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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA
15 COUNTY OF LOS ANGELES

16 ERIC HERNANDEZ, individually, and on
behalf of all other similarly situated current
17 and former employees of Defendants,

18 Plaintiff,

19 vs.

20
21 CASTLE & COOKE AVIATION SERVICES,
INC.; and DOES 1 through 10, inclusive,

22 Defendants.
23

Case No. 21STCV12614

CLASS ACTION

**JOINT STIPULATION AND
SETTLEMENT OF CLASS,
COLLECTIVE, AND REPRESENTATIVE
ACTION**

1 Subject to final approval by the Court, which counsel and the Parties agree to diligently
2 pursue and recommend in good faith, Plaintiff Eric Hernandez (“Plaintiff”), individually and on
3 behalf of all others similarly situated and alleged aggrieved employees, on the one hand, and
4 Defendant Castle & Cooke Aviation Services, Inc., (“Defendant”) on the other hand (collectively
5 the “Parties” and individually, a “Party”), hereby agree to the following binding settlement of the
6 class and representative action designated *Eric Hernandez v. Castle & Cooke Aviation Services,*
7 *Inc.*, LASC Case No. 21STCV12614 pursuant to the terms and conditions set forth below (the
8 “Settlement Agreement” or “Agreement”).

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23
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26
27
28

1 **TABLE OF CONTENTS**

2 **Page**

3 I. DEFINITIONS.....5

4 A. “Action.”5

5 B. “Attorneys’ Fees and Costs.”5

6 C. “Claims Administration Costs” or “Settlement Administration Costs.”5

7 D. “Claims Administrator” or “Settlement Administrator.”6

8 E. “Class Counsel.”6

9 F. “Class List.”6

10 G. “Class Member(s)” or “Settlement Class.”7

11 H. “Class Period” or “Settlement Period.”7

12 I. “Class Representative Incentive Award.”7

13 J. “Class Settlement Amount.”7

14 K. “Court.”8

15 L. “Effective Date.”8

16 M. “Excluded Class Members.”9

17 N. “Final Approval” or “Final Approval Date.”9

18 O. “Final Approval Hearing.”9

19 P. “Individual Settlement Payment.”9

20 Q. “LWDA Notice.”9

21 R. “Net Settlement Amount.”10

22 S. “Notice of Class Action Settlement.”10

23 T. “Notice of Objection.”10

24 U. “Notice Packet.”10

25 V. “PAGA Members.”10

26 W. “PAGA Payment.”11

27 X. “Participating Class Members.”11

28 Y. “Pay Period(s).”11

1	Z.	“Plaintiffs.”	11
2	AA.	“Preliminary Approval.”	11
3	BB.	“Qualified Settlement Account.”	11
4	CC.	“Released Claims.”	11
5	DD.	“Released Parties.”	13
6	EE.	“Request for Exclusion.”	14
7	FF.	“Response Deadline.”	14
8	GG.	“Settlement Payment Check.”	15
9	II.	FUNDING OF THE CLASS SETTLEMENT AMOUNT.	15
10	III.	ATTORNEYS’ FEES AND COSTS.	16
11	IV.	CLASS REPRESENTATIVE INCENTIVE AWARD.	16
12	V.	SETTLEMENT ADMINISTRATION COSTS.	16
13	VI.	LABOR AND WORKFORCE DEVELOPMENT AGENCY PAYMENT.	16
14	VII.	NET SETTLEMENT AMOUNT.	17
15	VIII.	INDIVIDUAL SETTLEMENT PAYMENT CALCULATIONS.	17
16	IX.	SETTLEMENT ADMINISTRATION PROCESS.	18
17	X.	NULLIFICATION OF THE SETTLEMENT AGREEMENT.	21
18	XI.	OBJECTION PROCEDURES.	22
19	XII.	CERTIFICATION REPORTS REGARDING INDIVIDUAL SETTLEMENT PAYMENT CALCULATIONS.	23
20	XIII.	TAX TREATMENT OF INDIVIDUAL SETTLEMENT PAYMENTS.	24
21	XIV.	ADMINISTRATION OF TAXES BY THE CLAIMS ADMINISTRATOR.	25
22	XV.	RELEASE BY CLASS MEMBERS.	26
23	XVI.	PRELIMINARY APPROVAL HEARING.	27
24	XVII.	FINAL SETTLEMENT APPROVAL HEARING AND ENTRY OF JUDGMENT.	27
25	XVIII.	JUDGMENT AND CONTINUED JURISDICTION.	28
26	XIX.	OTHER PROVISIONS.	28
27			
28			

1 **I. DEFINITIONS.**

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

4 **A. “Action.”**

5 Means and refers to the instant lawsuit, captioned *Eric Hernandez v. Castle & Cooke*
6 *Aviation Services, Inc.*, LASC Case No. 21STCV12614.

