overtime compensation, double-time compensation, vacation or PTO, sick
4 pay, reporting time compensation, and/or interest; missed, late, short or interrupted meal and/or
5 rest periods or any allegation that meal or rest periods were not provided, including any claim for
6 any alleged failure to pay premiums for missed, late, short or interrupted meal or rest periods, or to
7 pay such premiums at the regular rate of compensation; reimbursement for business expenses or
8 any other claim that Defendant allowed or required employees to bear any of the costs associated
9 with the operation of Defendant's business, including without limitation the use of personal cell
10 phones; inaccurate or otherwise improper wage statements and/or failure to keep or maintain
11 accurate records; unlawful deductions; secret underpayment of wages; unlawful payment
12 instruments; any claim for unfair business practices arising out of or related to any or all of the
13 aforementioned claims; any claim for penalties arising out of or related to any or all of the
14 aforementioned claims, including, but not limited to, recordkeeping penalties, wage statement
15 penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs.
16 Named Plaintiff's Released Claims include all claims arising under the California Labor Code
17 (including, but not limited to, sections 200, 201, 201.3, 202, 203, 204, 210, 212, 216, 218.5, 218.6,
18 221, 222.5, 223, 224, 225, 225.5, 226, 226.2, 226.3, 226.7, 226.8, 227.3, 245, 246, 247, 248, 249,
19 266.3, 450, 510, 511, 512, 558, 1174, 1174.5, 1175, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198,
20 1199, 2698 *et seq.*, 2800, 2802, and 2804); all claims arising under the Wage Orders of the
21 California Industrial Welfare Commission, including but not limited to Wage Order 7-2001,
22 Section 14(A) and (B); California Business and Professions Code section 17200, *et seq.*; the
23 California Labor Code; California Government Code; the California Civil Code, including but not
24 limited to, sections 3287, 3289, 3336 and 3294; California Code of Civil Procedure § 1021.5; the
25 California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*; federal
26 common law; and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.*
27 Named Plaintiff's Released Claims include any and all claims under the Private Attorneys General
28 Act, Cal. Lab. Code § 2698 *et seq.* ("PAGA"), of any kind, including but not limited to the PAGA

1 claims asserted in the Lawsuit. Named Plaintiff's Released Claims also include all claims for lost
 2 wages and benefits, emotional distress, punitive damages, and attorneys' fees and costs arising
 3 under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful
 4 termination, such as, by way of example only, (as amended) 42 U.S.C. section 1981, Title VII of
 5 the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in
 6 Employment Act, and the California Fair Employment and Housing Act; and the law of contract
 7 and tort. This release excludes the release of claims not permitted by law. Named Plaintiff's
 8 Released Claims include all claims, whether known or unknown. Even if Named Plaintiff
 9 discovers facts in addition to or different from those that Named Plaintiff now knows or believes
 10 to be true with respect to the subject matter of Named Plaintiff's Released Claims, those claims
 11 will remain released and forever barred. Thus, Named Plaintiff expressly waives and relinquishes
 12 the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

13 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
 14 **THAT THE CREDITOR OR RELEASING PARTY DOES**
 15 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
 16 **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.

17 Notwithstanding the foregoing, Named Plaintiff does not waive or release any
 18 claim which cannot be waived or released by private agreement. Further, nothing in this
 19 Agreement shall prevent Named Plaintiff from filing a charge or complaint with, or from
 20 participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH,
 21 NLRB or any other federal, state or local agency charged with the enforcement of any
 22 employment or other applicable laws. Named Plaintiff, however, understands that by signing this
 23 Agreement, Named Plaintiff waives the right to recover any damages or to receive other relief in
 24 any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral
 25 agency on Named Plaintiff's behalf to the fullest extent permitted by law, but expressly excluding
 26 any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA
 27 whistleblower award, or other awards or relief that may not lawfully be waived.

