

EXHIBIT 1

CLASS ACTION SETTLEMENT AGREEMENT

This Class Action Settlement Agreement (“Agreement”) is made by and between Plaintiff Alejandro Ochoa (“Plaintiff”) and Defendant 8110 AERO DRIVE HOLDINGS, LLC (“Defendant”). Plaintiff and Defendant collectively are referred to in this Agreement as the “Parties.”

I. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

- A. “Action” means the Class Action Complaint that was filed in California state court and any amendments thereto, which is captioned *Alejandro Ochoa v. 8110 Aero Drive Holdings, LLC, et al.* Case No. 37-2022-00049091-CU-OE-CTL, pending in Superior Court of the State of California, County of San Diego.
- B. “Aggrieved Employees” shall mean: All non-exempt employees who are currently or previously were employed by 8110 Aero Drive Holdings, LLC, and performed work in California during the PAGA Period.
- C. “Class” shall mean: All non-exempt employees who are currently or previously were employed by 8110 Aero Drive Holdings, LLC, and performed work in California during the Class Period.
- D. “Class Counsel” means Nicole Barvié of Barvié Law, APC.
- E. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment” mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.
- F. “Class Data” means, for each Class Member, his or her name; last-known mailing address; Social Security number; his or her employee identification number; his or her email address (if known); and his or her dates of employment and/or weeks worked during the Class Period as a Class Member; pay periods worked during the PAGA Period; and any workweeks during the Class Period whereby the Class Member previously released his or her claims.
- G. “Class Member” is a member of the Class.
- H. “Class Notice” means the Notice of Proposed Settlement of Class Action and Hearing Date for Final Court Approval substantively in the form attached hereto as Exhibit A to this Agreement and incorporated by reference into this Agreement.

- I. “Class Notice Packet” means the Class Notice to be provided to the Class Members by the Settlement Administrator in the form set forth as Exhibit A to this Agreement (other than formatting changes to facilitate printing by the Settlement Administrator).
- J. “Class Period” means the period of time from February 10, 2019 to May 15, 2023.
- K. “Class Representative Service Payment” means the service payment made to the Plaintiff in his capacity as Class Representative in order to compensate him for initiating the Action, performing work in support of the Action, undertaking the risk of liability for Defendant’s expenses in the event Plaintiff was unsuccessful in the prosecution of the Action, and for the general release of all claims by the Plaintiff.
- L. “Court” means the Superior Court of California, County of San Diego.
- M. “Defendant” means 8110 Aero Drive Holdings, LLC.
- N. “Defendant’s Counsel” means Guillermo A. Escobedo and/or Arcelia N. Magaña of Jackson Lewis P.C.
- O. “Effective Date” means the date by which all of the following have occurred:
1. This Agreement is approved by the Court; and
 2. The Judgment becomes Final as defined in Section I(Q) of this Agreement.
- P. “Election Not to Participate in Settlement” means the written request by a Class Member to exclude himself or herself from the Settlement submitted in accordance with the instructions in the Class Notice.
- Q. “Final” means the last of the following dates, as applicable:
1. If no objection to the Settlement is made, by the day the Court enters Judgment;
 2. If an objection to the Settlement is made and Judgment is entered, but no appeal is filed, the last date on which a notice of appeal from the Judgment may be filed and none is filed.
 3. If Judgment is entered and a timely appeal from the Judgment is filed, the date the Judgment is affirmed and is no longer subject to appeal.
- R. “Final Approval Hearing” means the hearing to be conducted by the Court to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.
- S. “Gross Settlement Amount” means FIVE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$525,000.00) to be paid by Defendant as provided by this Agreement. This Gross Settlement Amount shall be

inclusive of all payments of Settlement Shares to the Participating Class Members, Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the PAGA Payment, and excluding any employer payroll taxes, if any, due on the portion of the Settlement Shares allocated to wages which shall not be paid from the Gross Settlement and shall be the separate additional obligation of Defendant. The Gross Settlement Amount is all in with no reversion to Defendant and shall be paid without the need to submit a claim form.

- T. “Judgment” means the Final Approval Order and Judgment entered by the Court substantially in the forms attached hereto as Exhibit C to this Agreement and incorporated by reference into this Agreement.
- U. “Net Settlement Amount” means the Gross Settlement Amount less the Court-approved amounts for the Class Representative Service Payment, the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the LWDA PAGA Payment, Individual PAGA Payments, and the Settlement Administration Expenses. The Net Settlement Amount is to be paid to Participating Class Members as Individual Class Payments.
- V. “Non-Participating Class Member” means a Class Member who submits a valid and timely Election Not to Participate in Settlement.
- W. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698 *et seq.*).
- X. “PAGA Period” means the period of time from September 30, 2021 to May 15, 2023.
- Y. “PAGA Penalties” means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$5,000.00) and the 75% to LWDA (\$15,000.00) in settlement of PAGA claims.
- Z. “Participating Class Member” means a Class Member who does not submit a valid and timely Election Not to Participate in Settlement.
- AA. “Preliminary Approval of the Settlement” means the Court’s Order Granting Preliminary Approval of the Settlement substantially in the form attached hereto as Exhibit B to this Agreement and incorporated by this reference herein.
- BB. “Released Parties” shall collectively mean: 8110 Aero Drive Holdings, LLC., and its present and former parent companies, affiliates, subsidiaries, divisions, successors, and assigns, and their respective shareholders, predecessors, insurers, current and former employees, attorneys, owners, officers, directors, including Lucy Burni, and agents thereof, both individually and in their business capacities, and their trustees, administrators, fiduciaries, and insurers.
- CC. “Released Class Claims” means all claims that were alleged, or reasonably could have been alleged, based facts stated in the Operative Complaint which occurred during the Class Period. Except as expressly set forth in this Agreement,

Participating Class Members do not release any other claims, including claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

- DD. "Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the facts stated in the Operative Complaint and the PAGA Notice, which occurred during the PAGA Period. The Released PAGA Claims do not include other PAGA claims, underlying wage and hour claims, claims for wrongful termination, discrimination, unemployment insurance, disability and worker's compensation, and claims outside of the PAGA Period.
- EE. "Settlement" means the disposition of the Action and all related claims effectuated by this Agreement.
- FF. "Settlement Administrator" means the third-party settlement administrator proposed by the Parties, as approved by the Court.
- GG. "Settlement Share" means each Participating Class Member's share of the Net Settlement Amount as provided by this Agreement.

II. RECITALS

- A. On December 8, 2022, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of San Diego. Plaintiff asserted claims that Defendant:
 - 1. Violated California Business and Professions Code § 17200 *et seq.*;
 - 2. Failed to pay overtime wages in violation of California Labor Code § 510, *et seq.*;
 - 3. Failed to pay minimum wages in violation of California Labor Code §§ 1194, 1197 & 1197.1;
 - 4. Failed to provide required meal periods and meal period premiums, and failed to pay meal period premiums at the appropriate rate, in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - 5. Failed to provide required rest periods and rest period premiums, and failed to pay rest period premiums at the appropriate rate, in violation of California Labor Code §§ 226.7 & 512 and the applicable IWC Wage Order;
 - 6. Failed to reimburse required expenses in violation of California Labor Code § 2802;
 - 7. Failed to provide accurate and fully compliant itemized wage statements in violation of California Labor Code §§ 226 & 226.2;

8. Failed to provide wages when due in violation of California Labor Code §§ 201, 202 and 203.
 9. Failed to provide gratuities in violation of California Labor Code § 351; and
 10. Is liable for civil penalties pursuant to California Labor Code § 2699, *et seq.*, (“PAGA”) for violations of California Labor Code §§ 201, 202, 203, 204, 226(a), 226.3, 226.7, 227.3, 246, 351, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2802, and the California Code of Regulations.
- B. On February 28, 2023, the Parties participated in an all-day mediation presided over by Hon. Jan Adler (Ret.), a respected mediator of wage and hour representative and class actions. Following the mediation, each side, represented by its respective counsel, were able to agree to settle the Action.
- C. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendant that the claims in the Action of Plaintiff or the Class have merit or that Defendant bears any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendant’s defenses in the Action have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the Settlement does not become effective, Defendant reserves the right to contest certification of any class for any reason and reserves all available defenses to the claims in the Action.

Based on these Recitals that are a part of this Agreement, the Parties agree as follows:

III. SETTLEMENT TERMS AND CONDITIONS

- A. **Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Gross Settlement Amount that Defendant will pay under this Settlement is FIVE HUNDRED TWENTY-FIVE THOUSAND DOLLARS AND ZERO CENTS (\$525,000.00). This amount is all-inclusive of all payments contemplated in this resolution, excluding any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages which shall be separately paid by Defendant to the Settlement Administrator. All of the Gross Settlement Amount will be disbursed pursuant to this Agreement without the need to submit a claim form and none of the Gross Settlement Amount will revert to Defendant.
- B. **Payments from the Gross Settlement Amount.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will make the following payments out of the Gross Settlement Amount:
1. **To Plaintiff:** In addition to the Settlement Shares to be paid to Plaintiff, Plaintiff will apply to the Court for an award of not more than \$10,000.00 as a Class Representative Service Payment. Defendant will not oppose a Class Representative Service Payment of no more than \$10,000.00 for Plaintiff. The Settlement Administrator will pay the Class Representative

Service Payment approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Representative Service Payment of less than \$10,000.00, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions will not be taken from the Class Representative Service Payment and instead a Form 1099 will be issued to Plaintiff with respect to the payment, who will assume full responsibility and liability for the taxes due on his Class Representative Service Payment.

