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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

DAVID GUZMAN, a proxy for the State of
California as an aggrieved employee pursuant to
the Private Attorneys General Act ("PAGA"),

Plaintiff,

vs.

GAMA AVIATION ENGINEERING, INC.,
and DOES 1 through 10, inclusive,

Defendants.

Case No.: 22CV399013

Assigned for all purposes to Hon. Theodore C.
Zayner, Dept. 19

PRIVATE ATTORNEYS GENERAL ACT,
CALIFORNIA LABOR CODE §§ 2698 ET SEQ.

**JOINT STIPULATION OF PAGA
SETTLEMENT AND RELEASE
AGREEMENT**

Complaint Filed: June 9, 2022
Trial Date: None Set

1 **JOINT STIPULATION OF PAGA SETTLEMENT AND RELEASE AGREEMENT**

2 This Joint Stipulation of PAGA Settlement and Release Agreement is made and entered into by
3 and between Plaintiff David Guzman (“Plaintiff”) individually and on behalf of the State of California
4 and all Aggrieved Employees (as defined in Paragraph 13) and Defendant Gama Aviation Engineering,
5 Inc. (“Defendant” or “Gama”) (Plaintiff and Defendant are together referred to as the “Parties”). The
6 Parties agree that this action shall be settled on the terms and conditions set forth in this Joint Stipulation
7 of PAGA Settlement and Release Agreement (“Settlement Agreement” or “Settlement”), subject to the
8 approval of the Court pursuant to the California Private Attorneys General Act of 2004, Labor Code
9 sections 2698 et seq. (“PAGA”).

10 **INTRODUCTION**

11 1. On April 5, 2022, pursuant to PAGA, Plaintiff provided notice (“PAGA Notice”), via
12 online submission, to the State of California’s Labor and Workforce Development Agency (“LWDA”)
13 and by mail to Defendant regarding various alleged California Labor Code violations. The PAGA Notice
14 bears number LWDA-CM-877211-22.

15 2. On June 9, 2022, after exhausting the pre-filing requirements, Plaintiff filed this wage
16 and hour PAGA action against Defendant alleging, among other things, failure to provide meal periods
17 and rest periods, and the underpayment of wages.¹

18 3. On June 14, 2022, the Court deemed the case complex and temporarily stayed discovery
19 and responsive pleading.

20 4. Defendant filed an answer on November 8, 2022, denying all allegations and further
21 asserting various affirmative defenses to the claims.

22 ¹ The operative complaint seeks civil PAGA penalties and available remedies, including
23 attorneys’ fees, for violations of Labor Code sections: (1) 510 and 1198 (unpaid overtime); (2) 223,
24 1182.12, 1194, 1197, 1197.1, and 1198 (unpaid minimum wages); (3) 226.7, 512(a), and 1198 (failure to
25 provide meal periods and/or pay meal premiums); (4) 226.7 and 1198 (failure to provide rest periods
26 and/or pay rest period premiums); (5) 226(a) and 1198 (non-compliant wage statements); (6) 1174(d)
27 and 1198 (failure to maintain accurate and complete pay records); (7) 1198 (failure to maintain accurate
28 timekeeping records); (8) 204 (wages not timely paid during employment); (9) 201, 202, and 203 (wages
not timely paid on termination); (10) 1198 and 2810.5(a)(1) (failure to provide employees with written
notice of information material to employment); (11) 226(c), 1198, and 1198.5 (failure to produce
employment records); (12) 227.3 (failure to pay vested vacation pay at termination); (13) 1198 (failure to
provide reporting time pay); (14) 2800 and 2802 (failure to reimburse necessary business expenses); (15)
1198 (failure to provide reasonable working conditions); and (16) 246 and 248.5 (failure to provide sick
leave).

1 5. On August 1, 2024, the Parties participated in an all-day mediation with Doug Leach, in
2 which the Parties accepted a mediator's proposal at the end of the day.

3 6. Based on Plaintiff's investigations, discovery, records analyses, and taking into account
4 the defenses that Defendant raised in connection with both liability on the merits and the amount of any
5 civil penalty that might be imposed by the Court pursuant to Labor Code section 2699(e)(2), the expense
6 and time necessary to pursue the Action through trial, the risks and costs of further prosecution of the
7 Action, the uncertainties of complex litigation and developing law, and the benefits that will accrue to the
8 State of California's LWDA and the Aggrieved Employees, Plaintiff and his counsel believe that a
9 settlement with Defendant on the terms set forth in this Agreement is fair, reasonable, adequate, and in
10 the best interests of the State of California (i.e., LWDA), the Aggrieved Employees (as defined in
11 Paragraph 13), and Plaintiff.

12 7. By entering into this Settlement Agreement, Defendant is not admitting any liability
13 whatsoever, including that the imposition of any PAGA civil penalties in connection with the Action is
14 proper or warranted, and Defendant maintains all defenses. The Parties have entered into this Settlement
15 Agreement solely to avoid the expense, risk, and burden of continued litigation. The Parties agree that an
16 express condition of this settlement is that there has been no finding of liability on the merits, and that
17 this Settlement Agreement and ensuing judgment therefore cannot be a basis for a derivative finding that
18 Defendant violated any provision of the Labor Code.

19 8. Defendant denies liability, and Plaintiff acknowledges that neither this Settlement
20 Agreement nor promises made pursuant to the Settlement Agreement shall be taken or construed to be
21 an admission or concession of any kind with respect to liability or alleged wrongdoing by Defendant.
22 Any stipulations or statements by Defendant contained in this Settlement Agreement are made for
23 settlement purposes only.