28 **F. Settlement Administrator Responsibilities**

1 1. The Settlement Administrator shall be responsible for preparing, printing
2 and mailing to the Settlement Class and the PAGA Aggrieved Employees the Notice of Proposed
3 Settlement of Class Action attached as Exhibit 1 hereto (the “Class Notice”) as directed by the
4 Court; calculating Class Member Payments and PAGA Payment; keeping track of opt-outs and
5 objections; drafting and mailing checks to Settlement Class Members and PAGA Aggrieved
6 Employees; distributing Named Plaintiff Enhancement Payment, the Fees Award, the Costs
7 Award, 75% of the PAGA Payment to the LWDA, and Settlement Administration Costs; issuing
8 and reporting on all necessary 1099s as identified within this Settlement Agreement and relating to
9 distributions of funds made hereunder; providing weekly status reports to counsel for the Parties;
10 providing a due diligence declaration for submission to the Court prior to the Final Approval
11 hearing and as otherwise required by the Court; and for such other tasks as the Parties mutually
12 agree or the Court orders the Settlement Administrator to perform. The Parties each represent they
13 do not have any financial interest in the Settlement Administrator or otherwise have a relationship
14 with the Settlement Administrator that could create a conflict of interest.

15 2. The Settlement Administrator’s determination of eligibility for, and the
16 amounts of, any Class Member Payment and share of the PAGA Payment shall be conclusive,
17 final and binding on all Parties, including all Settlement Class Members and PAGA Aggrieved
18 Employees. The Settlement Administrator has no power or ability to increase the amount of the
19 Gross Settlement Amount.

20 3. To the extent any tax returns must be filed for the Gross Settlement Amount
21 pursuant to this Settlement Agreement, the Settlement Administrator shall cause to be timely and
22 properly filed all informational and other tax returns, if any, necessary with respect to the Gross
23 Settlement Amount. Such returns shall be consistent with this paragraph. Any expenses and/or
24 costs incurred in connection with the operation and implementation of this paragraph (including,
25 without limitation, reasonable expenses of tax attorneys, accountants or other designees retained
26 by the Settlement Administrator as required for the preparation and filing of tax returns described
27 in this paragraph) shall be treated as, and considered to be, a cost of administration of the
28 Settlement and shall be paid from the Settlement Administration Costs.

1 **G. Notice/Approval of Settlement and Settlement Implementation.** As part of this
 2 Settlement, the Parties agree to the following procedures for obtaining preliminary approval of the
 3 Settlement, notifying the Settlement Class and PAGA Aggrieved Employees, obtaining final Court
 4 approval of the Settlement, and processing the settlement payments:

5 1. Preliminary Approval of Settlement

6 a. Named Plaintiff shall file a motion for preliminary approval of the
 7 Settlement in the Lawsuit within thirty (30) calendar days of the execution of this Settlement
 8 Agreement. Named Plaintiff shall schedule the motion for hearing on the earliest date the Court
 9 has available that complies with notice requirements. Named Plaintiff shall seek the entry of a
 10 Preliminary Approval Order for: (a) conditional certification of the Settlement Class for settlement
 11 purposes only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a
 12 date for a Final Approval hearing.

13 b. In conjunction with the Preliminary Approval Hearing, Named
 14 Plaintiff will submit this Settlement Agreement, which sets forth the terms of this Settlement, and
 15 will include proposed forms of all notices and other documents as attached hereto necessary to
 16 implement the Settlement. Class Counsel will be responsible for drafting all documents necessary
 17 to obtain Preliminary Approval, subject to review and comment by Defendant's counsel who shall
 18 be provided a minimum of seven (7) days to review prior to filing.

19 2. LWDA Notice. Pursuant to the PAGA, concurrently with the filing of the
 20 motion for Preliminary Approval, Named Plaintiff will, pursuant to California Labor Code §
 21 2699(l), provide notice of the proposed Settlement to the LWDA. The Parties intend and believe
 22 that the notice pursuant to the procedures described in this section complies with the requirements
 23 of the PAGA.

24 3. Notice to Settlement Class.