2. **To Class Counsel:** Class Counsel will apply to the Court for an award of not more than One-Third of the Gross Settlement Amount, which is presently \$175,000.00, as their Class Counsel Fees Payment and an amount not more than \$20,000.00 for all expenses incurred as documented in Class Counsel's billing records as their Class Counsel Litigation Expenses Payment. Defendant will not oppose Class Counsel's request for a Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment consistent with this Agreement and approved by the Court. The Settlement Administrator will pay the amounts approved by the Court out of the Gross Settlement Amount. If the Court approves a Class Counsel Fees Payment or a Class Counsel Litigation Expenses Payment of less than these amounts, which are presently \$175,000.00, and \$20,000.00 respectively, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. Payroll tax withholding and deductions, if any, will not be taken from the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment and instead one or more Forms 1099 will be issued to Class Counsel with respect to those payments. The payment of the Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment shall be made to Class Counsel.
3. **The PAGA Payment.** The Parties will seek approval from the Court for the PAGA Payment of \$20,000.00 out of the Gross Settlement Amount, which shall be allocated 75% (\$15,000.00) to the LWDA as the LWDA's share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA and 25% (\$5,000.00) will be distributed to the Aggrieved Employees based on their respective pay periods worked during the PAGA Period. If the Court approves a PAGA Payment of less than \$20,000.00, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members. All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement. One hundred percent (100%) of the PAGA Payment is in settlement of claims for penalties and not be subject to wage withholdings, and shall be reported on IRS Form 1099.
4. **To the Settlement Administrator.** The Settlement Administrator will pay out of the Gross Settlement Amount to itself its reasonable fees and expenses that are documented and approved by the Court in an amount not to exceed \$7,000.00 ("Settlement Administration Expenses"). To the extent

the Settlement Administration Expenses that are documented and approved by the Court are less than \$7,000.00, the remainder will be retained in the Net Settlement Amount for distribution to Participating Class Members.

C. **Payments From the Net Settlement Amount.** The Net Settlement Amount shall include the following payments after the deductions have been made from the Gross Settlement Amount as described in this Agreement. The Net Settlement Amount shall include the following:

1. **Settlement Share.** Subject to the terms and conditions of this Agreement, the Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member. The submission of a claim form is not required to be paid.
2. **Calculation.** Each Participating Class Member will be entitled, provisionally, to a share or shares of the Net Settlement Amount. The Settlement Share for each Participating Class Member will be calculated as follows: (i) Defendant shall provide the Settlement Administrator with the number of workweeks and pay periods actually worked by the Participating Class Members during the Class Period; (ii) the Settlement Administrator shall then divide the Net Settlement Amount by the total number of workweeks to determine a dollar amount per week (“Weekly Rate”); and (iii) the Settlement Administrator shall then take the number of weeks worked reduced by workweeks whereby the Participating Class Member previously released claims, if any, by each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share.
3. **Withholding.**
 - a. Subject to approval by the Court, ten percent (10%) of each Participating Class Member’s Settlement Share is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2 and shall be paid for from the Gross Settlement Amount. The Settlement Administrator shall be responsible for remitting to the tax authorities employees’ and employer’s share of all payroll taxes on the Wage Portion.
 - b. Subject to approval by the Court, ninety percent (90%) of each Participating Class Member’s Settlement Share is in settlement of claims for interest and penalties, including waiting time penalties and PAGA penalties, allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings, and shall be reported on IRS Form 1099.
 - c. The Participating Class Members agree to hold harmless Defendant, Class Counsel, and Defendant’s Counsel for any tax liability, including penalties and interest, arising out of or relating

to the Participating Class Members' failure to pay taxes on any amounts paid pursuant to this Settlement.

4. **Effect of Non-Participating Class Members.** Non-Participating Class Members will receive no Settlement Share, and their Election Not to Participate in Settlement will reduce neither the Gross Settlement Amount nor the Net Settlement Amount. Their respective Settlement Shares will remain a part of the Net Settlement Amount for distribution to Participating Class Members on a *pro rata* basis relative to their Settlement Shares.
5. **Class Size Modification.** Defendant has represented that the class consists of an estimated total of 251 Class Members who worked an estimated 26,058 workweeks at any time during the Class Period (data current as of May 26, 2023). In regard hereto, Defendant will provide a declaration under oath prior to the filing of the motion for preliminary approval as to the number of Class Members during the Class Period. Should the number of workweeks in the Class Period increase by more than 10% (2,606 workweeks) or exceed a total of 28,664 workweeks, Defendant will have the option to increase the Gross Settlement Amount by a proportionate additional amount for each additional workweek or, if Defendant declines to exercise this option, the Gross Settlement Amount will cover no more than 2,606 additional workweeks (10% more than 26,058) and the end of the Class Period and PAGA Period will be moved back to only cover the Class Period and PAGA Period during which no more than 28,664 workweeks were worked by the Class Members.

- D. **Appointment of Settlement Administrator.** After obtaining a quote from mutually acceptable and qualified settlement administrators, the Parties have mutually agreed to ask the Court to appoint APEX Class Action as the qualified administrator, to serve as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this Agreement with respect to the performance of its duties and its compensation. The Settlement Administrator's duties will include preparing, printing, and mailing the Class Notice Packet to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notice Packets; re-mailing Class Notice Packets that are returned to the Class Member's new address; setting up a toll-free telephone number to receive calls from Class Members; receiving and reviewing for validity completed Elections Not to Participate in Settlement; providing the Parties with weekly status reports about the delivery of Class Notice Packets and receipt of completed Elections Not to Participate in Settlement; calculating Settlement Shares; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Settlement Administrator will have the authority to resolve all disputes concerning the calculation of a Participating Class Member's Settlement Share, subject to the dollar limitations and calculations set forth in this Agreement. The Settlement Administration Expenses, including the cost of printing and mailing the Class Notice Packet, will be paid out of the Gross Settlement Amount.

The Settlement Administrator shall have its own Employer Identification Number under Internal Revenue Service Form W-9 and shall use its own Employer Identification Number in calculating payroll withholdings for taxes and shall transmit the required employers' and employees' share of the withholdings to the appropriate state and federal tax authorities. The Settlement Administrator shall establish a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

E. Procedure for Approving Settlement.

1. Motion for Preliminary Approval of Settlement by the Court.

- a. Within sixty (60) days of Execution of this Settlement Agreement, Plaintiff will file a Preliminary Approval Motion with the Court for an order giving Preliminary Approval of the Settlement, setting a date for the Final Approval Hearing, and approving the Class Notice (the "Motion for Preliminary Approval"). Any disagreement among the Parties concerning the Class Notice, the proposed orders, or other documents necessary to implement the Settlement will be referred to the mediator for resolution.
- b. At the hearing on the Motion for Preliminary Approval, the Parties will jointly appear, support the granting of the motion, and submit an Order Granting Preliminary Approval of the Settlement substantially in the form evidenced by Exhibit B to this Agreement and incorporated by reference into this Agreement.
- c. Should the Court decline to preliminarily approve material aspects of the Settlement (including but not limited to the scope of release to be granted by Participating Class Members or the binding effect of the Settlement on Participating Class Members), the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval.

2. Notice to Class Members. After the Court enters an Order Granting Preliminary Approval of the Settlement, every Class Member will be sent the Class Notice Packet (which will include the Class Notice completed to reflect the Order Granting Preliminary Approval of the Settlement and showing the Class Member's Settlement Share) as follows:

- a. No later than fifteen (15) days after the Court enters an Order Granting Preliminary Approval of the Settlement, Defendant will provide to the Settlement Administrator an electronic database containing each Class Member's Class Data. If any or all of the Class Data is unavailable to Defendant, Defendant will so inform Class Counsel and the Parties will make their best efforts to reconstruct or otherwise agree upon the Class Data prior to when it must be submitted to the Settlement Administrator. This information will otherwise remain confidential and will not be

disclosed to anyone, except as required to applicable taxing authorities, in order to carry out the reasonable efforts described in section III.E.2.c., or pursuant to Defendant's express written authorization or by order of the Court. All Class Data will be used for settlement notification and settlement administration and shall not be used for any other purpose by Class Counsel. This provision shall not be construed to impede Class Counsel's ability to discharge their fiduciary duties to the Class, and if additional disclosures are necessary, Class Counsel will obtain written authorization of Defendant and/or an order from the Court.

- b. The Settlement Administrator shall update the Class Data using the National Change of Address database prior to mailing the Class Notice Packets. Using best efforts to mail it as soon as possible, and in no event later than fourteen (14) days after receiving the Class Data, the Settlement Administrator will mail the Class Notice Packets to all Class Members via first-class regular U.S. Mail using the mailing address information provided by Defendant, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement.
- c. If a Class Notice Packet is returned because of an incorrect address, the Settlement Administrator will promptly, and not longer than fourteen (14) days from receipt of the returned packet, search for a more current address for the Class Member and re-mail the Class Notice Packet to the Class Member. The Settlement Administrator will use the Class Data and otherwise work with Defendant to find a more current address. The Settlement Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job parameters, Court orders, and fee, as agreed to with Class Counsel and according to the following deadlines, to trace the mailing address of any Class Member for whom a Class Notice Packet is returned by the U.S. Postal Service as undeliverable. These reasonable steps shall include, at a minimum, the tracking of all undelivered mail; performing address searches for all mail returned without a forwarding address using available email addresses, phone numbers, social security numbers, credit reports, LinkedIn, and Facebook; and promptly re-mailing to Class Members for whom new addresses are found. If the Class Notice Packet is re-mailed, the response date for written objections, disputes and opt-outs will be extended an additional 15 days, and the Settlement Administrator will note for its own records and notify Class Counsel and Defendant's Counsel of the date and address of each such re-mailing as part of a weekly status report provided to the Parties.

- d. As part of its weekly status report, the Settlement Administrator will inform Class Counsel and Defendant's Counsel of the number of Elections Not to Participate in Settlement it receives (including the numbers of valid and deficient), and number of objections received.
- e. Not later than ten (10) days before the date by which the Plaintiff file the motion for final approval of the Settlement, the Settlement Administrator will provide the Parties for filing with the Court a declaration of due diligence setting forth its compliance with its obligations under this Agreement and detailing the Elections Not to Participate in Settlement it received (including the numbers of valid and deficient Elections) and objections received. Prior to the Final Approval Hearing, the Settlement Administrator will supplement its declaration of due diligence if any material changes occur from the date of the filing of its prior declaration.