24 9. The settlement set forth in this Settlement Agreement requires Defendant to pay up to
25 the gross maximum amount of One Hundred Forty-Two Thousand Five Hundred Dollars (\$142,500)
26 ("Gross Settlement Amount") to settle the claims for PAGA penalties based on the alleged violations of
27 the Labor Code asserted based on the operative facts alleged in Plaintiff's Complaint and/or PAGA
28 exhaustion letter to the LWDA, on behalf of Defendant's current and former non-exempt employees

1 who worked in California for Defendant at any time during the PAGA Period. The Gross Settlement
2 Amount includes all payments to the LWDA and Aggrieved Employees, attorneys' fees, costs, and
3 expenses, administration costs, and payment to Plaintiff as a service award.

4 10. The Parties stipulate to approval of the representative action for purposes of settlement
5 only.

6 11. The Parties further agree to cooperate and to take all steps necessary and appropriate to
7 effectuate all aspects of this Settlement.

8 **DEFINITIONS**

9 The following definitions are applicable to this Settlement Agreement. Definitions contained
10 elsewhere in this Settlement Agreement will also be effective:

11 12. "Action" means the action entitled *Guzman v. Gama Aviation Engineering, Inc.*, Santa
12 Clara County Superior, Case No. 22CV399013.

13 13. "Aggrieved Employees" means all persons who were employed by Defendant as non-
14 exempt hourly-paid employees within the State of California during the PAGA Period.

15 14. "Approval Order" means the order issued and entered by the Court following a Motion
16 for Approval of this Settlement Agreement.

17 15. "Attorneys' Fees and Costs" means attorneys' fees agreed upon by the Parties and
18 approved by the Court for Plaintiff's Counsel's litigation and resolution of the Action, and all costs
19 incurred and to be incurred by Plaintiff's Counsel in the Action, including, but not limited to, costs
20 associated with documenting the Settlement, providing any notices required as part of the Settlement or
21 Court order, securing the Court's approval of the Settlement, administering the Settlement, obtaining
22 entry of the Judgment terminating the Action, and expenses for any consultants or experts. Attorneys'
23 Fees and Costs shall be paid to Plaintiff's Counsel, the Law Offices of Mark Yablonovich, as set forth
24 below in Paragraph 38.a.i. The Parties have agreed to, and Defendant will not oppose, an application to
25 the Court for Attorneys' Fees in an amount of one-third (33⅓%) the Gross Settlement Amount, not to
26 exceed Forty-Seven Thousand Five Hundred Dollars (\$47,500) (if the Gross Settlement Amount
27 remains \$142,500) and costs and expenses not to exceed Twenty Thousand Dollars (\$20,000).

28 16. "Complaint(s)" means the operative complaint filed in the Action for civil penalties for

violations of California Labor Code, pursuant to the Private Attorneys General Act of 2004, Labor Code sections 2698, et seq.

17. “Court” means the Superior Court of the State of California for the County of Santa Clara or any other court taking jurisdiction of the Action.

18. “Defendant” means Defendant Gama Aviation Engineering, Inc.

19. “Defendant’s Counsel” means Jackson Lewis, P.C. For purposes of providing any notices required under this Settlement, Defendant’s Counsel shall refer to: Shannon B. Nakabayashi and Ronald Q. Tran, 50 California Street, 9th Floor, San Francisco, California 94111.

20. “Employee List” means a complete list and data of all Aggrieved Employees that Defendant will provide to the Settlement Administrator in an electronic database within fourteen calendar days after the Court approves this Settlement. The Employee List shall contain each Aggrieved Employee’s full name, Social Security number, last known home address, and the number of Pay Periods each Aggrieved Employee worked at least one shift as a non-exempt employee for Defendant in California during the PAGA Period and any other information reasonably requested or needed by the Settlement Administrator.

21. “Effective Date” shall be the date the Court signs the Order for Approval of Settlement under Labor Code section 2699 and Judgment by Court if no objection to the settlement has been made before the Court’s signing. If an objection to the settlement is made before the Court signs the Order and Judgment, then the Effective Date is the date the objection is resolved.

22. “Gross Settlement Amount” means the gross maximum settlement amount of One Hundred Forty-Two Thousand Five Hundred Dollars (\$142,500) to be paid by Defendant in full satisfaction of all Released Claims arising from the Action, which include all Individual Settlement Payments to Aggrieved Employees, the Labor and Workforce Development Agency Payment, Attorneys’ Fees and Costs to Plaintiff’s Counsel, the Service Award Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator. In no event will Defendant be liable for more than the Gross Settlement Amount except as otherwise explicitly set forth in this Settlement Agreement (*see, e.g.,* Paragraph 42).

23. “Individual Settlement Payment” means each Aggrieved Employee’s share of the Net

PAGA Settlement Amount, to be distributed to the Aggrieved Employees.

24. “Labor and Workforce Development Agency Payment” or “LWDA Payment” means the amount to be paid to the California Labor and Workforce Development Agency (“LWDA”) in connection with PAGA (Cal. Lab. Code §§ 2698, *et seq.*). Seventy-five percent (75%) of the Net PAGA Settlement Amount of civil penalties shall be payable to the LWDA.

25. “Net PAGA Settlement Amount” means the portion of the Gross Settlement Amount remaining after deduction of the approved Service Award Payment, Settlement Administration Costs, and Plaintiff’s Attorneys’ Fees and Costs. Of the Net PAGA Settlement Amount, seventy-five percent (75%) shall be distributed to the LWDA and twenty-five percent (25%) shall be distributed to the Aggrieved Employees.

26. “Notice” means the Notice of PAGA Settlement (in English and Spanish), substantially in the form attached as **Exhibit A**.

27. “PAGA Period” shall be from April 5, 2021 through September 30, 2024. The PAGA Period is the same as the Release Period.

28. “PAGA Distribution Fund” means the twenty-five percent (25%) of the Net PAGA Settlement Amount to be distributed to Aggrieved Employees.