25 a. Delivery of the Settlement Class Member and PAGA Aggrieved
 26 Employee Lists. Within twenty (21) days of entry of the Preliminary Approval Order of this
 27 Settlement, Defendant will provide the Settlement Class List and PAGA Aggrieved Employee
 28 Lists (collectively, "Employee Lists") to the Settlement Administrator. The Employee Lists will

1 include for each Settlement Class Member the following information: (1) name; (2) last known
2 mailing address; (3) telephone number; (4) social security number; (5) date of birth (6) the number
3 of work weeks worked by the Settlement Class Member during the Settlement Class Period. The
4 Settlement Administrator shall use the Employee Lists, and any information contained therein,
5 solely for the administration of this Settlement and for no other purpose. The Employee Lists, and
6 any information contained therein, shall not be shared with any persons or entity not employed by
7 the Settlement Administrator and working on the administration of this Settlement. Because
8 sensitive personal information is included in the Employee Lists, the Settlement Administrator
9 shall maintain the Employee Lists securely and in confidence. Access to such Employee Lists
10 shall be limited to employees of the Settlement Administrator with a need to use the Employee
11 Lists for administration of the Settlement. In the event that the Settlement Agreement is not
12 finally approved by the Court, or if it is in any way altered or disapproved on appeal, the
13 Settlement Administrator shall not thereafter use the Employee Lists, and shall destroy any and all
14 copies or versions of it (including any in electronic form).

15 b. Contact Information of Individual Settlement Class Members: If
16 any Settlement Class Member contacts the Settlement Administrator prior to the
17 Objection/Exclusion Deadline Date with any questions or concerns, then the Settlement
18 Administrator shall promptly notify all Parties' counsel. Upon notice, Defendant's Counsel shall
19 provide to Class Counsel within three (3) business days the Settlement Class Member's contact
20 information, including name, last known mailing address and telephone number, and number of
21 work weeks worked by the Settlement Class Member during the Settlement Class Period. If any
22 Settlement Class Member contacts Class Counsel prior to the Objection/Exclusion Deadline Date,
23 then Class Counsel shall promptly notify Defendant's counsel. Upon notice, Defendant's Counsel
24 shall provide to Class Counsel within three (3) business days the Settlement Class Member's
25 contact information, including name, last known mailing address and telephone number, and
26 number of work weeks worked by the Settlement Class Member during the Settlement Class
27 Period.

1 c. Notice By First-Class Mail. Within fourteen (14) days after receipt
 2 of the Settlement Class List, the Settlement Administrator shall mail a class notice to the
 3 Settlement Class via first-class regular U.S. mail (“Class Notice”). The Settlement Class will have
 4 forty-five (45) days from the mailing of the Class Notice to opt-out of or object to the Class
 5 Settlement (“Opt Out/Objection Period”). Prior to mailing, the Settlement Administrator will
 6 perform a search based on the National Change of Address Database information to update and
 7 correct for any known or identifiable address changes and, if necessary, perform reasonable skip-
 8 tracing efforts to locate employees. If a new address is obtained by way of a returned Class
 9 Notice, the Settlement Administrator shall promptly forward the original Class Notice to the
 10 updated address via first-class regular U.S. mail indicating on the original Class Notice the date of
 11 such re-mailing.

12 d. Notice Satisfies Due Process. Compliance with the notice
 13 procedures specified in this Settlement Agreement shall constitute due and sufficient notice to the
 14 Settlement Class of this Settlement and shall satisfy the requirements of due process. Nothing else
 15 shall be required of, or done by, the Parties, Class Counsel or Defendant’s Counsel to provide
 16 notice of the proposed Settlement. In the event that the procedures in this Settlement Agreement
 17 are followed and the intended recipient of a Notice of Settlement still does not receive the Notice
 18 of Settlement, the intended recipient shall be a Settlement Class Member and will be bound by all
 19 the terms of the Settlement and the Final Approval entered by the Court if the Settlement becomes
 20 effective.

21 4. Objections or Exclusions.

22 a. Procedure for Objecting. The Notice shall provide that the
 23 individuals in the Settlement Class who wish to object to the Settlement must submit a written
 24 statement to the Settlement Administrator objecting to the Settlement. The objection must include
 25 the case name and number and only needs to provide a concise statement explaining why he or she
 26 objects along with any supporting documentation. The Settlement Administrator will promptly
 27 serve copies of any objection on Class Counsel and Defense Counsel. Class Counsel shall lodge
 28 copies of all objections with the Court within thirty (30) days before the final approval hearing.