3. **Objections to Settlement; Disputes as to Dates of Employment allocated to Class Members; Elections Not to Participate in Settlement.** Participating Class Members may submit objections to the Settlement and/or objections to the Class Counsel Fees Payment and/or Class Counsel Litigation Expenses Payment. Class Members may also submit disputes as to workweeks allocated to them and Elections Not to Participate in Settlement pursuant to the following procedures:

- a. **Objections to Settlement.** The Class Notice will provide that only Participating Class Members who wish to object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payment may object to the proposed Settlement, either in writing or orally at the Final Approval Hearing. Objections in writing must be submitted to the Settlement Administrator, postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets. Written objections must set forth the grounds for the objection(s) and comply with the instructions in the Class Notice. If a Class Notice Packet is re-mailed, the response date for written objections will be extended an additional fifteen (15) days. Alternatively, Class Members shall be entitled to be heard at the Final Approval Hearing (whether individually or through separate counsel) to orally object to the Settlement, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and/or the Class Representative Service Payment. Non-Participating Class Members shall have no ability to comment on or object to the Settlement.
- b. **Disputes as to Dates of Employment.** Each Class Member shall also have forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets in which to dispute the dates of employment the Class Notice allocates to them during the

Class Period. Any notice of dispute shall be directed to the Settlement Administrator. Any dispute as to this allocation shall be resolved by the Settlement Administrator, with input and assistance from Defendant's Counsel, where applicable. If a Class Notice Packet is re-mailed, the response date for disputes will be extended an additional fifteen (15) days.

- c. **Election Not to Participate in Settlement.** The Class Notice also will provide that Class Members who wish to exclude themselves from the Settlement must mail to the Settlement Administrator postmarked not later than forty-five (45) calendar days after the Settlement Administrator mails the Class Notice Packets, a signed Election Not to Participate in Settlement. If a Class Notice Packet is re-mailed, the response date for opt-outs will be extended an additional fifteen (15) days. To be valid, an Election Not to Participate in Settlement must be timely and must comply with the instructions in the Class Notice. If a question is raised about the authenticity of a signed Election Not to Participate in Settlement, the Settlement Administrator will have the right to demand additional proof of the Class Member's identity. A Non-Participating Class Member will not participate in or be bound by the Settlement and the Judgment, except that an Aggrieved Employee will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of their request for exclusion. Defendant will remain free to contest any claim brought by any Class Member that would have been barred by this Agreement, and nothing in this Agreement will constitute or be construed as a waiver of any defense Defendant have or could assert against such a claim. A Class Member who does not complete and mail a timely Election Not to Participate in Settlement in the manner and by the deadline specified above and in the Class Notice will automatically become a Participating Class Member and will be bound by all terms and conditions of the Settlement, including the Released Class Claims by the Class, if the Settlement is approved by the Court, and by the Judgment, regardless of whether he or she has objected to the Settlement. Persons who submit an Election Not to Participate in Settlement shall not be permitted to file objections to the Settlement or appear at the Final Approval Hearing to voice any objections to the Settlement.

All Participating Class Members who do not submit a valid and timely Election Not to Participate in Settlement will receive a Settlement Share, without the need to file a claim form, and will be bound by all of the terms of the Settlement, including without limitation, the release of the Released Class Claims by the Participating Class Members set forth in this Agreement.

- d. **Report.** Not later than ten (10) calendar days after the deadline for submission of Elections Not to Participate in Settlement, the Settlement Administration will provide Class Counsel and Defendant's Counsel with a complete and accurate list of all Participating Class Members and all Non-Participating Class Members.
- 4. **Right of Defendant to Reject Settlement.** If the number of Class Members who timely submit valid Elections Not to Participate in Settlement is ten percent (10%) or more of the Class, Defendant, at its sole discretion, shall have the right but not the obligation to revoke the Settlement. Defendant shall exercise its revocation rights, if at all, within fifteen (15) days of the deadline for submission of Elections Not to Participate in Settlement by providing written notice to Class Counsel. If Defendant exercises its revocation rights, the Parties will have no further obligations under the Settlement, including any obligation by Defendant to pay the Gross Settlement Amount, or any amounts that otherwise would have been owed under this Agreement, except that Settlement Administration Expenses as of the date that Defendant exercises the right to void the Settlement pursuant to this Paragraph will be paid by Defendant.
- 5. **No Solicitation.** The Parties and their respective counsel represent that neither the Parties nor their respective counsel have or will solicit or any Class Member to object to the Settlement, appeal from the Judgment, or elect not to participate in the Settlement.
- 6. **Additional Briefing and Final Approval.**
 - a. Unless otherwise ordered by the Court, Class Counsel will file with the Court their motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, and Class Representative Service Payment no later than the date Plaintiff files the Motion for Final Approval, and the application will be scheduled to be heard by the Court at the Final Approval Hearing.
 - b. Not later than sixteen (16) court days before the Final Approval Hearing, the Plaintiff will file with the Court a motion for final approval of the Settlement, the PAGA Payment, and payment of the Settlement Administration Expenses.
 - c. If any opposition is filed to the motion for final approval and/or the motion for the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the PAGA Payment, then not later than five (5) court days before the Final Approval Hearing, both Parties may file a reply in support of the motion for final approval, and Plaintiff and Class Counsel may also file a reply in support of their motion for the Class Representative Service Payment, the Class Counsel Fees Payments, and the Class Counsel Litigation Expenses Payment.

- d. If the Court does not grant final approval of the Settlement or grants final approval conditioned on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), then the Parties shall work together in good faith to address any concerns raised by the Court and propose a revised Settlement for the Court's approval. However, an award by the Court of a lesser amount than that sought by Plaintiff and Class Counsel for the PAGA Payment, Class Representative Service Payment, the Class Counsel Fees Payment, or the Class Counsel Litigation Expenses Payment, will not constitute a material modification to the Settlement within the meaning of this paragraph.
 - e. Upon final approval of the Settlement by the Court at or after the Final Approval Hearing, the Parties will present for the Court's approval and entry the Judgment substantially in the form attached hereto as Exhibit C. After entry of the Judgment, the Court will have continuing jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Agreement, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as may be appropriate under court rules or applicable law.
7. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms and conditions of this Agreement, Plaintiff and Participating Class Members who did not timely submit an objection to the Settlement, Defendant, and Defendant's counsel hereby waive any and all rights to appeal from the Judgment, including all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of the Settlement (including making payments under the Settlement) will be suspended until such time as the appeal is finally resolved and the Judgment becomes Final.
8. **Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.** If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion, petition, or application, the reviewing Court vacates, reverses, or modifies the Judgment such that there is a material modification to the Settlement (including, but not limited to, the scope of release to be granted by Participating Class Members), and that Court's decision is not completely reversed and the Judgment is not fully affirmed on review by a higher Court, then the Parties shall work together in good faith to address any concerns raised by the reviewing Court and propose a revised Settlement for the approval of the Court not later than fourteen days after the reviewing Court's decision vacating, reversing, or materially modifying the Judgment becomes Final. A vacation, reversal, or modification of the Court's award of the Class Representative Service Payment or the Class Counsel Fees Payment or Class Counsel Litigation

Expenses Payment will not constitute a vacation, reversal, or material modification of the Judgment within the meaning of this paragraph, provided that Defendant's obligation to make payments under this Settlement will remain limited by the Gross Settlement Amount.

9. **Timing of Settlement Funding and Provision of Settlement Shares and Other Payments.** Defendant shall fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. Defendant shall fund the Gross Settlement Amount within ten (10) days of final approval. Within fifteen (15) days after Defendant funds the Gross Settlement Amount, the Settlement Administrator will make payment of all Settlement Shares to Participating Class Members, as well as payment of Settlement Administration Expenses, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses Payment, the Class Representative Service Payment and the PAGA Payment in accordance with this Agreement.
10. **Uncashed Settlement Share Checks.** A Participating Class Member or Aggrieved Employee must cash his or her Settlement Share check within one hundred and eighty (180) days after it is mailed to him or her. If a check is returned to the Settlement Administrator or not cashed within one hundred and twenty (120) days after the last mailing, the Settlement Administrator will make all reasonable efforts to re-mail it to the affected individual at his or her correct address by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Settlement Administrator will also send the individual a notice informing him or her that unless the check is cashed in the next 60 days, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed. If the check remains uncashed by the expiration of the 180 days period, the funds from such uncashed checks will be paid as follows:
 - a. One Hundred percent (100%) to Casa Cornelia Law Center. ("Casa Cornelia"), a nonprofit organization that provides legal services to victims of human and civil rights violations, including assisting asylum seekers with their asylum applications and employment authorization documents.
 - b. The Parties and/or Counsel for the Parties do not have any interests or involvement within the governance or work of USA and pursuant to subdivision (k) of Rule 3.769 of the California Rules of Court, the Parties and their attorneys represent that they have no connection or relationship with any of these non-party recipients of these distributions that could reasonably create an appearance of impropriety between the recipients and the interest of the Class as set forth in CCP section 382.4.

The Participating Class Member or Aggrieved Employee whose check remains uncashed and whose funds are paid as set forth above pursuant to paragraphs III.E.10(a)-(c) will remain bound by the Settlement. The Parties agree that this disposition results in no "unpaid residue" within the meaning of California Code of Civil Procedure Section 384, as the entire Net Settlement Amount will be paid out to Participating Class Members or Aggrieved Employees, whether or not they all cash their Settlement Share checks.

11. **Final Report by Settlement Administrator to Court.** Within ten (10) days after final disbursement of all funds from the Gross Settlement Amount, the Settlement Administrator will provide the Parties with a declaration proving a final report on the disbursements of all funds from the Gross Settlement Amount.

F. **Release of Claims.**

1. **Participating Class Members.** As of the Effective Date, the Released Parties shall receive a release from the Participating Class Members of all class claims pled in the operative complaint, including claims for Unfair Competition, Failure to Pay Overtime Wages, Failure to Pay Minimum Wages, Failure to Provide Meal Periods, including failure to pay meal period premiums at the proper rate of pay, Failure to Provide Rest Periods, including failure to pay rest period premiums at the proper rate of pay, Failure to Reimburse for Required Expenses; Failure to Provide Accurate and Fully Compliant Wage Statements, Failure to Provide Wages When Due, and Failure to Provide Gratuities; claims for violations based on each and all of the statutes listed in III.F.3, below; claims for injunctive relief based that could have been pled; punitive damages that could have been pled; liquidated damages that could have been pled; penalties of any nature that could have been pled; interest; attorneys' fees and costs (except those provided for herein); and any claims and violations that could have been pled in the operative complaint or any amendments thereto which occurred during the Class Period, and expressly excluding claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period. ("Released Class Claims").
2. **Aggrieved Employees.** As of the Effective Date, Defendant shall receive a release from the State of California of all PAGA claims and violations pled or that could have been pled in the operative complaint and PAGA letter sent by the Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees and expressly excluding claims outside of the PAGA Period ("Released PAGA Claims"). The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class.