29. “Parties” means Plaintiff and Defendant together.

30. “Pay Periods” means the number of pay periods of employment for each Aggrieved Employee during the PAGA Period in which the Aggrieved Employee received a paycheck. The Pay Periods shall not include any pay periods of employment during which an Aggrieved Employee worked outside the state of California, performed no work for Defendant, or performed work in a position that was not non-exempt. All Aggrieved Employees shall be credited with at least one Pay Period.

31. “Plaintiff’s Counsel” means the Law Offices of Mark Yablonovich (“LOMY”) on behalf of Plaintiff David Guzman and the State of California as well as all attorneys engaged by LOMY.

32. “Release Period” shall be from April 5, 2021 through September 30, 2024. The Release Period is the same as the PAGA Period.

33. “Released Claims” or “Settled Claims” means all claims for PAGA civil penalties that were alleged, or reasonably could have been alleged, based on the same set of operative facts alleged in

1 the Complaint and PAGA Notice, including for California Labor Code sections 201, 202, 203, 204, 210,
2 223, 225.5, 226(a), 226(c), 226.3, 226.7, 227.3, 246, 248.5, 510, 512(a), 558, 1174(d), 1174.5, 1182.12,
3 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699(a), (f), and (g), 2699.3(c), 2800, 2802, and 2810.5(a) and
4 California Code of Regulations, Title 8, § 11040 and/or § 11090 (as applicable) subsections (4), (5)(A),
5 (7), (9), (11), (12), and (15), and/or other provisions of law alleged to have been violated in the operative
6 Complaint with respect to Aggrieved Employees. Aggrieved Employees, other than Plaintiff, will not be
7 deemed to have released any individual wage and hour claims by virtue of this Settlement and with
8 respect to Aggrieved Employees and attorneys' fees and costs permissible under PAGA which Plaintiff
9 and/or the Aggrieved Employees had or may claim to have against the Released Parties (as defined in
10 Paragraph 34). Aggrieved Employees, other than Plaintiff, will not be deemed to have released any
11 private rights of action and/or individual wage and hour claims held by Aggrieved Employees for any
12 alleged violations of the Labor Code or California Wage Orders by virtue of this Settlement.

13 34. "Released Parties" means Defendant and its related entities, Jet East, a Gama Aviation
14 Company, and West Star Aviation, as well as Defendant's parents, subsidiaries, affiliated corporations
15 and entities, predecessors or successors, current and former officers, directors, members, managers,
16 employees, consultants, partners, shareholders, joint venturers, franchisors, franchisees, and agents, as
17 well as any successors, assigns, or legal representatives/attorneys.

18 35. "Service Award Payment," "PAGA Service Award Payment" or "Enhancement
19 Award" means the amount to be paid to Plaintiff David Guzman in recognition of his efforts and work in
20 prosecuting the Action on behalf of Aggrieved Employees and the State of California, and in exchange
21 for his general release of all claims. The Service Award Payment is separate and apart from any
22 Individual Settlement Payment that Plaintiff is entitled to as an Aggrieved Employee. Defendant will not
23 oppose Plaintiff's application to the Court for a Service Award Payment not to exceed Ten Thousand
24 Dollars and Zero Cents (\$10,000.00).

25 36. "Settlement Administrator" means the third-party administrator, Atticus Administration,
26 LLC, or any other duly appointed administrator approved by the Court, who has been mutually selected
27 by the Parties, subject to Court approval, to perform the notice and distribution of payment functions
28 further described in this Settlement. The Settlement Administrator shall establish its own employer

identification number and file an Internal Revenue Service Form W-9. The Settlement Administrator shall meet all of the requirements to establish a Qualified Settlement Fund (“QSF”) pursuant to U.S. Treasury Regulation Section 468B-1.

37. “Settlement Administration Costs” means the costs payable from the Gross Settlement Amount to the Settlement Administrator for administering this Settlement, including, but not limited to, printing, distributing, and tracking documents for this Settlement, translating the Notice to Spanish, calculating estimated amounts per Aggrieved Employee, distributing reminder postcards, tax reporting, distributing the Gross Settlement Amount, and providing necessary reports and declarations, and other duties and responsibilities set forth in this Settlement Agreement to process this Settlement, and as reasonably requested by the Parties or the Court. All of the costs, fees and expenses incurred by the Settlement Administrator in performing these functions shall be paid and deductible from the Gross Settlement Amount. The Settlement Administration Costs are estimated not to exceed Five Thousand Dollars (\$5,000.00).

TERMS OF SETTLEMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, and warranties set forth in this Agreement, the Parties agree, subject to the Court’s approval, as follows:

38. It is agreed by and between Plaintiff and Defendant that the Action and any claims and causes of action which were or are the subject of the Action be fully settled and compromised as between Plaintiff, on behalf of himself, the State of California (the LWDA), and each and every Aggrieved Employee, and Defendant and the Released Parties, subject to the terms and conditions set forth in this Settlement Agreement and the approval of the Court.

a. **Consideration:** In consideration for this Settlement Agreement, Defendant will pay the Gross Settlement Amount of One Hundred Forty-Two Thousand Five Hundred Dollars (\$142,500) (subject to the escalator clause) to cover Individual Settlement Payments to Aggrieved Employees, the Labor and Workforce Development Agency Payment, Attorneys’ Fees and Costs to Plaintiff’s Counsel, the Service Award Payment to Plaintiff, and Settlement Administration Costs to the Settlement Administrator. This Settlement is non-reversionary. Defendant maintains no reversionary right to any portion of the Settlement Amount. The Gross Settlement Amount shall be distributed as

1 follows:

2 i. ***Attorneys' Fees and Costs.***

3 1. Counsel for Plaintiff and the State of California (LOMY) shall
4 be paid and receive an amount not to exceed one-third (33⅓%) of the Gross Settlement Amount (Forty-
5 Seven Thousand Five Hundred Dollars (\$47,500)) as reasonable attorneys' fees under PAGA;

6 2. Counsel for Plaintiff and the State of California (LOMY) shall
7 be paid and receive as reasonable reimbursable costs under PAGA an amount not to exceed Twenty
8 Thousand Dollars (\$20,000) to be distributed to LOMY;

9 3. The Settlement Administrator (not Defendant) shall issue an
10 Internal Revenue Service Form 1099 to Plaintiff's Counsel for any attorneys' fees and costs award
11 payments. Plaintiff's Counsel shall be solely and legally responsible for paying all applicable taxes on
12 the attorneys' fees and costs award payments;

13 4. Upon delivery of the Gross Settlement Amount to the
14 Settlement Administrator, Defendant will have fully met Defendant's obligations under this Agreement
15 as to attorneys' fees and costs and will not be liable in any manner for the distribution, division, or
16 payment of any portion of the Gross Settlement Amount to or between any counsel of Plaintiff;

17 ii. ***Settlement Administration Costs.*** The actual costs of administration, up
18 to a maximum payment of Five Thousand Dollars (\$5,000), shall be paid to the Settlement
19 Administrator. The Settlement Administration Costs approved by the Court will be paid from the Gross
20 Settlement Amount. Any amount of Settlement Administration Costs requested by Plaintiff's Counsel
21 but unapproved by the Court or not incurred by the Settlement Administrator shall be redistributed
22 equally to the Net PAGA Settlement Amount. Upon completion of administration of the settlement set
23 forth in this Agreement, the Settlement Administrator shall provide written certification of such
24 completion to Plaintiff's Counsel and Defendant's Counsel;

25 iii. ***Service Award Payment.*** Plaintiff David Guzman shall receive not
26 more than Ten Thousand Dollars and Zero Cents (\$10,000.00) from the Gross Settlement Amount, as a
27 PAGA service award (any amount not awarded to Plaintiff shall be included in the Net PAGA
28 Settlement Amount);

1. The Settlement Administrator shall issue an Internal Revenue Service Form 1099 to Plaintiff for the Service Award Payment. Plaintiff shall be solely and legally responsible for paying all applicable taxes on Plaintiff's Service Award Payment; and

iv. ***Net PAGA Settlement Amount.*** The remainder of the Gross Settlement Amount, once the amounts above have been deducted, approximately Sixty Thousand Dollars (\$60,000) will be distributed as required by Labor Code section 2699(i), and in accordance with the terms of this Settlement Agreement, subject to the Court's approval, as follows:

1. **LWDA Payment.** Seventy-five percent (75%), approximately Forty-Five Thousand Dollars (\$45,000), will be paid to and received by the LWDA, to settle the claims for PAGA penalties based on the alleged violations of the Labor Code as asserted in the Action; and

2. **PAGA Distribution Fund.** Twenty-five percent (25%), approximately Fifteen Thousand Dollars (\$15,000) will be paid to and received by the Aggrieved Employees on a pro rata basis according to each Aggrieved Employee's individual number of Pay Periods;

v. ***Individual Settlement Payments.*** Each Aggrieved Employee will be eligible to receive a portion of the PAGA Distribution Fund based on the following formula:

1. The Individual Settlement Payment to an Aggrieved Employee will be calculated by dividing the number of Pay Periods attributed to the Aggrieved Employee during the PAGA Period by all Pay Periods during the PAGA Period attributed to all Aggrieved Employees multiplied by the PAGA Distribution Fund. Otherwise stated, the formula for an Aggrieved Employee's Individual Settlement Payment is: (individual's Pay Periods during the PAGA Period ÷ total Pay Periods during the PAGA Period) × PAGA Distribution Fund;

2. Defendant's time and payroll records regarding the number of Pay Periods worked for each Aggrieved Employee shall be used for purposes of calculating Individual Settlement Payments. Defendants' records shall be determinative for purposes of calculating the number of pay periods and any Individual Settlement Payments made to Aggrieved Employees and will be presumed correct;

3. Any settlement checks distributing Individual Settlement

1 Payments returned to the Settlement Administrator as undeliverable with a forwarding address provided
2 on the returned envelope shall be sent within five calendar days via First Class U.S. Mail to the
3 forwarding address. If no forwarding address is provided, the Settlement Administrator shall attempt to
4 determine the correct address using a robust computer skip-trace search, and it shall then perform a re-
5 mailing within ten calendar days;

6 b. **Settlement Administration Process:**

7 i. ***Appointment of Settlement Administrator.*** Subject to the Court's
8 approval, Plaintiff has selected, and Defendant approves, Atticus Administration, LLC, as the Settlement
9 Administrator. The costs of settlement administration will be paid out of the Gross Settlement Amount
10 prior to distribution to the Aggrieved Employees. The Parties agree to cooperate in the administration of
11 the settlement and make reasonable efforts to control and minimize the costs and to serve as expenses
12 incurred in the administration of the Settlement.

13 ii. ***Delivery of Employee List.*** Within fourteen days of Court approval of
14 Settlement, Defendant shall deliver to the Settlement Administrator the Employee List. This information
15 will remain confidential, and will not be shared with Plaintiff or Plaintiff's counsel except as set forth in
16 Paragraph 38.b.iii. This provision will not preclude the Settlement Administrator from sharing
17 information relating to specific Aggrieved Employees if the need arises with respect to any disputes or
18 similar issues by specific Aggrieved Employees, or an Aggrieved Employee requests to speak with
19 Plaintiff's Counsel during the settlement approval process; provided, however, that Plaintiff's Counsel
20 will not have access to the last known contact information or Social Security numbers for any Aggrieved
21 Employees unless agreed to in writing by Defendant's counsel, or such Aggrieved Employees
22 voluntarily agree to provide such information to Plaintiff's Counsel.