Any objection by a Settlement Class Member must be submitted to the Settlement Administrator no later than forty-five (45) days after the date the Class Notice is first mailed (the “Objection/Exclusion Deadline Date”). No PAGA Aggrieved Employee may object to the PAGA Settlement, as no such right exists under the law. An individual who does not timely submit a written objection to the Settlement Administrator may appear (or their representative may appear on their behalf) at the Final Approval Hearing to present to the Court oral objections or concerns with the Settlement, so long as the individual provides written notice, which may be by email, to Class Counsel, Defense Counsel, and the Court no later than seven days prior to the date of the Final Approval Hearing of their intent to appear at the Final Approval Hearing. The Parties will be permitted to respond in writing to such objections prior to the Final Approval hearing. Any individual in the Settlement Class who fails to file and serve timely written objections in the manner specified above shall remain a Settlement Class Member and shall be deemed to have waived any objections and shall be foreclosed from making any objection (whether by appeal or otherwise) to the Settlement.

b. Procedure for Requesting Exclusion. The Class Notice shall provide that individuals in the Settlement Class who wish to exclude themselves from the Settlement Class must submit a personally signed, written statement requesting exclusion from the Settlement Class on or before the Objection/Exclusion Deadline Date. The opt-out request must state in substance, words to the effect:

“I have read the Class Notice and I wish to opt out of the Settlement Class in *Ibrahim, et al. v. McGee Air Services, Inc.*, Case No. 3:22-CV-00744-VC. I understand that by requesting to be excluded from the Settlement Class, I will not receive a Class Member Payment. I also understand that I will still receive a PAGA Payment for my share of the PAGA Settlement, if I am entitled to such payment, because I cannot object or exclude myself from the PAGA Settlement.”

(1) Such written request for exclusion must contain the name, address, last four digits of Social Security number, and telephone number of the person requesting exclusion, must be returned by mail to the Settlement Administrator at the specified address, must be signed by individual requesting exclusion in the Settlement Class personally, and must be postmarked on or before the Objection/Exclusion Deadline Date. The date of the postmark on the

1 return mailing envelope shall be the exclusive means used to determine whether a request for
 2 exclusion has been timely submitted. If the postmark is illegible then the request for exclusion
 3 must arrive within three (3) calendar days after the Objection/Exclusion Deadline Date to be
 4 considered timely.

5 (2) Any individual in the Settlement Class who opts out of the
 6 Settlement Class will not be entitled to any recovery under the Class Settlement (which refers to
 7 claims encompassed by the Class Payout Fund and excludes the PAGA claims) and will not be
 8 bound by the Settlement as it relates to the Class Settlement or have any right to object, appeal or
 9 comment in court on the Class Settlement. Any and all individuals in the Settlement Class who
 10 fail to submit a valid and timely request for exclusion on or before the Objection/Exclusion
 11 Deadline Date shall be Settlement Class Members and shall be bound by all terms of the
 12 Settlement and any final judgment entered in the Lawsuit if the Settlement is approved by the
 13 Court.

14 c. No Opt-Out or Objection of PAGA Settlement. PAGA Aggrieved
 15 Employees will not have the opportunity to opt out of, or object to, the PAGA Settlement and
 16 release of the PAGA claims set forth in this Settlement Agreement and will receive their share of
 17 the PAGA Payment.

18 d. No Solicitation of Settlement Objections or Exclusions. The Parties
 19 agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the
 20 Parties, or their counsel, seek to directly or indirectly (including through a third party) solicit or
 21 otherwise encourage, suggest, recommend, or advise the Settlement Class to submit objections to
 22 the Settlement or requests for exclusion from the Class Settlement, or appeal from the Court's
 23 final judgment.

24 5. Certification Reports by the Settlement Administrator.

25 a. The Settlement Administrator will, on a weekly basis during and for
 26 a reasonable period following distribution of the Class Notice, provide updates to Class Counsel
 27 and Defendant's Counsel as to the number of individuals in the Settlement Class who submitted (i)
 28 valid opt-out requests for exclusion; and (ii) objections. All written objections shall be provided

1 to the Parties' counsel within five (5) calendar days of receipt by the Settlement Administrator.
 2 The Settlement Administrator shall also provide the names of any opt-outs to Defendant's counsel
 3 within five (5) calendar days of receipt. To the extent practicable, the weekly updates shall also
 4 provide updated data on the extent of Class Notices that are returned undeliverable and any re-
 5 mailing efforts.