3. **Plaintiff.** As of the Effective Date, Plaintiff generally releases and discharges the Released Parties from all claims and/or causes of action and/or violations occurring during the Class Period under any federal, state or local law or administrative order that were or could have been plead in the operative complaint, PAGA notice letter, and administrative claims, whether known or unknown, including: the failure to pay wages; the failure to pay overtime compensation; the failure to provide meal periods; the failure to provide rest periods; the failure to properly calculate the regular rate of compensation related to, *inter alia*, the banquet service charges, meal and rest period premiums, and overtime; the failure to reimburse for business expenses; the failure to maintain or provide accurate itemized statements; the failure to maintain records; the failure to timely provide wages; and any other claims whatsoever that were or could have been alleged in this case, including claims for restitution and other equitable relief under Business and Professions Code section 17200, conversion, liquidated damages, punitive damages, waiting-time penalties, penalties under the Labor Code Private Attorneys General Act of 2004, and claims, violations, and/or penalties of any nature whatsoever that could have been pled in the operative class action and PAGA complaint under California Business and Professions Code sections 17200, *et seq.*, and 17203; Labor Code sections 201, 202, 203, 204 *et seq.*, 210, 226-226.6, 226.7, 246 *et seq.*, 351, 510, *et seq.*, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and 2698 *et seq.*; Code of Civil Procedure sections 382, 474, 1021.5; IWC Wage Order No. 5; Fair Labor Standards Act, 29 U.S.C. sections 201, *et seq.* (“Plaintiff’s Released Claims”). This release expressly excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers’ compensation, and class claims outside of the Class Period and PAGA claims outside of the PAGA period.
4. **Plaintiff’s Waiver of Rights Under California Civil Code Section 1542.** As partial consideration for the Class Representative Service Payment, the Plaintiff’s Released Claims shall include all such claims, whether known or unknown by the releasing party. Thus, even if Plaintiff discovers facts and/or claims in addition to or different from those that they now know or believe to be true with respect to the subject matter of the Plaintiff’s Released Claims, those claims will remain released and forever barred. Therefore, with respect to Plaintiff’s Released Claims, Plaintiff expressly waives and relinquishes the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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

5. **Class Counsel.** As of the Effective Date, and except as otherwise provided by this Agreement and the Judgment, Class Counsel and any counsel associated with Class Counsel waive any claim to costs and attorneys' fees and expenses against Defendant arising from or related to the Action.
- G. **No Effect on Other Benefits.** The Settlement Shares will not result in any additional benefit payments (such as 401(k) or bonus) beyond those provided by this Agreement to Plaintiff or Participating Class Members, and Plaintiff and Participating Class Members will be deemed to have waived all such claims, whether known or unknown by them, as part of their release of claims under this Agreement.
- H. **Limitation on Public Statements About Settlement.** The named Parties and their attorneys will keep the settlement confidential through Preliminary Approval of the Settlement, other than filing documents with the Court. Thereafter, the named Parties and their attorneys agree to make no comments to the media or otherwise publicize or post the terms of the settlement, other than notices to the class. If Plaintiff or Class Counsel or Defendant or Defendant's Counsel receives an inquiry about the Settlement from the media, they may respond only after the Motion for Preliminary Approval has been filed and only by confirming the accurate terms of the Settlement. This provision shall not prohibit Class Counsel from communicating with Class Members after preliminary approval is granted for the sole purpose of administering the Settlement. This provision also does not limit Class Counsel from complying with ethical obligations or from posting court-filed documents on their website for viewing by Class Members after preliminary approval. Nothing in this provision shall prevent Defendant or Plaintiff from making any required disclosures.
- I. **Miscellaneous Terms.**
1. **No Admission of Liability or Class Certification for Other Purposes.**
- a. Defendant and the Released Parties deny that they have engaged in any unlawful activity, have failed to comply with the law in any respect, have any liability to anyone under the claims asserted in the Action, or that but for the Settlement a class should be certified in the Action. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission of liability or wrongdoing by Defendant or the Released Parties, or an admission by Plaintiff that any of the claims were non-meritorious or any defense asserted by Defendant was meritorious. This Settlement and the fact that Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (other than solely in connection with effectuating the Settlement pursuant to this Agreement). Nothing in this Agreement shall be constructed as an admission by Defendant of any liability or wrongdoing as to Plaintiff, Class Members, or any other person, and Defendant specifically disclaims any such liability

or wrongdoing. Moreover, it is not, and it should not be construed as, any admission of fact or law in this matter or any other matter that a class action is appropriate. The Parties have entered into this settlement with the intention of avoiding further disputes and litigation with the attendant inconvenience, expenses and risks. Nothing in this Agreement shall be construed as an admission by Plaintiff that Plaintiff's claims do not have merit or that class action is inappropriate.

- b. Whether or not the Judgment becomes Final, neither the Settlement, this Agreement, any document, statement, proceeding or conduct related to the Settlement or the Agreement, nor any reports or accounting of those matters, will be (i) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Plaintiff or Defendant or any of the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (ii) disclosed, referred to or offered in evidence against any of the Released Parties, in any further proceeding in the Action, or any other civil, criminal or administrative action or proceeding except for purposes of effectuating the Settlement pursuant to this Agreement.
- c. This section and all other provisions of this Agreement notwithstanding, any and all provisions of this Agreement may only be admitted in evidence and otherwise used in any and all proceedings for the limited purpose of enforcing any or all terms of this Agreement or defending any claims released or barred by this Agreement.

- 2. **Integrated Agreement.** After this Agreement is signed and delivered by all Parties and their counsel, this Agreement and its exhibits will constitute the entire agreement between the Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties, covenants, or inducements have been made to any Party concerning this Agreement or its exhibits other than the representations, warranties, covenants, and inducements expressly stated in this Agreement and its exhibits.
- 3. **Attorney Authorization.** Class Counsel and Defendant's Counsel warrant and represent that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement including any amendments to this Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed

to implement the Agreement, or on any supplemental provisions that may become necessary to effectuate the terms of this Agreement, the Parties will seek the assistance of the mediator for resolution.

4. **No Prior Assignments:** The Parties represent, covenant and warrant that they have not directly or indirectly assigned, transferred, encumbered or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged in this Settlement.
5. **No Tax Advice:** Neither Class Counsel nor Defendant's Counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
6. **Modification of Agreement.** Except as set forth in section III.I.2 hereinabove this Agreement, and any and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives.
7. **Agreement Binding on Successors.** This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.
8. **Applicable Law.** All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the laws of the State of California.
9. **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.
10. **Fair Settlement.** The Parties and their respective counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, current and potential.
11. **Use and Return of Documents and Data.** All originals, copies, and summaries of documents and data provided to Class Counsel by Defendant in connection with the mediation or other settlement negotiations in this matter may be used only with respect to this Settlement, and no other purpose, and may not be used in any way that violates any existing contractual agreement, statute, or rule. Within thirty days after the Judgment becomes Final, Class Counsel will return or destroy and confirm in writing to Defendant the destruction of all such documents and data.

12. **Headings.** The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.
13. **Notice.** All notices, demands or other communications given under this Agreement will be in writing and deemed to have been duly given as of the third business day after mailing by United States mail, addressed as follows:

To Plaintiff and the Class:

Nicole Barvié
Barvie Law APC
550 W B St., 4th Floor
San Diego, CA 92101
Tel.: (858) 255-0928
E-Mail: nicole@barvielaw.com

To Defendant:

Guillermo A. Escobedo
Arcelia N. Magaña
Jackson Lewis P.C.
225 Broadway, Suite 1800
San Diego, CA 92101
Tel.: (619) 573-4900
Fax: (619) 573-4901
E-Mail: guillermo.escobedo@jacksonlewis.com
arcelia.magana@jacksonlewis.com

14. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts by facsimile, electronically or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument provided that counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.
15. **Stay of Litigation.** The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the date to bring a case to trial under CCP section 583.310 for the entire period of this settlement process from the initial mediation with the Hon. Jan Adler (Ret.) on February 28, 2023 until the earlier of the Effective Date or the date this Agreement shall not longer be of any force or effect.
16. **Continuing Jurisdiction.** The Court shall retain continuing jurisdiction over the Action under CCP section 664.6 to ensure the continuing

implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: 06 / 16 / 2023



Plaintiff Alejandro Ochoa

Dated: _____

Lucy Bruni
For Defendant 8110 Aero Drive Holdings, LLC

Dated: 06 / 12 / 2023



Nicole Barvié
Barvie Law, APC
Attorney for Plaintiff

Dated: _____

Guillermo A. Escobedo
Arcelia N. Magaña
Jackson Lewis P.C.
Attorneys for Defendant

implementation of this Agreement and enforcement of the Settlement until performance in full of the terms of this Settlement.

IV. EXECUTION BY PARTIES AND COUNSEL

The Parties and their counsel hereby execute this Agreement.