23 iii. ***Delivery of Information to Plaintiff's Counsel re Escalator.*** Within
24 seven days of receipt of the Employee List by the Settlement Administrator, the Settlement
25 Administrator will provide to Plaintiff's Counsel (without revealing any confidential information such as
26 names, Social Security numbers, contact information, etc.) the number of unique Aggrieved Employees
27 along with the number of Pay Periods worked by each Aggrieved Employee during the PAGA Period.
28 To the extent it has not already done so, the Settlement Administrator will also concurrently provide a

1 mock-up of the Notice for review by Plaintiff's Counsel and counsel for Defendant.

2 iv. **Funding of Gross Settlement Amount.** Defendant shall make a one-
3 time deposit of the Gross Settlement Amount of One Hundred Forty-Two Thousand Five Hundred
4 Dollars (\$142,500) (subject to the escalator clause) to an account set up by the Settlement Administrator
5 within seven calendar days after the Settlement Administrator provides to Plaintiff's Counsel the
6 information needed to determine whether the escalator clause has been triggered (the "Funding Date").

7 v. **Notice to Aggrieved Employees.** Aggrieved Employees will receive the
8 Notice attached as Exhibit A along with their settlement checks. Settlement checks mailed out to
9 Aggrieved Employees shall be valid for 180 days from the date of issuance. The Settlement
10 Administrator will prepare the Notice for each Aggrieved Employee and deliver it by First Class U.S.
11 Mail to each Aggrieved Employee within fourteen calendar days of the receipt of the Gross Settlement
12 Amount. Prior to mailing, the Settlement Administrator will perform a search based on the National
13 Change of Address Database for information to update and correct for any known or identifiable address
14 changes. Any Notices returned to the Settlement Administrator as non-deliverable will be sent promptly
15 via regular First-Class U.S. Mail to the forwarding address affixed and the Settlement Administrator will
16 indicate the date of such re-mailing on the Notice. If no forwarding address is provided, the Settlement
17 Administrator will promptly attempt to determine the correct address using a skip-trace, or other search
18 using the name, address, and/or Social Security number of the Aggrieved Employee involved, and will
19 then perform a single re-mailing. Ninety days after the checks are mailed, the Settlement Administrator
20 will mail reminder postcards to Aggrieved Employees whose checks remain uncashed. Funds
21 represented by settlement checks returned as undeliverable and those settlement checks remaining
22 uncashed for more than 180 days after issuance shall be voided and then will be tendered to one or two
23 agreed-upon cy pres recipients pursuant to Code of Civil Procedure section 384. The Parties agree to
24 designate the following cy pres recipient: WorkSafe.

25 vi. **Issuance of Payments.** Attorneys' Fees and Costs, the Labor and
26 Workforce Development Agency Payment, the Service Award Payment, and Individual Settlement
27 Payments will be paid within fourteen calendar days after the Funding Date (i.e., the deposit) of the
28 Gross Settlement Amount.

vii. The Settlement Administrator shall also be responsible for taking care of all required tax reporting and issuing IRS Form 1099s with the settlement payments. Upon completion of its calculation of payments, the Settlement Administrator shall provide Defendant's counsel with a report listing the amount of all payments made to each Aggrieved Employee. Upon completion of its calculation of payments, the Settlement Administrator shall provide Plaintiff's Counsel with a report listing only each Aggrieved Employee's (i) employee identification number or last four digits of the Aggrieved Employee's Social Security number and (ii) Individual Settlement Payment. Plaintiff's Counsel shall not receive any personal identifying information, including but not limited to names, addresses, and Social Security Numbers, for any of the Aggrieved Employees, except for Plaintiff.

c. **Tax Treatment of the Aggrieved Employee Payments:** The entirety of the PAGA Distribution Fund paid to individual Aggrieved Employees shall be considered miscellaneous income and shall not be subject to withholdings. The Settlement Administrator will be responsible for timely issuing an appropriate IRS Form 1099 to each Aggrieved Employee.

d. **Costs of Settlement Administrator:** The Settlement Administrator has agreed to perform all necessary administration duties for no more than Five Thousand Dollars (\$5,000). These administration duties will include, without limitation, the translation of the Notice to Spanish, the calculation, processing, and mailing of all settlement checks, tax forms, and notices to all Aggrieved Employees, the LWDA, Plaintiff, Plaintiff's Counsel and any tax authorities, performing address updates and verifications as necessary prior to the mailing, providing regular updates, and performing an address follow up on any returned mail. The Settlement Administrator will also be responsible for establishing a qualified settlement fund ("QSF"). All administration costs approved by the Court shall be paid out of the Gross Settlement Amount. If the actual costs of administration are less than Five Thousand Dollars (\$5,000), the difference shall be reallocated by the Settlement Administrator to the Net PAGA Settlement Amount.

39. **Notice to the LWDA.**

i. Within ten calendar days after either (1) the Settlement is approved or (2) entry of order denying the Settlement if the Court does not approve the Settlement, Plaintiff's Counsel will provide a copy of the superior court's judgment, order, or both (if there is both an order and judgment) to

1 the LWDA pursuant to Labor Code section 2698(l)(3).

2 ii. In addition, concurrent with the filing for approval of the Settlement Agreement,
3 Plaintiff's Counsel shall also take all necessary steps to inform the LWDA of the Settlement Agreement.