7 **B. “Attorneys’ Fees and Costs.”**

8 The attorneys’ fees agreed upon by the Parties and approved by the Court for Class
9 Counsel’s litigation and resolution of the Action, and all costs incurred and to be incurred by Class
10 Counsel in the Action, including, but not limited to, costs associated with documenting the
11 Settlement, providing any notices required as part of the Settlement or Court’s Order, securing the
12 Court’s approval of the Settlement, administering the Settlement, and any expert expenses. Class
13 Counsel will request attorneys’ fees not to exceed thirty-three and one-third percent (33 1/3%) of
14 the Class Settlement Amount of \$275,000, which is a total of \$91,666.66. The costs requested to
15 be reimbursed will not exceed \$13,500.00. The attorneys’ fees and costs awarded are subject to
16 the Court’s approval. If the attorneys’ fees and costs awarded by the Court are a reduced amount,
17 then the difference between the amount set forth above and the reduced attorneys’ fees and costs
18 awarded shall be distributed pro-rata to Participating Class Members. Defendant has agreed not to
19 oppose Class Counsel’s request for attorneys’ fees and costs as set forth above. Such attorneys’
20 fees and costs shall be paid from the Qualified Settlement Fund. Class Counsel will be issued an
21 IRS Form 1099 for the Attorneys’ Fees and Costs Award detailed in this Section and shall be
22 solely and legally responsible for paying all applicable taxes on the payment made pursuant to this
23 paragraph.

24 **C. “Claims Administration Costs” or “Settlement Administration Costs.”**

25 The costs payable from the Class Settlement Amount to the Claims Administrator for
26 administering this Settlement, including, but not limited to, printing, distributing, translating, and
27 tracking documents for this Settlement, calculating estimated amounts per Class Member, tax
28 reporting, distributing the Class Settlement Amount, providing necessary reports and declarations,

1 and other duties and responsibilities set forth herein and as requested by the Parties to process this
2 Settlement Agreement. The Claims Administration Costs will be paid from the Class Settlement
3 Amount, including, if necessary, any such costs in excess of the amount represented by the Claims
4 Administrator as being the maximum costs necessary to administer the settlement. The Claims
5 Administration Costs are currently estimated to be \$10,000. The Parties agree to work in good
6 faith to minimize, as much as possible, the Claims Administration Costs. To the extent actual
7 Claims Administrations Costs are greater than \$10,000, such excess amount will be deducted from
8 the Class Settlement Amount, subject to Court approval, provided the Claims Administration
9 Costs will not increase the total Class Settlement Amount.

10 **D. “Claims Administrator” or “Settlement Administrator.”**

11 Phoenix Settlement Administrators, or any other third-party class action settlement claims
12 administrator agreed to by the Parties and approved by the Court for the purposes of administering
13 this Settlement. The Parties each represent that they do not have any financial interest in the
14 Claims Administrator or otherwise have a relationship with the Claims Administrator that could
15 create a conflict of interest.

16 **E. “Class Counsel.”**

17 Rastegar Law Group, APC shall be appointed Class Counsel upon approval by the Court.

18 **F. “Class List.”**

19 A complete list of all Class Members that Defendant will diligently and in good faith
20 compile from its records and provide to the Settlement Administrator within fourteen (14)
21 calendar days after Preliminary Approval of this Settlement. Defendant shall provide the
22 Settlement Administrator with a Microsoft Excel spreadsheet containing the following information
23 for each class Member: (1) full name; (2) last known home address; (3) last known telephone
24 number; (4) social security number; (5) start and end dates of active employment as a non-exempt
25 employee of Defendant in the State of California; (6) total Work Weeks during the Class Period;
26 (7) total Work Weeks during the PAGA Period; and (8) any other information required by the
27 Settlement Administrator in order to effectuate the terms of the Settlement.

28

1 **G. “Class Member(s)” or “Settlement Class.”**

2 All non-exempt employees employed by Defendant in California during the Class Period.

3 **H. “Class Period” or “Settlement Period.”**

4 The Class Period will commence on April 1, 2017, and end on the earlier of either July 13,
5 2022, or the date the Court enters an order preliminarily approving the Parties’ Settlement (the
6 “Settlement Period” or “Class Period”).