Dated: _____

Plaintiff Alejandro Ochoa

Dated: 06/13/2023



Lucy Burni
For Defendant 8110 Aero Drive Holdings, LLC

Dated: _____

Nicole Barvié
Barvie Law, APC
Attorney for Plaintiff

Dated: 6/13/23



Guillermo A. Escobedo
Arcelia N. Magaña
Jackson Lewis P.C.
Attorneys for Defendant

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION AND HEARING DATE FOR
FINAL COURT APPROVAL]

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION
AND HEARING DATE FOR FINAL COURT APPROVAL**

**(Alejandro Ochoa v. 8110 Aero Drive Holdings, LLC, et al., Superior Court of the State of
California, County of San Diego, Case No. 37-2022-00049091-CU-OE-CTL)**

**YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT
ACT. PLEASE READ THIS NOTICE CAREFULLY.**

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do not have to do anything. Your estimated Settlement Share is: \$<< >>. See the explanation in Section 5 below. If you do nothing, you will be considered a Participating Class Member and will be part of the Settlement as explained more fully below. After final approval by the Court, the payment will be mailed to you at the same address as this notice. In exchange for the Settlement Share payment, you will release the Released Class Claims as detailed in Section 4 below. If your address has changed, you must notify the Settlement Administrator as explained in Section 6 below.
Exclude Yourself	To exclude yourself, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request to be excluded from the Settlement, you will receive no money from the Settlement and you will not be bound by the Settlement. However, if you are an Aggrieved Employee who opts out, you will still be paid your allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless of whether you submit a request for exclusion. If you choose to do so, you must notify the Settlement Administrator as explained in Section 7 below.
Object	Write to the Court about why you do not agree with the Settlement or appear at the Final Approval Hearing to make an oral objection. Instructions are provided in Section 8 below.

Your options are further explained in this Class Notice. To exclude yourself from, or object to, the Settlement you must take action by certain deadlines. If you want the Settlement as proposed, you don't need to do anything to obtain your share of the Settlement. Defendant will not retaliate against you for any actions you take with respect to the Settlement.

1. Why did I get this Notice?

A proposed class action settlement (the “Settlement”) of the above-captioned action pending in the Superior Court of the State of California, in and for the County of San Diego (the “Court”) has been reached between Plaintiff Alejandro Ochoa (“Plaintiff”) and Defendant 8110 Aero Holdings, LLC (“Defendant”) and has been granted preliminary approval by the Court. You may be entitled to receive money from this Settlement.

You have received this Class Notice because you have been identified as a member of the Class, which is defined as:

The Class Period is February 10, 2019, through May 15, 2023.

This Class Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Class Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On December 8, 2022, Plaintiff filed a Complaint against Defendant in the Superior Court of the State of California, County of San Diego, alleging the following class and Private Attorneys General Act (“PAGA”) claims against Defendant: unfair business practices; failure to pay wages; failure to pay overtime compensation; failure to provide meal periods; failure to provide rest periods; failure to properly calculate the regular rate of compensation related to, *inter alia*, the banquet service charges, meal and rest period premiums, and overtime; failure to reimburse for business expenses; failure to maintain or provide accurate itemized statements; failure to maintain records; failure to timely provide wages; and violations of the PAGA based on the aforementioned alleged violations (the “Complaint”). This lawsuit is referred to as the “Action.”

Defendant denies and disputes all such claims. Specifically, Defendant contends that Plaintiff and the Class Members were properly compensated for wages and gratuities owed under California law; that Defendant provided all required meal and rest periods; that Defendant paid all meal and rest period premiums at the appropriate rate of pay; that all necessary business expenses were reimbursed; that all wages were paid timely; that Defendant complied with California wage statement requirements; that Defendant is not liable for any of the penalties claimed or that could be claimed in the Action; that Defendant did not engage in unfair business practices; and that this Action cannot be maintained as a class action.

The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firm, Barvié Law, APC to serve as Class Counsel.

3. What are the terms of the Settlement?

Defendant has agreed to pay an “all in” amount of Five Hundred Twenty-Five Thousand Dollars and Zero Cents (\$525,000.00) (the “Gross Settlement Amount”) to fund the settlement of this Action. The Gross Settlement Amount includes all payments of Settlement Shares to Class

Members contemplated by the Settlement, the Settlement Administration Expenses, Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, Class Representative Service Payment, and the PAGA Payment for civil penalties. Any employer-side payroll taxes on the portion of the Settlement Shares allocated to wages shall be separately paid by Defendant.

Within ten (10) days of the Effective Date, Defendant will fund the Gross Settlement Amount by depositing the money with the Settlement Administrator. The “Effective Date” means the date of entry of the Court’s order granting Final Approval of the Settlement, or if there are objections or any appeal, the last date on which a notice of appeal from the judgment may be filed and none is filed or the date the judgment is affirmed and no longer subject to appeal. Fifteen (15) days after the Settlement is funded, the Settlement Administrator will mail checks for the Settlement Shares to Participating Class Members.

Amounts to be Paid From the Gross Settlement Amount. The proposed payments subject to Court approval will be deducted from the Gross Settlement Amount before Settlement Shares are made to Class Members who do not request to be excluded from the Settlement (“Participating Class Members”):

- Settlement Administration Expenses. Payment to the Settlement Administrator, estimated not to exceed \$7,000, for expenses, including without limitation, expenses of notifying the Class Members of the Settlement, processing opt outs, and distributing Settlement Shares and tax forms, and handling inquiries and uncashed checks.
- Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment. Payment to Class Counsel of reasonable attorneys’ fees not to exceed one-third of the Gross Settlement Amount, which is presently \$175,000.00 and an additional amount to reimburse actual litigation costs incurred by the Plaintiff not to exceed \$20,000.00. Class Counsel has been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money) and has been paying all litigation costs and expenses. The amounts stated are what Class Counsel will be requesting and the final amounts to be paid will be decided at the Final Approval Hearing.
- Class Representative Service Payment. Class Representative Service Payments in an amount not to exceed Ten Thousand Dollars (\$10,000.00) to the Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action, and for the risks he undertook. The amount stated is what Plaintiff will be requesting and the final amount to be paid will be decided at the Final Approval Hearing.
- PAGA Payment. A payment of \$20,000.00 relating to the claim for penalties under the PAGA, \$15,000.00 of which will be paid to the State of California’s Labor and Workforce Development Agency (“LWDA Payment”). The remaining \$5,000.00 will be distributed to the Aggrieved Employees based on their respective pay periods during the PAGA Period (September 30, 2021 through May 15, 2023). “Aggrieved Employees” means all non-exempt employees who are currently or previously were employed by 8110 Aero Drive Holdings, LLC, and performed work in California during the PAGA Period. All Aggrieved Employees will be sent their share of the PAGA Payment and will be subject to the release

of the Released PAGA Claims as set forth below, whether or not they opt out of the Settlement.

Calculation of Payments to Class Members. After all of the payments of the Court-approved Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment, the Class Representative Service Payment, the PAGA Payment, and the Settlement Administration Expenses are deducted from the Gross Settlement Amount, the remaining portion, called the “Net Settlement Amount”, shall be distributed as Settlement Shares to the Participating Class Members. The Net Settlement Amount is estimated to be approximately \$293,000.00, based upon the above proposed deductions. Settlement Administrator will pay a Settlement Share from the Net Settlement Amount to each Participating Class Member, which shall be calculated as follows: (i) Defendant shall provide the Settlement Administrator with the number of workweeks and pay periods actually worked by the Participating Class Members during the Class Period; (ii) the Settlement Administrator shall then divide the Net Settlement Amount by the total number of workweeks to determine a dollar amount per week (“Weekly Rate”); and (iii) the Settlement Administrator shall then take the number of weeks worked reduced by workweeks whereby the Participating Class Member previously released claims, if any, by each Participating Class Member and multiply it by the Weekly Rate to calculate their Settlement Share.

Tax Matters. Ten percent (10%) of each Participating Class Member’s Settlement Share is in settlement of wage claims (the “Wage Portion”). Accordingly, the Wage Portion is subject to wage withholdings, and shall be reported on IRS Form W-2. Ninety percent (90%) of each Participating Class Member’s Settlement Share is in settlement of claims for interest and penalties, including waiting time penalties and PAGA penalties, allegedly due to employees (collectively the “Non-Wage Portion”). The Non-Wage Portion shall not be subject to wage withholdings and shall be reported on IRS Form 1099. The employee portion of all applicable income and payroll taxes will be the responsibility of the Participating Class Members. Neither Class Counsel nor Defendant’s Counsel intend or represent that anything contained in this Class Notice to constitute advice regarding taxes or taxability. The tax issues for each Participating Class Member are unique to him/her, and each Participating Class Member may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement.

Conditions of Settlement. This Settlement is conditioned upon the Court granting final approval of the Settlement and entering the Judgment.

4. What Do I Release Under the Settlement?

Released Class Claims. As of the Effective Date, Defendant shall receive a release from all class claims pled in the operative complaint, including claims for Unfair Competition, Failure to Pay Overtime Wages, Failure to Pay Minimum Wages, Failure to Provide Meal Periods, including failure to pay meal period premiums at the proper rate of pay, Failure to Provide Rest Periods, including failure to pay rest period premiums at the proper rate of pay, Failure to Reimburse for Required Expenses; Failure to Provide Accurate and Fully Compliant Wage Statements, Failure to Provide Wages When Due, and Failure to Provide Gratuities; claims for violations based on: California Business and Professions Code sections 17200, *et seq.*, and 17203; Labor Code sections 201, 202, 203, 204 *et seq.*, 210, 226-226.6, 226.7, 246 *et seq.*, 351, 510, *et seq.*, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and 2698, *et seq.*, Code of Civil

Procedure sections 382, 474, 1021.5; IWC Wage Orders No. 5; Fair Labor Standards Act, 29 U.S.C. sections 201, *et seq.*, claims for injunctive relief based that could have been pled; punitive damages that could have been pled; liquidated damages that could have been pled; penalties of any nature that could have been pled; interest; attorneys' fees and costs (except those provided for herein); and any claims and violations that could have been pled in the operative complaint or any amendments thereto which occurred during the Class Period, and expressly excluding claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and class claims outside of the Class Period ("Released Class Claims").

This means that, if you do not timely exclude yourself from the Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendant and any other Released Party about Released Class Claims resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

Released PAGA Claims. As of the Effective Date, Defendant shall receive a release from the State of California of all PAGA claims and violations pled or that could have been pled in the operative complaint and PAGA letter sent by the Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees, including but not limited to: Labor Code sections 201, 202, 203, 204 *et seq.*, 210, 226-226.6, 226.7, 246 *et seq.*, 351, 510, *et seq.*, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and 2698, *et seq.*, and expressly excluding claims outside of the PAGA Period ("Released PAGA Claims"). The release of the Released PAGA Claims shall be effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted a request for an exclusion from the Class.

5. How much will my payment be?

Based on the calculations of payments to Class Members discussed above, your estimated Settlement Share from the Net Settlement Amount is << >>.