4 40. **No ERISA Impact.** None of the payments made pursuant to the Settlement Agreement
5 shall be considered for purposes of determining eligibility for, vesting or participation in, or contributions
6 to any benefit plan, including, without limitation, all plans subject to the Employee Retirement and
7 Income Security Act of 1974 ("ERISA"). Any distribution of payments to Plaintiff or Aggrieved
8 Employees shall not be considered as a payment of wages or compensation under the terms of any
9 applicable benefit plan and shall not affect participation in, eligibility for, vesting in, the amount of any
10 past or future contribution to, or level of benefits under any applicable benefit plan. Any amounts paid
11 will not impact or modify any previously credited hours of service or compensation taken into account
12 under any benefit plan sponsored or contributed to by Defendant or any jointly-trusted benefit plan. For
13 purposes of this Settlement, "benefit plan" means each and every "employee benefit plan," as defined in
14 29 U.S.C. § 1002(3), and, even if not included, any 401(k) plan, bonus, pension, stock option, stock
15 purchase, stock appreciation, welfare, profit sharing, retirement, disability, vacation, severance,
16 hospitalization, insurance, incentive, deferred compensation, or any other similar benefit plan, practice,
17 program, or policy.

18 41. **Non-Approval of the Settlement Agreement.** If the Court should, for any reason, not
19 approve of any material portion of the settlement as set forth in this Settlement Agreement, then this
20 Settlement Agreement shall be considered null and void, and neither this Settlement Agreement, nor any
21 of the related negotiations or proceedings shall be of any force or effect and shall be inadmissible for any
22 purpose in any proceeding, and all Parties to this Settlement Agreement shall stand in the same position,
23 without prejudice, as if the Settlement Agreement had been neither entered into nor filed with the Court,
24 unless the Parties jointly agree to seek reconsideration of the ruling or Court approval of a renegotiated
25 settlement. If not approved, Defendant retains the right to contest whether any aspect of the Action
26 should be maintained as a representative action, or to contest the merits of the claims being asserted in
27 the Action. Invalidation of any material portion of this Settlement Agreement shall invalidate this
28 Settlement Agreement in its entirety, unless the Parties subsequently agree in writing that the remaining

provisions of the Settlement Agreement are to remain in full force and effect.

42. **Escalator Clause: Proportional Increase to Gross Settlement Amount.** To the extent the pay period count in the Release Period exceeds 1,668 pay periods by more than 5%, then there will be a proportionate percentage increase in the Gross Settlement Amount for all pay periods in excess of 1,751. If the Aggrieved Employee List provided by Defendant to the Settlement Administrator as discussed below reflects more than a 5% increase in the number of Pay Periods from the data that has been reported, Defendant will increase the Gross Settlement Amount by 1% for every 1% increase in Pay Periods over the 5% threshold.

43. **Taxes.** Plaintiff, Defendant, and their respective counsel make no representations as to the tax consequences or characterization of the nature of any payment made pursuant to this Settlement Agreement.

44. **Circular 230 Disclaimer:** EACH PARTY TO THIS AGREEMENT 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 WILL 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 COUNSEL 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.

45. **Attorneys' Fees and Costs.** Except as provided in Paragraph 38.a.i. above, Plaintiff, on the one hand, and Defendant, on the other, each agree to bear their own costs and attorneys' fees and waive any statute, rule of court, provision or legal proposition which might otherwise be relied upon to obtain costs, fees or expenses in connection with Plaintiff's allegations and causes of action released in this Settlement Agreement. Plaintiff's Counsel acknowledges that if this settlement is approved, they will have no claim for or legal right to attorneys' fees or costs except as provided for in this Settlement Agreement.

46. **Release of Claims by the State and Aggrieved Employees.** Upon the Funding Date, and except as to such rights or claims as may be created by this Settlement Agreement, the State of California and each and every Aggrieved Employee (which includes any legal heirs and/or successors-in-interest of each and every Aggrieved Employee), fully releases and discharges the Released Parties from the Released Claims during the Release Period (which is also the PAGA Period). Aggrieved Employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims based on alleged violations of the Labor Code or of a California Wage Order, for which they have a private right of action, by virtue of this Settlement Agreement during the Release Period.

47. **Complete And General Release of Claims by Plaintiff David Guzman.** In consideration for receiving the Service Award Payment described above, Plaintiff binds himself, and all of his respective heirs, beneficiaries, trustees, administrators, executors, assigns, agents and legal representatives, and releases, waives and forever discharges Defendant and the Released Parties from, and acknowledges full accord and satisfaction of, any and all claims, demands, causes of action, rights, and liabilities of any kind whatsoever (upon any legal or equitable theory, whether contractual, common law or statutory, under federal, state or local law or otherwise) by reason of any act, omission, transaction, agreement or occurrence, that Plaintiff has ever had, now has against Defendant and the Released Parties up to and including the date the Court approves this Settlement ("Plaintiff's Released

Claims”) arising under federal, state or local laws, rules, or regulations, whether known or unknown, unforeseen, unanticipated, unsuspected or latent, that have been or could have been asserted by Plaintiff, or his heirs, successors and/or assigns of Plaintiff. Notwithstanding any other provision of this Settlement Agreement, this general release does not release any claims that cannot lawfully be released. This general release is not intended to limit Plaintiff from filing a charge with, or participating in an investigation conducted by, the Equal Employment Opportunity Commission; provided, however, that Plaintiff expressly waives and relinquishes any rights Plaintiff might have to recover damages, monetary or other relief, whether equitable or legal, in any such proceeding concerning events or actions that arose on or before the date that Plaintiff signs this Settlement Agreement. Plaintiff is not waiving any rights Plaintiff may have to (i) Plaintiff’s own vested accrued employee benefits under any health, welfare, or retirement benefits plans as of the date of execution of this Settlement Agreement; (ii) any benefits or rights to seek benefits under applicable workers’ compensation (except as to claims under Labor Code sections 132a and 4553) or unemployment insurance or indemnification statutes; (iii) pursue claims which by law cannot be waived by signing this Settlement Agreement; (iv) enforce this Settlement Agreement; and (v) challenge the validity of this Settlement Agreement.