6 b. Within ten (10) calendar days after the Objection/Exclusion
 7 Deadline Date, the Settlement Administrator will prepare a declaration to be provided to Class
 8 Counsel and Defendant's Counsel for filing in support of Named Plaintiff's motion for final
 9 approval attesting to the following: (i) its mailing efforts regarding the Class Notice; (ii) its receipt
 10 of any valid and timely requests for exclusion, and its inability to deliver the Class Notice to the
 11 Settlement Class, if any; (iii) the number of Settlement Class Members; (iv) the highest estimated
 12 Class Member Payment and PAGA Aggrieved Employees' portion of the PAGA Payment, along
 13 with the estimated average Class Member Payment and portion of the PAGA Payment. The
 14 Settlement Administrator will also prepare and submit to Class Counsel and Defendant's Counsel
 15 for filing in support of the motion any supplemental declaration as may be needed.

16 6. Right of Defendant to Reject Settlement.

17 a. Option to Void Settlement. If, after the Objection/Exclusion
 18 Deadline Date, the number of employees in the Settlement Class who have timely submitted
 19 requests for exclusion total in number more than four (4) percent of the Settlement Class,
 20 Defendant shall have, in its sole discretion, the option to void this Settlement. In order to exercise
 21 this option, Defendant must notify Class Counsel in writing within fourteen (14) days after the
 22 later of the Objection/Exclusion Deadline Date, or of learning in writing from the Settlement
 23 Administrator that the number of individuals in the Settlement Class who have timely submitted
 24 requests for exclusion total in number more than four (4) percent of the Settlement Class.

25 b. Nullification of Settlement Agreement. In the event: (i) the Court
 26 does not enter the Order specified herein; (ii) the Court does not finally approve the Settlement as
 27 provided herein; (iii) the Court does not enter a final judgment as provided herein which becomes
 28 final as a result of the occurrence of the Effective Date; or (iv) the Settlement does not become

1 final for any other reason, this Settlement Agreement shall be null and void and any order or
2 judgment entered by the Court in furtherance of this Settlement, including any order certifying a
3 Settlement Class, shall be treated as void ab initio. In such a case, the Parties and any funds to be
4 awarded under this Settlement shall be returned to their respective statuses as of the date and time
5 immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects
6 as if this Settlement Agreement had not been executed, except that any fees already incurred by
7 the Settlement Administrator shall be borne equally by the Parties. In the event an appeal is filed
8 from the Court's final judgment, or any other appellate review is sought prior to the Effective
9 Date, administration of the Settlement shall be stayed pending final resolution of the appeal or
10 other appellate review, pending the Effective Date.

11 7. Final Approval Hearing and Entry of Final Judgment.

12 a. Upon expiration of the Objection/Exclusion Deadline Date, with the
13 Court's permission, a Final Approval hearing shall be conducted to determine final approval of the
14 Settlement along with the amount properly payable for (i) the Fees Award and Costs Award, (ii)
15 Named Plaintiff Enhancement Payment, (iii) Settlement Administration Costs, and (iv) Class
16 Member Payments; and (v) the PAGA Payment. Class Counsel will be responsible for drafting all
17 documents necessary to obtain Final Approval, including the Final Judgment, which shall be
18 provided to defense counsel at least seven days prior to filing.

19 b. The Settlement Administrator shall keep counsel for the Parties
20 apprised of all distributions from the Qualified Settlement Account and upon completion of
21 administration of that portion of the Settlement, the Settlement Administrator shall provide written
22 certification, under penalty of perjury, of such completion to the Court and counsel for all Parties.

23 c. Upon completion of administration of the Settlement, Named
24 Plaintiff and Class Counsel shall provide written certification, under penalty of perjury, of such
25 completion to the Court and Defendant's Counsel.