If you wish to challenge the information set forth above, then you must submit a written and signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Class Notice no later than [forty-five (45) days after the mailing of the Class Notice or 60 days after the Class Notice in the case of re-mailing].

6. How can I get a payment?

To get money from the Settlement, you do not have to do anything. A check for your Settlement Share will be mailed automatically to the same address as this Class Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator can be contacted at: APEX Class Action <https://www.apexclassaction.com/> or (800) 355-0700.

The Court will hold a Final Approval Hearing on [], 2023, at [] to decide whether to approve the Settlement and fix the amounts to be paid as attorney's fees and costs to Class Counsel and as service awards to the Plaintiff. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed approximately twenty-five (25)

days after this hearing. If there are objections or appeals, resolving them can take time, usually more than a year. Please be patient.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." If you opt out, you will not receive a Settlement Share from the Settlement, and you will not be bound by the Settlement which means you will retain the right to sue Defendant for the Released Class Claims. However, Aggrieved Employees who opt out will still be paid their allocation of the PAGA Payment and will remain bound by the release of the Released PAGA Claims regardless whether they submit a request for exclusion.

To opt out, you must mail to the Settlement Administrator, by First Class Mail, a written, signed and dated request to opt-out postmarked no later than [redacted] [forty-five (45) days after the date of the Class Notice or sixty (60) days after the Class Notice in the case of re-mailing]. The request to opt-out must be postmarked or received by the Settlement Administrator by this deadline and should: (1) contain a clear statement that you are requesting to opt out of, or be excluded from the Class and Released Class Claims in the *Ochoa v. 8110 Aero Drive Holdings, LLC* lawsuit; (2) contain the name, address, and the last four digits of the Social Security Number of the person requesting exclusion; (3) state the Class Member's request to exclude himself or herself from the Settlement and to opt out of the Settlement; and (4) be signed by the Class Member or his or her lawful representative. Please include the name and number of the case, which is *Ochoa v. 8110 Aero Drive Holdings, LLC*, Case No. 37-2022-00049091-CU-OE-CTL. The request to opt-out must be signed by you. No other person may opt-out for a living member of the Class.

The address for the Settlement Administrator is 20371 Irvine Ave., Suite 110, Newport Beach, CA 92660. Written requests for exclusion from the Settlement that are postmarked after [redacted], or are incomplete or unsigned may be rejected; and if so, those Class Members will remain bound by the Settlement and the Released Class Claims described above

8. How do I tell the Court that I don't agree with the Settlement?

Any Class Member who has not opted out and believes that the Settlement should not be finally approved by the Court for any reason may object to the proposed Settlement, the attorneys' fees, the costs and/or the service awards, either in writing or in person. Objections that are in writing should state the Class Member's name, current address, telephone number, and the dates of employment in California by Defendant, and describe why you believe the Settlement is unfair. All written objections or other correspondence should also state the name and number of the case, which is *Ochoa v. 8110 Aero Drive Holdings, LLC*, in the Superior Court of the State of California, County of San Diego, Case No. 37-2022-00049091-CU-OE-CTL.

All written objections must be mailed to the Settlement Administrator at [redacted], no later than [redacted] [forty-five (45) days after the date of the Class Notice or sixty (60) days after the Class Notice in the case of re-mailing].

Alternatively, Class Members may appear in person or remotely at the Final Approval Hearing on [redacted] at [redacted] to make an oral objection without submitting a written

objection or to otherwise participate in the Final Approval Hearing. Check the Court's website for the most current information concerning appearances and procedures at the Court - <https://www.sdcourt.ca.gov/sdcourt/generalinformation>. For assistance in making an appearance at the Final Approval Hearing, please contact Class Counsel below.

To object to the Settlement, you must not opt out, and if the Court approves the Settlement despite your objection, you will be bound by the terms of the Settlement in the same way as Class Members who do not object and you will still be mailed a check for your Settlement Share.

The addresses for Parties' counsel are as follows:

Class Counsel:

Nicole Barvié
Barvie Law APC
550 W B St., 4th Floor
San Diego, CA 92101
Tel.: (858) 255-0928
E-Mail: nicole@barvielaw.com

Counsel for Defendant:

Guillermo A. Escobedo
Arcelia N. Magaña
Jackson Lewis P.C.
225 Broadway, Suite 1800
San Diego, CA 92101
Tel.: (619) 573-4900
Fax: (619) 573-4901
E-Mail:
guillermo.escobedo@jacksonlewis.com
arcelia.magana@jacksonlewis.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at [REDACTED] on [REDACTED], at the San Diego Superior Court, located at 330 W Broadway, San Diego, California 92101, in Department C-66 before Judge Kenneth J. Mendel. At this hearing the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement and to fix the amounts to be paid as attorneys' fees and costs to Class Counsel and as service payment to Plaintiff. If there are objections, the Court will consider them. This hearing may be rescheduled by the Court without further notice to you. If you are interested in participating in the Final Approval Hearing, you should confirm the date, time and location by contacting Class Counsel. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing. Hearing dates are posted on the Internet via the Register of Actions page for the California Superior Court for the County of San Diego and entering Case No. 37-2022-00049091-CU-OE-CTL.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at (800) 355-0700 or write to *Ochoa v. 8110 Aero Drive Holdings, LLC* Settlement Administrator, c/o APEX Class Action; or contact Class Counsel at [REDACTED].

This Class Notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Judgment, the motion for attorneys' fees, costs, and service awards, the motion for final approval, or other Settlement documents by contacting Class Counsel. You may also get more details by examining the Court's file on the Internet via the Register of Actions for the San Diego Superior Court (<https://roa.sdcourt.ca.gov/roa/faces/NameSearch.xhtml>) and entering the Case No. 37-2022-00049091. If you wish to view the Court files in person, you must make an appointment with the Clerk's Office at the San Diego Superior Court: Hall of Justice, 330 W. Broadway, San Diego, California 92101.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.
- Settlement checks will be null and void 180 days after issuance if not deposited or cashed, and this expiration date will be printed on the check. In such event, the Settlement Administrator shall pay all unclaimed funds as follows: One Hundred percent (100%) to Casa Cornelia, a non-profit organization that provides legal services to victims of human and civil rights violations, including assisting asylum seekers with their asylum applications and employment authorization documents.
- If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.

EXHIBIT B

[ORDER GRANTING PRELIMINARY APPROVAL OF THE SETTLEMENT]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ALEJANDRO OCHOA, an individual, on
behalf of himself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

8110 AERO DRIVE HOLDINGS, LLC, a
California Corporation; and DOES 1 through
50, Inclusive;

Defendants.

Case No.: 37-2022-00049091-CU-OE-CTL

*[Assigned for all purposes to Hon. Kenneth J.
Mendel, Dept. C-66]*

[PROPOSED] ORDER

Date: September 1, 2023

Time: 8:30 a.m.

Complaint filed: December 8, 2022

Trial Date: Not Assigned

This matter having come before the Honorable Judge Kenneth J. Mendel of the Superior Court of the State of California, in and for the County of San Diego, at 8:30 a.m. on September 1, 2023, with Nicole Barvie, Esq., of Barvie Law, APC as counsel for Plaintiff ALEJANDRO OCHOA ("Plaintiff"), and Guillermo Escobedo, Esq. of Jackson Lewis appearing for Defendant 8110 AERO DRIVE, LLC. (hereinafter "Defendant"). The Court, having carefully considered the briefs, argument of counsel and all the matters presented to the Court, and good cause appearing, hereby GRANTS Plaintiff's Motion for Preliminary Approval of Class Action and PAGA Settlement.

IT IS HEREBY ORDERED:

1 1. The Court preliminarily approves the Class Action Settlement Agreement (“Agreement”) attached
2 as Exhibit 1 to the Declaration of Nicole Barvié in Support of Plaintiff’s Motion for Preliminary Approval
3 of Class Action Settlement. This is based on the Court’s determination that the Settlement set forth in the
4 Agreement is within the range of possible final approval, pursuant to the provisions of Section 382 of the
5 California Code of Civil Procedure and California Rules of Court, Rule 3.769.

6 2. This Order incorporates by reference the definitions in the Agreement, and all terms
7 defined therein shall have the same meaning in this Order as set forth in the Agreement.

8 3. Subject to the terms of the Settlement Agreement, the Gross Settlement Amount that
9 Defendant shall pay is Five Hundred and Twenty-Five Thousand Dollars and Zero Cents (\$525,000.00).
10 It appears to the Court on a preliminary basis that the settlement amount and terms are fair, adequate, and
11 reasonable as to all Class Members when balanced against the probable outcome of further litigation
12 relating to certification, liability, and damages issues. It further appears that investigation and research
13 have been conducted such that counsel for the Parties are able to reasonably evaluate their respective
14 positions. It further appears to the Court that settlement at this time will avoid substantial additional costs
15 by all Parties, as well as avoid the delay and risks that would be presented by the further prosecution of
16 the litigation. It further appears that the Settlement has been reached as the result of intensive, serious,
17 and non-collusive arms-length negotiations.

18 4. The Court preliminarily finds that the Settlement appears to be within the range of
19 reasonableness of a settlement that could ultimately be given final approval by this Court. The Court has
20 reviewed the monetary recovery that is being granted as part of the Settlement and preliminarily finds that
21 the monetary settlement awards made available to the Settlement Class members are fair, adequate, and
22 reasonable when balanced against the probable outcome of further litigation relating to certification,
23 liability, and damages issues.

24 5. Plaintiff seeks an award of Attorneys’ Fees and Costs in the amount of up-to one-third of
25 the Gross Settlement Amount for attorneys’ fees, currently estimated at One Hundred Seventy-Five
26 Thousand Dollars and Zero cents (\$175,000.00), an award of litigation expenses incurred not to exceed
27 Twenty Thousand Dollars (\$20,000.00), and proposed Class Representative Enhancement to the Named
28 Plaintiff, Alejandro Ochoa, in an amount not to exceed Ten Thousand Dollars (\$10,000.00). While these

awards appear to be within the range of reasonableness, the Court will not approve the Class Counsel Award or Class Representative Enhancement Payment until the Final Approval Hearing.