48. **Waiver of Unknown Claims by Plaintiff.** With respect to Plaintiff’s Complete and General Release, Plaintiff acknowledges the language of Section 1542 of the California Civil Code, which provides:

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.

Plaintiff expressly waives the protection of Section 1542. This release excludes any release of any claims not permitted to be released by law.

49. **No Admission of Liability.** By entering into this Settlement, Defendant in no way admits any violation of law or any liability whatsoever to Aggrieved Employees, individually or collectively, and expressly denies all such liability.

50. **Certification of Completion.** Upon completion of administration of the Settlement, the

Settlement Administrator shall provide a written declaration(s) under oath to certify such completion to the Court and counsel for all Parties.

SETTLEMENT APPROVAL PROCEDURE

51. **Settlement Approval.** Plaintiff shall submit to the Court a Motion for Approval of Settlement. This motion shall seek an order to approve the proposed Settlement. This motion shall include the basis for the Gross Settlement Amount and why the amount is reasonable in light of the facts and controlling authorities pertaining to the claims alleged. Defendant agrees to cooperate with Plaintiff's Counsel and provide any reasonable and necessary information to support the motion.

52. **Entry of Judgment.** Upon issuance of the Approval Order, the Parties shall request the Court enter Judgment in the case.

ADDITIONAL PROVISIONS

53. **Interim Stay of Proceedings.** Prior to the hearing on the Motion for Approval of PAGA Settlement, the Parties agree to refrain from further litigation not in furtherance of this Settlement Agreement, e.g., such proceedings necessary to implement and to obtain an Approval Order of the terms of the Settlement. If the Settlement is not approved, the Parties agree that they will revert to their positions in the lawsuit prior to the time the Settlement was reached, and no agreements set forth in this Settlement or any documents generated or orders issued related to the Settlement will be admissible in any future proceeding in this or any other action.

54. **Construction.** The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive arm's-length negotiations between the Parties, and that this Settlement Agreement shall not be construed in favor of or against any Party by reason of the extent to which any Party or any Party's counsel participated in the drafting of this Settlement Agreement.

55. **Choice of Law.** This Settlement Agreement shall in all respects be interpreted, enforced, and governed by and under the laws of the State of California.

56. **Captions and Interpretations.** Paragraph titles or captions contained in this Settlement Agreement are inserted as a matter of convenience and for reference only and in no way define, limit, extend, or describe the scope of this Settlement Agreement or any provision in this Settlement Agreement. Each term of this Settlement Agreement is contractual and not merely a recital.

1 57. **Modification.** This Settlement Agreement may not be changed, altered, or modified,
2 except in a writing signed by counsel for all Parties. Any material changes, alternations, or
3 modifications to the provisions of this Settlement Agreement must be approved by the Court. No rights
4 under this Settlement may be waived except in writing.

5 58. **Integration Clause.** This Settlement Agreement contains the entire agreement among
6 the Parties relating to the settlement and transaction contemplated, and all prior or contemporaneous
7 agreements, understandings, representations, and statements, whether oral or written and whether by a
8 Party or that Party's legal counsel, are merged into this Settlement Agreement.

9 59. **Counterparts.** This Settlement Agreement may be executed in counterparts with the
10 same force and effect as if all signatures were obtained in one document. This Settlement Agreement is
11 subject only to the execution of all Parties. All executed counterparts and each of them, including
12 electronic, facsimile, DocuSign, and scanned copies of the signature page(s), will be deemed to be one
13 and the same instrument and shall have the same force and effect as execution of an original, and shall
14 be deemed an original and valid signature.

15 60. **Parties' Authority.** The signatories to the Settlement Agreement represent that they are
16 fully authorized to enter into this Settlement and are fully authorized to bind the Parties to all terms
17 stated in this Settlement Agreement.

18 61. **Materiality of Terms.** Except as otherwise stated in this Settlement Agreement, all
19 terms and conditions of this Settlement in the exact form set forth in this Settlement are material to this
20 Settlement and have been relied upon by the Parties in entering into this Settlement.

21 62. **Invalidity of Any Provision.** Before declaring any provision of this Settlement
22 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
23 possible consistent with applicable precedents so as to render all provisions of this Settlement
24 Agreement valid and enforceable.

25 63. **Further Acts and Cooperation Between the Parties.** The Parties shall cooperate fully
26 with each other and shall use their best efforts to obtain the Court's approval of this Settlement
27 Agreement and all of its terms. Each of the Parties, upon the request of another, agrees to perform such
28 further acts and to execute and to deliver such other documents as are reasonably necessary to carry out

the provisions of this Settlement Agreement.

64. **Waiver of Certain Appeals.** The Parties agree to waive appeals except, however, that Plaintiff or Plaintiff's Counsel may appeal any reduction in the Attorneys' Fees and Costs below the amount they request from the Court, and either party may appeal any court order that materially alters the Settlement Agreement's terms.

65. **Continuing Jurisdiction.** The Court shall retain jurisdiction over the implementation of this Settlement as well as any and all matters arising out of, or related to, the implementation of this Settlement. The Court shall not have jurisdiction to modify the terms of the Settlement without the consent of all of the Parties. Should any party be required to enforce the terms of this Settlement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

66. **Enforcement of Settlement Agreement.** Pursuant to Labor Code section 2699, this Settlement Agreement must be approved by the Court and will be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6. Even after the entry of judgment, the Parties jointly request and reserve the Court's continuing jurisdiction under section 664.6.

67. **Effect of Signatures.** By their signatures, the Parties acknowledge and warrant that their respective counsel will abide by and adhere to the specific obligations and actions required of them in this Settlement Agreement.