26 8. Administration Costs. All of Defendant's own legal fees, costs and
27 expenses incurred in the Lawsuit shall be borne by Defendant. As set forth above, claims
28 administration expenses will be paid from the Gross Settlement Amount. The Parties agree to

1 cooperate in the Settlement administration process and to make all reasonable efforts to control
2 and minimize the costs and expenses incurred in administration of the Settlement.

3 **IV. Other Provisions**

4 **A. Publicity.** The Parties agree that neither Named Plaintiff nor Class Counsel shall
5 issue any press release or announcement of any kind related in any way to the Settlement. Named
6 Plaintiff and Class Counsel agree that, prior to preliminary approval of the Settlement, they will
7 keep the terms of the Settlement confidential. Named Plaintiff shall be informed that the
8 Settlement is confidential and shall be advised to keep the Settlement confidential. From and after
9 preliminary approval of the Settlement, Named Plaintiff and Class Counsel may comment
10 regarding the specific terms of the Settlement (1) as required by law; (2) as required under the
11 terms of the Settlement; or (3) as required under counsel's duties and responsibilities as Class
12 Counsel. In all other cases, Named Plaintiff and Class Counsel agree to limit their statements
13 regarding the terms of the Settlement, whether oral, written or electronic (including the world wide
14 web) to the information contained in the Settlement and papers filed in support of the Settlement
15 Agreement, and to use anonymous descriptors in place of identifying Defendant (e.g. "airline
16 company"). Nothing in this Paragraph is intended to interfere with Class Counsel's duties and
17 obligations to faithfully discharge their duties as Class Counsel, including but not limited to,
18 communicating with Settlement Class Members regarding the Settlement.

19 **B. Privacy of Documents and Information.** Named Plaintiff and Class Counsel
20 agree that none of the documents and information provided to them by Defendant shall be used for
21 any purpose other than settlement of the Lawsuit.

22 **C. No Admission By the Released Parties.**

23 1. The Released Parties, including Defendant, deny any and all claims alleged
24 in the Lawsuit and deny any and all wrongdoing whatsoever. This Settlement Agreement is not a
25 concession or admission, and shall not be used against Defendant or any of the Released Parties as
26 an admission or indication with respect to any claim of any fault, concession or omission by
27 Defendant or any of the Released Parties. Whether or not the Settlement is finally approved,
28 neither the Settlement, nor any document, statement, proceeding or conduct related to this

1 Settlement Agreement, nor any reports or accounts thereof, shall in any event be: (1) construed as,
 2 offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse
 3 to the Released Parties, including, but not limited to, evidence of a presumption, concession,
 4 indication or admission by any of the Released Parties of any liability, fault, wrongdoing,
 5 omission, concession or damage; or (2) disclosed, referred to or offered or received in evidence
 6 against any of the Released Parties, in any further proceeding in the Lawsuit, or any other civil,
 7 criminal or administrative action or proceeding, except for purposes of settling the Lawsuit
 8 pursuant to this Settlement Agreement

9 2. Notwithstanding the foregoing, the Released Parties, including Defendant,
 10 shall have the right to use this Settlement, including the Releases set forth above, and introduce it
 11 into evidence to defend against any claims asserted by or on behalf of Settlement Class Members,
 12 PAGA Aggrieved Employees, or the LWDA, or any other person that are encompassed within the
 13 Releases, whether such claims are asserted in the Lawsuit or any other lawsuit.

14 **D. Exhibits and Headings.** The terms of this Settlement Agreement include the terms
 15 set forth in any attached Exhibit, which is incorporated by this reference as though fully set forth
 16 herein. The Exhibit to this Settlement Agreement is an integral part of the Settlement. The
 17 descriptive headings of any paragraphs or sections of this Settlement Agreement are inserted for
 18 convenience of reference only and do not constitute a part of this Settlement Agreement.

19 **E. Interim Stay of Proceedings.** The Parties agree to hold all proceedings in the
 20 Lawsuit, except such proceedings necessary to implement and complete the Settlement in
 21 abeyance pending the Final Approval hearing to be conducted by the Court.

22 **F. Amendment or Modification.** This Settlement Agreement may be amended or
 23 modified only by a written instrument signed by all Parties or their successors-in-interest.