6. The Court recognizes that Plaintiff and Defendant agreed to certification of a class for settlement purposes only. This agreement will not be deemed admissible in this or any other proceeding should this Settlement not become final. For settlement purposes only, the Court conditionally certifies the following Class:

“All non-exempt employees who are currently or previously were employed by 8110 Aero Drive Holdings, LLC, and performed work in California during the Class Period. (“**Class**”). Class Period means the period beginning February 10, 2019, and continuing through to May 15, 2023. (“**Class Period**”).

7. The Court concludes that, for settlement purposes only, the Class meets the requirements for certification under section 382 of the California Code of Civil Procedure in that: (a) the Class is ascertainable and so numerous that joinder of all members of the Settlement Class members is impracticable; (b) common questions of law and fact predominate, and there is a well-defined community of interest amongst the Settlement Class members with respect to the subject matter of the litigation; (c) the claims of the Class Representative are typical of the claims of the Settlement Class members; (d) the Class Representative will fairly and adequately protect the interests of the Settlement Class members; (e) a class action is superior to other available methods for the efficient adjudication of this controversy; and (f) Class Counsel are qualified to act as counsel for the Class Representative in his individual capacity and as the representative of the Settlement Class members.

8. The Court provisionally appoints Plaintiff ALEJANDRO OCHOA as the representative of the Class.

9. The Court provisionally appoints Nicole Barvie, Esq., of Barvie Law, APC as Class Counsel for the Settlement Class members.

10. The Court hereby approves, as to form and content, the Notice of Proposed Settlement of Class Action (“Class Notice”) attached to the Agreement as **Exhibit “A”**. The Court finds that the notice appears to fully and accurately inform the Settlement Class members and Aggrieved Employees of all material elements of the proposed Settlement, including right of any Settlement Class members to be excluded from the Class by submitting a written request for exclusion, and of each Settlement Class

member's right and opportunity to object to the Settlement. The Court further finds that the distribution of the notice substantially in the manner and form set forth in the Agreement and this Order meets the requirements of due process, is the most reasonable notice under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto. The Court orders the mailing of the notices by first class mail, pursuant to the terms set forth in the Agreement.

11. The Court hereby appoints APEX Class Action as Settlement Administrator. Within fifteen (15) calendar days of this order, Defendant shall provide, to the Settlement Administrator the Class Data, including information regarding Settlement Class members that Defendant will in good faith compile from its records, including each Settlement Class member's full name; last known address; Social Security Number; the number of Class Period Workweeks for each Settlement Class members and the number of PAGA Pay Periods. Within fourteen (14) calendar days after receiving the Class Data from Defendant, the Settlement Administrator shall mail the Class Notice to all identified, potential Settlement Class members via first class U.S. Mail using the most current mailing address information available.

12. The Court hereby preliminarily approves the proposed procedure for exclusion from the Settlement. Any Settlement Class members may individually choose to opt out of and be excluded from the Settlement as provided in the Notice by following the instructions for requesting exclusion from the Settlement of the Released Claims that are set forth in the Notice. All requests for exclusion must be postmarked or received by the Response Deadline which is forty-five (45) calendar days after the date the Class Notice is mailed to the Settlement Class members or, in the case of a re-mailed Notice, not more than fifteen (15) calendar days after the original Response Deadline. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph F subsection 2 of the Agreement and are eligible for an Individual PAGA Payment. Settlement Class members who have not requested exclusion shall be bound by all determinations of the Court, the Agreement and Judgment. A request for exclusion may only opt out that particular individual, and any attempt to affect an opt-out of a group, class, or subclass of individuals is not permitted and will

1 be deemed invalid.

2 13. Any Settlement Class members who have not opted out may appear at the final approval
3 of the settlement hearing and may object or express the Settlement Class member's views regarding the
4 Settlement and may present evidence and file briefs or other papers that may be proper and relevant to the
5 issues to be heard and determined by the Court as provided in the Notice. Settlement Class members will
6 have forty-five (45) days from the date the Settlement Administrator mails the Class Notice to postmark
7 their written objections to the Settlement Administrator.

8 14. A final settlement approval hearing shall be held before this Court on _____,
9 **2024, at __:__ a.m.** in Department C-66 of the San Diego County Superior Court to determine all
10 necessary matters concerning the Settlement, including: whether the proposed settlement of the Action on
11 the terms and conditions provided for in the Agreement is fair, adequate and reasonable and should be
12 finally approved by the Court; whether an Order Granting Final Approval should be entered herein;
13 whether the plan of allocation contained in the Agreement should be approved as fair, adequate and
14 reasonable to the Class; and to finally approve the Class Counsel Attorneys' Fees and Litigation Costs,
15 Enhancement Service Award to the Named Plaintiff, and the Claims Administrator Costs. All papers in
16 support of the motion for final approval and the motion for Attorneys' Fee and Costs and Enhancement
17 Service Award to Plaintiff, shall be filed with the Court and served on all counsel no later than sixteen
18 (16) court days before the hearing.

19 15. Neither the Settlement nor any exhibit, document, or instrument delivered thereunder shall
20 be construed as a concession or admission by Defendant in any way, and shall not be used as evidence of,
21 or used against Defendant as, an admission or indication in any way, including with respect to any claim
22 of any liability, wrongdoing, fault or omission by Defendant or with respect to the truth of any allegation
23 asserted by any person. Whether or not the Settlement is finally approved, neither the Settlement, nor any
24 exhibit, document, statement, proceeding or conduct related to the Settlement, nor any reports or accounts
25 thereof, shall in any event be construed as, offered or admitted in evidence as, received as or deemed to
26 be evidence for any purpose adverse to the Defendant, including, but not limited to, evidence of a
27 presumption, concession, indication or admission by Defendant of any liability, fault, wrongdoing,
28 omission, concession or damage.

1 16. In the event the Settlement does not become effective in accordance with the terms of the
2 Agreement, or the Settlement is not finally approved, or is terminated, canceled, or fails to become
3 effective for any reason, this Order shall be rendered null and void and shall be vacated, and the Parties
4 shall revert to their respective positions as of before entering into the Agreement. In such an event, the
5 Court's orders regarding the Settlement, including this Preliminary Approval Order, shall not be used or
6 referred to in litigation for any purpose. Nothing in this paragraph is intended to alter the terms of the
7 Settlement Agreement with respect to the effect of the Settlement Agreement if it is not approved.

8 17. Pending final determination of whether the Settlement should be approved, Class
9 Representative and all Settlement Class members are barred and enjoined from filing, commencing,
10 prosecuting, intervening in, instigating or in any way participating in the commencement or prosecution
11 of any lawsuit, action or administrative, regulatory, arbitration or other proceeding, in any forum, asserting
12 any claims that are, or relate in any way to, the Released Claims, unless and until they submit a timely
13 request for exclusion pursuant to the Agreement.

14 18. The Court reserves the right to adjourn or continue the date of the final settlement approval
15 hearing and all dates provided for in the Agreement without further notice to Settlement Class members
16 and retains jurisdiction to consider all further applications arising out of or connected with the proposed
17 Settlement.

18 19. The Action is stayed and all trial and related pre-trial dates are vacated, subject to further
19 orders of the Court at the Final Approval Hearing.

20 **IT IS SO ORDERED.**

21 Dated: _____

HON. KENNETH J. MEDEL
JUDGE OF THE SUPERIOR COURT

EXHIBIT C

[FINAL APPROVAL ORDER AND JUDGMENT]

EXHIBIT "C"

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

ALEJANDRO OCHOA, an individual, on
behalf of himself, and on behalf of all persons
similarly situated,

Plaintiff,

v.

8110 AERO DRIVE HOLDINGS, LLC, a
California Corporation; and DOES 1 through
50, Inclusive;

Defendants.

CASE NO.: **37-2022-00049091-CU-OE-CTL**

**[PROPOSED] FINAL APPROVAL
ORDER AND JUDGMENT**

Hearing Date:
Hearing Time:

Judge: Hon. Kenneth J. Medel
Dept.: C-66

Complaint filed: December 8, 2022
Trial Date: Not Assigned

FINAL APPROVAL ORDER AND JUDGMENT

1 The motion of Plaintiff Alejandro Ochoa (“Plaintiff”) for an order finally approving the
2 Class Action Settlement Agreement (“Agreement”) with Defendant 8110 Aero Drive Holdings,
3 LLC (“Defendant”), attorney’s fees and costs, service payments, and the fees and expenses of the
4 Settlement Administrator duly came on for hearing on _____ before the Honorable
5 Kenneth J. Medel. Plaintiff and Defendant are collectively referred to as the “Parties”.

6 **I.**

7 **FINDINGS**

8 Based on the oral and written argument and evidence presented in connection with the
9 motion, the Court makes the following findings:

- 10 1. All terms used herein shall have the same meaning as defined in the Agreement.
- 11 2. This Court has jurisdiction over the subject matter of this litigation pending before
12 the California Superior Court for the County of San Diego, and over all Parties to this litigation,
13 including the Class.
- 14 3. Based on a review of the papers submitted by Plaintiff and a review of the applicable
15 law, the Court finds that the Gross Settlement Amount of Five Hundred Twenty-Five Thousand
16 Dollars (\$525,000) and the terms set forth in the Agreement are fair, reasonable, and adequate.
- 17 4. The Court further finds that the Settlement was the result of arm’s length negotiations
18 conducted after counsel for Plaintiff and the putative class members Nicole Barvié of Barvié Law,
19 APC, (“Class Counsel”) had adequately investigated the claims and became familiar with the
20 strengths and weaknesses of those claims. In particular, the amount of the Settlement, the significant
21 risks relating to certification, liability, and damages issues, and the assistance of an experienced
22 mediator in the settlement process, among other factors, support the Court’s conclusion that the
23 Settlement is fair, reasonable, and adequate.

24 **Preliminary Approval of the Settlement**

- 25 5. On _____, the Court granted preliminary approval of the Settlement. At this
26 same time, the Court approved conditional certification of the Class for settlement purposes only.

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1 b. Plaintiff's investigation and discovery have been sufficient to allow the Court
2 and counsel to act intelligently.

3 c. Counsel for both Parties are experienced in similar employment class action
4 litigation. All counsel recommended approval of the Agreement.