SIGNATURES

READ CAREFULLY BEFORE SIGNING

THE PARTIES HAVE READ THE SETTLEMENT AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE SETTLEMENT AGREEMENT AND KNOW THE CONTENTS IN THE SETTLEMENT AGREEMENT AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

PLAINTIFF

Dated: 12/27/2024

Signed by:

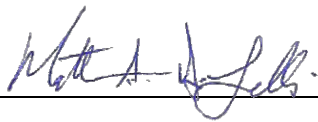


Plaintiff David Guzman

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**DEFENDANT GAMA AVIATION
ENGINEERING, INC.**

Dated: January 7, 2025



Matthew A. DeLellis

Please Print Name of Authorized Signatory

EXHIBIT A

Guzman v. Gama Aviation Engineering, Inc., et al.
Santa Clara County Superior Court Case No. 22CV399013

This Notice relates to the settlement of a lawsuit filed by David Guzman (“Plaintiff”), a former employee of Defendant Gama Aviation Engineering, Inc. (“Defendant”) on June 9, 2022, in Santa Clara County Superior Court. Plaintiff brought the lawsuit as a representative action under California’s Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698, et seq.) (“PAGA”) on behalf of the State of California and all persons who were employed by Defendant as non-exempt hourly-paid employees within the State of California from April 5, 2021 through September 30, 2024. A PAGA action is an action for civil penalties in which the State of California (the LWDA) receives 75% of any net settlement, and 25% of the net settlement is distributed amongst alleged Aggrieved Employees.

The lawsuit alleges Defendant violated the California Labor Code and Wage Orders for failure to: (a) pay overtime compensation, (b) pay minimum wages, (c) provide meal periods or pay meal premiums, (d) provide rest periods or pay rest premiums, (e) provide accurate and complete wage statements, (f) maintain accurate payroll records, (g) maintain accurate time records, (h) timely pay all wages during employment, (i) timely pay wages upon termination, (j) provide employees with written notice of information material to their employment, (k) provide employment records, (l) pay vested vacation pay at termination, (m) provide reporting time pay, (n) reimburse necessary business expenses, (o) provide reasonable working conditions, and (p) provide sick leave, during the PAGA Period. Defendant strongly denies these allegations and has vigorously defended itself in this lawsuit. Defendant maintains that at all times it has complied with all applicable wage and hour laws.

The Court has made no determination on the merits of Plaintiff’s claims, but the Parties have decided to resolve the case through settlement, with the approval of the Court.

The Court has approved the parties’ settlement agreement, entering judgment to resolve this case. Aggrieved Employees have released the Released Parties, which include Defendant and its related entities, Jet East, a Gama Aviation Company, and West Star Aviation, as well Defendant’s parents, subsidiaries, affiliated corporations and entities, predecessors or successors, current and former officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, franchisors, franchisees, and agents, as well as any successors, assigns, or legal representatives/attorneys from the “Released Claims” for the PAGA Period. The Released Claims are defined as follows:

“Released Claims” or “Settled Claims” means all claims for PAGA civil penalties that were alleged, or reasonably could have been alleged, based on the same set of operative facts alleged in the Complaint and PAGA Notice, including for California Labor Code sections 201, 202, 203, 204, 210, 223, 225.5, 226(a), 226(c), 226.3, 226.7, 227.3, 246, 248.5, 510, 512(a), 558, 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 1199, 2699(a), (f), and (g), 2699.3(c), 2800, 2802, and 2810.5(a) and California Code of Regulations, Title 8, § 11040 and/or § 11090 (as applicable) subsections (4), (5)(A), (7), (9), (11), (12), and (15), and/or other provisions of law alleged to have been violated in the operative Complaint with respect to Aggrieved Employees. Aggrieved Employees, other than Plaintiff, will not be deemed to have released any individual wage and hour claims by virtue of this Settlement and with respect to Aggrieved Employees and attorneys’ fees and costs permissible under PAGA which Plaintiff and/or the Aggrieved Employees had or may claim to have against the Released Parties (as defined in Paragraph 34). Aggrieved Employees, other than Plaintiff, will not be deemed to have released any private rights of action and/or individual wage and hour claims held by Aggrieved Employees for any alleged violations

of the Labor Code or California Wage Orders by virtue of this Settlement.

Aggrieved Employees, other than Plaintiff, will not be deemed to have released any private rights of action and individual wage and hour claims held by Aggrieved Employees for any alleged violations of the Labor Code or California Wage Orders by virtue of this Settlement.

You have received this notice because Defendant's records indicate that you may be one of the employees affected by the allegations made by Plaintiff and were a non-exempt (hourly) employee of Defendant at any time between April 5, 2021 through September 30, 2024.

The Court has authorized a third-party settlement administrator to send you this Notice, and they have agreed to keep your contact information confidential.

The enclosed check represents your portion of the settlement payment, which is a pro-rata distribution based on the number of pay periods you worked during the applicable time period noted above. You may deposit or cash the check without any further obligation on your part and there is no need for you to contact the settlement administrator, the Parties, or the Court. The entirety of PAGA civil penalties paid to you is considered miscellaneous income and not subject to withholdings. The settlement administrator will provide an appropriate IRS Form 1099 to you.

If you have questions about this notice, please contact the Settlement Administrator, [[REDACTED]] at [REDACTED], or contact Plaintiff's counsel below:

LAW OFFICES OF MARK YABLONOVICH

Mark Yablonovich

Monica Balderrama

Tony Roberts

9465 Wilshire Boulevard, Suite 300

Beverly Hills, California 90212-2511

Telephone: (310) 286-0246

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF THE CLAIMS OR DEFENSES BY EITHER SIDE IN THIS PROCEEDING.

PLEASE DO NOT CONTACT THE COURT REGARDING THIS CASE.