24 **G. Entire Agreement.** This Settlement Agreement and any attached Exhibit
 25 constitute the entire agreement among these Parties with respect to resolution of the Lawsuit. To
 26 the extent there are any other oral or written agreements relating to the subject matter of this
 27 Settlement Agreement, this Settlement Agreement controls and supersedes all such agreements.
 28 No oral or written representations, warranties or inducements have been made to any Party

1 concerning this Settlement Agreement or its Exhibit other than the representations, warranties and
2 covenants contained and memorialized in this Settlement Agreement and any attached Exhibit.

3 **H. Authorization to Enter Into Settlement Agreement.** Counsel for all Parties
4 warrant and represent they are expressly authorized by the Parties whom they represent and who
5 are signing this Settlement Agreement, to negotiate this Settlement Agreement and to take all
6 appropriate action required or permitted to be taken by such Parties pursuant to this Settlement
7 Agreement to effectuate its terms, and to execute any other documents required to effectuate the
8 terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other
9 and use their best efforts to effect the implementation of the Settlement.

10 **I. Binding on Successors and Assigns.** This Settlement Agreement shall be binding
11 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
12 defined.

13 **J. California Law Governs.** All terms of this Settlement Agreement and the Exhibit
14 hereto shall be governed by and interpreted according to the laws of the State of California.

15 **K. Counterparts.** This Settlement Agreement may be executed in one or more
16 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
17 instrument provided that counsel for the Parties to this Settlement Agreement shall exchange
18 among themselves original signed counterparts.

19 **L. This Settlement is Fair, Adequate and Reasonable.** The Parties believe this
20 Settlement is a fair, adequate and reasonable settlement of the Lawsuit and have arrived at this
21 Settlement in arms-length negotiations, taking into account all relevant factors, present and
22 potential. This Settlement was reached after extensive negotiations and the involvement of a
23 retired judge as the mediator.

24 **M. Jurisdiction.** The Court shall retain jurisdiction with respect to the interpretation,
25 implementation and enforcement of the terms of this Settlement Agreement and all orders and
26 judgments entered in connection therewith, and the parties and their counsel hereto submit to the
27 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement
28

embodied in this Settlement Agreement and all orders and judgments entered in connection therewith.

N. Cooperation and Drafting. Each of the parties has cooperated in the drafting and preparation of this Settlement Agreement. Hence, in any construction made to this Settlement Agreement, the same shall not be construed against any of the Parties.

O. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement 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 Agreement valid and enforceable.

P. Severability. Should any clause or provision of this Settlement Agreement be declared illegal or unenforceable, it shall be modified or reformed as minimally necessary to be enforceable. If the provision cannot be modified or reformed to be enforceable, such provision shall be severed and deemed null and void, leaving the remainder of this Settlement Agreement in full force and effect.

Q. Named Plaintiff General Release Remains Effective. Named Plaintiff agrees to sign this Settlement Agreement, and by signing this Settlement Agreement is bound by the terms herein stated upon final approval, including without limitation the general release set forth above. Named Plaintiff shall retain his rights to participate as a Settlement Class Member under this Settlement Agreement, and agrees that he may not opt out of the Settlement Class.

PLAINTIFF

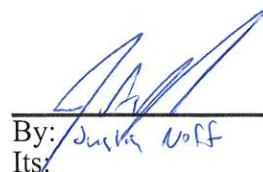
Date: Feb 17, 2023



Mohamed Ibrahim

DEFENDANT MCGEE AIR SERVICES, INC.

Date: Mar 6, 2023

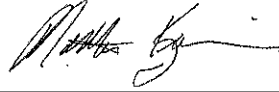


By: Justin Noff
Its: _____

1 **APPROVED AS TO FORM**

2 **THE LAW OFFICES OF MATTHEW KUMIN,**
3 **A.P.C.**

4 Date: February 17, 2023



5 Matthew Kumin
6 Attorneys for Plaintiff Mohamed Ibrahim

7 **SHEPPARD, MULLIN, RICHTER & HAMPTON**
8 **LLP**

9 Date: March 6, 2023



10 Paul S. Cowie
11 Attorneys for Defendant McGee Air Services, Inc.