5 d. The percentage of objectors and requests for exclusion is small. ____
6 objections were received. ____ requests for exclusion were received.

7 e. The participation rate was high. ____ Class Members will be mailed a
8 Settlement payment, representing ____% of the overall Class.

9 9. The consideration to be given to the Class Members under the terms of the
10 Agreement is fair, reasonable and adequate considering the strengths and weaknesses of the claims
11 asserted in this action and is fair, reasonable and adequate compensation for the release of Class
12 Members' claims, given the uncertainties and significant risks of the litigation and the delays which
13 would ensue from continued prosecution of the action.

14 10. The Agreement is approved as fair, adequate, and reasonable and in the best interests
15 of the Class Members.

16 **Attorneys' Fees and Costs**

17 11. An award of \$175,000 for attorneys' fees, representing one-third (1/3) of the Gross
18 Settlement Amount, and \$20,000 for litigation costs and expenses, is reasonable, in light of the
19 contingent nature of Class Counsel's fee, the hours worked by Class Counsel, and the results
20 achieved by Class Counsel. The requested awards have been supported by Class Counsel's lodestar
21 and billing statement.

22 **Class Representative Service Payment**

23 12. The Agreement provides for a Class Representative Service Payment of not more
24 than \$10,000, subject to the Court's approval. The Court finds that Class Representative Service
25 Payment in the amount of \$10,000 is reasonable in light of the risks and burdens undertaken by
26 Plaintiff in the litigation, for his time and effort in bringing and prosecuting this matter on behalf of
27 the Class, and for his execution of a general release.

1 **Settlement Administration Expenses**

2 13. The Settlement Administrator shall calculate and administer the payment to be made
3 to the Class Members, transmit payment for attorneys' fees and costs to Class Counsel, transmit the
4 Class Representative Service Payments to the Plaintiff, distribute the Private Attorneys General Act
5 ("PAGA") Payment, issue any required tax reporting forms, calculate withholdings and perform the
6 other remaining duties set forth in the Agreement. The Settlement Administrator has documented
7 \$_____ in fees and expenses, and this amount is reasonable in light of the work performed by
8 the Settlement Administrator.

9 **PAGA Payment**

10 14. The Agreement provides for a PAGA Payment out of the Gross Settlement Amount
11 of \$20,000, which shall be allocated \$15,000 to the Labor Workforce Development Agency
12 ("LWDA") as the LWDA's 75% share of the settlement of civil penalties paid pursuant to the PAGA
13 and \$5,000 to be distributed to the Aggrieved Employees based on their respective pay periods
14 during the PAGA Period. The Aggrieved Employees are all non-exempt employees who are
15 currently or previously were employed by 8110 Aero Drive Holdings, LLC, and performed work in
16 California during the PAGA Period, which is September 30, 2021 to May 15, 2023. The Court finds
17 this PAGA Payment to be reasonable. All Aggrieved Employees will be sent their share of the
18 PAGA Payment and will be subject to the release of the Released PAGA Claims as set forth below,
19 whether or not they opt out of the Settlement.

20 **II.**

21 **ORDERS**

22 Based on the foregoing findings, and good cause appearing, IT IS HEREBY ORDERED:

23 1. The certification of the Class for the purposes of settlement is confirmed. The
24 Class is defined as follows:

25
26 All non-exempt employees who are currently or previously were employed by 8110
27 Aero Drive Holdings, LLC, and performed work in California during the Class
28 Period (February 10, 2019 to May 15, 2023).

1 2. All persons who meet the foregoing definition are members of the Class, except for
2 those individuals who filed a valid request for exclusion (“opt out”) from the Class. A list
3 identifying the opt outs will be maintained by the Settlement Administrator and provided to all
4 counsel for the Parties at their request, to protect the privacy rights of those individuals who choose
5 to opt out.

6 3. The Agreement is hereby finally approved as fair, reasonable, adequate, and in the
7 best interest of the Class.

8 4. Class Counsel are awarded attorney’s fees in the amount of \$_____ and
9 costs in the amount of \$_____. Class Counsel shall not seek or obtain any other compensation
10 or reimbursement from Defendant, Plaintiff, or members of the Class.

11 5. The payment of the Class Representative Service Payment in the amount of
12 \$_____ to Plaintiff is approved.

13 6. The payment of \$_____ to the Settlement Administrator for their fees and
14 expenses is approved.

15 7. The PAGA Payment of \$20,000 is approved and shall be allocated in accordance
16 with the Agreement.

17 8. The Agreement and this Settlement are not an admission by Defendant, nor is this
18 Final Approval Order and Judgment a finding, of the validity of any claims in the Action or of any
19 wrongdoing by Defendant or that this Action is appropriate for class treatment (other than for
20 settlement purposes). Neither this Final Approval Order and Judgment, the Agreement, nor any
21 document referred to herein, nor any action taken to carry out the Agreement is, may be construed
22 as, or may be used as an admission by or against Defendant of any fault, wrongdoing or liability
23 whatsoever. The entering into or carrying out of the Agreement, and any negotiations or
24 proceedings related thereto, shall not in any event be construed as, or deemed to be evidence of, an
25 admission or concession with regard to the denials or defenses by Defendant. Notwithstanding these
26 restrictions, Defendant may file in the Action, or in any other proceeding, this Final Approval Order
27 and Judgment, the Agreement, or any other papers and records on file in the Action as evidence of
28

1 the Settlement to support a defense of res judicata, collateral estoppel, release, or other theory of
2 claim or issue preclusion or similar defense as to the Released Class Claims and/or the Released
3 PAGA Claims.

4 9. Notice of entry of this Final Approval Order and Judgment shall be given to all
5 Parties by Class Counsel on behalf of Plaintiff and all Class Members. The Final Approval Order
6 and Judgment shall be posted on Class Counsel's website as set forth in the Agreement. It shall not
7 be necessary to send notice of entry of this Final Approval Order and Judgment to individual Class
8 Members.

9 10. If the Agreement does not become final and effective in accordance with the terms
10 of the Agreement, then this Final Approval Order and Judgment, and all orders entered in connection
11 herewith, shall be rendered null and void and shall be vacated, and the Parties shall revert to their
12 respective positions as of before entering into the Agreement, and expressly reserve their respective
13 rights regarding the prosecution and defense of this Action, including all available defenses and
14 affirmative defenses, and arguments that any claim in the Action could not be certified as a class
15 action and/or managed as a representative action.

16
17 **IT IS HEREBY ORDERED, ADJUDICATED, AND DECREED THAT:**

18 1. Except as set forth in the Agreement and this Final Approval Order and Judgment,
19 Plaintiff, and all members of the Class, shall take nothing in the Action.

20 2. Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
21 jurisdiction to construe, interpret, implement and enforce the Agreement, to hear and resolve any
22 contested challenge to a claim for settlement benefits, and to supervise and adjudicate any dispute
23 arising from or in connection with the distribution of settlement benefits.

24 3. The Parties are authorized, without further approval from the Court, to agree to and
25 to adopt such amendments, modifications, and expansions of the Agreement and all exhibits
26 attached thereto which are consistent with this Final Approval Order and Judgment and as approved
27 by the Court.

1 4. Each party shall bear its own attorneys' fees and costs, except as otherwise provided
2 in the Agreement and in this Final Approval Order and Judgment.

3 5. As of the Effective Date, each Class Member who has not validly opted out has
4 released the "Released Class Claims" against the Defendant and the Released Parties as set forth in
5 the Agreement. "Released Class Claims" means all class claims pled in the operative complaint,
6 including claims for Unfair Competition, Failure to Pay Overtime Wages, Failure to Pay Minimum
7 Wages, Failure to Provide Meal Periods, including failure to pay meal period premiums at the proper
8 rate of pay, Failure to Provide Rest Periods, including failure to pay rest period premiums at the
9 proper rate of pay, Failure to Reimburse for Required Expenses; Failure to Provide Accurate and
10 Fully Compliant Wage Statements, Failure to Provide Wages When Due, and Failure to Provide
11 Gratuities; claims for violations based on: California Business and Professions Code sections 17200,
12 *et seq.*, and 17203; Labor Code sections 201, 202, 203, 204 *et seq.*, 210, 226-226.6, 226.7, 246 *et*
13 *seq.*, 351, 510, *et seq.*, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800,
14 2802, and 2698, *et seq.*; IWC Wage Orders No. 5; Fair Labor Standards Act, 29 U.S.C. sections
15 201, *et seq.*, claims for injunctive relief based that could have been pled; punitive damages that could
16 have been pled; liquidated damages that could have been pled; penalties of any nature that could
17 have been pled; interest; attorneys' fees and costs (except those provided for herein); and any claims
18 and violations that could have been pled in the operative complaint or any amendments thereto
19 which occurred during the Class Period, and expressly excluding claims for vested benefits,
20 wrongful termination, unemployment insurance, disability, social security, workers' compensation,
21 and class claims outside of the Class Period.

22 6. As of the Effective Date, Defendant shall receive a release from the State of
23 California of all PAGA claims, penalties, and violations pled or that could have been pled in the
24 original, amended, and operative complaints or any amendments thereto and PAGA letters sent by
25 any of the Plaintiff that occurred during the PAGA Period as to the Aggrieved Employees; PAGA
26 Claims including, but not limited to: Labor Code sections 201, 202, 203, 204 *et seq.*, 210, 226-226.6,
27 226.7, 246 *et seq.*, 351, 510, *et seq.*, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1,
28

1 1198, 2800, 2802, and 2698, *et seq.*, (“Released PAGA Claims”). Released PAGA Claims expressly
2 excludes claims outside of the PAGA Period. The release of the Released PAGA Claims shall be
3 effective as to all Aggrieved Employees, regardless of whether an Aggrieved Employee submitted
4 a request to be excluded from the Settlement.

5 7. As of the Effective Date, Plaintiff generally, releases and discharges the Released
6 Parties from all Plaintiff’s Released Claims as set forth fully in the Agreement.

7 **LET JUDGMENT BE FORTHWITH ENTERED ACCORDINGLY. IT IS SO ORDERED.**

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9 Dated: _____

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11 HON. KENNETH J. MEDEL
12 JUDGE, SUPERIOR COURT OF CALIFORNIA
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