7 **I. “Class Representative Incentive Award.”**

8 The amount to be paid to Plaintiff in recognition of his effort and work in prosecuting the
9 Action on behalf of Class Members. Subject to the Court granting Final Approval of this
10 Settlement Agreement, Plaintiff will request Court approval of a Class Representative Incentive
11 Award of \$7,500. Defendant has agreed not to oppose this amount. Plaintiff will be issued an IRS
12 Form 1099 in connection with this payment. Plaintiff shall be solely and legally responsible for
13 paying any and all applicable taxes on this payment and shall hold Defendant harmless from any
14 claim or liability for taxes, penalties or interest arising as a result of the payment. This time-and-
15 effort payment shall be in addition to Plaintiff’s share of the Net Settlement Amount as a
16 Participating Class Member, and shall be conditioned on the execution of this Settlement
17 Agreement and a separate general release of all claims, including a release pursuant to California
18 Civil Code § 1542. Defendant makes no representations as to the tax treatment or legal effect of
19 the payments called for herein, and Plaintiff is not relying on any statement or representation by
20 Defendant or its counsel in this regard.

21 **J. “Class Settlement Amount.”**

22 The total value of the Settlement is Two Hundred Seventy Five Thousand Dollars and Zero
23 Cents (\$275,000.00) (the “Class Settlement Amount”), to be paid by Defendant in full satisfaction
24 of all claims arising from the Action. Thus, the total payment by Defendant in connection with
25 this Settlement shall not exceed Two Hundred Seventy Five Thousand Dollars (\$275,000),
26 excluding employer-side payroll taxes. The Class Settlement Amount includes all Individual
27 Settlement Payments to Participating Class Members, all employee-side taxes arising from the
28 payments made under this Settlement, the Class Representative Incentive Awards to Plaintiffs,

1 Claims Administration Costs to the Claims Administrator, the Labor and Workforce Development
2 Agency Payment, and Attorneys' Fees and Costs. In addition to the Class Settlement Amount,
3 Defendants shall also pay the employer-side share of payroll taxes on the wage portion of the
4 Individual Settlement Payments. Defendants shall not pay more than the \$275,000 Class
5 Settlement Amount stated herein, plus the employer-side share of payroll taxes on the wage
6 portion of the Individual Settlement Payments attributable to wages, which will be calculated by
7 the Settlement Administrator.

8 The Class Settlement Amount is based on Defendant's estimation that the Class Members
9 worked a total of 3,741 Pay periods (*i.e.*, 7,482 Work Weeks) during the Class Period up to April
10 15, 2022. Should the qualifying Work Weeks worked by the Class Members during the Class
11 Period up to April 15, 2022 ultimately increase by more than 5% (*i.e.*, to more than 7,856 Work
12 Weeks), Defendant shall increase the Class Settlement Amount on a pro-rata basis equal to the
13 percentage increase in the number of Work Weeks worked by the Class Members above 5%. For
14 example, if the number of Work Weeks increases by 6% to 7,931, the Class Settlement Amount
15 will increase by 1%.

16 There is no reversion to Defendants of the Class Settlement Amount and the entire Class
17 Settlement Amount will be paid out.

18 **K. "Court."**

19 Means and refers to the Superior Court of the State of California for the County of Los
20 Angeles.

21 **L. "Effective Date."**

22 The Effective Date of the Settlement will be the later of the following: (a) if no timely
23 objections are filed or if all objections are withdrawn, the date upon which the time from
24 challenging the Final Approval Order and/or Judgment has passed (no less than 45 days following
25 Final Approval); (b) if an objection is filed and not withdrawn, the date for filing an appeal and no
26 such appeal being filed; or (c) if any timely appeals are filed, the date of the resolution (or
27 withdrawal) of any such appeal in a way that does not alter the terms of the Settlement.

28

1 **M. “Excluded Class Members.”**

2 Any Class Member who timely and validly submits a written request to be excluded from
3 the Class on or before the Objection / Exclusion Deadline Date. A request for exclusion only
4 applies to the class claims and not the PAGA claim. Accordingly, any Class Member who
5 excludes himself or herself will not be excluded from the PAGA claim release and will be bound
6 by the Judgment entered by this Court with respect to PAGA.

7 **N. “Final Approval” or “Final Approval Date.”**

8 The date on which the Court’s Final Approval Order is entered.

9 **O. “Final Approval Hearing.”**

10 The hearing at which the Court considers whether to approve the Settlement and to enter
11 the Final Approval Order.

12 **P. “Individual Settlement Payment.”**

13 The amount payable from the Net Settlement Amount to each Participating Class Member
14 and any payment a PAGA Member is eligible to receive from the employee portion of the PAGA
15 Penalties, less employee portions of state and federal withholding taxes, including the employee
16 FICA, FUTA and SDI contributions and any other applicable payroll deductions required by law
17 as a result of the payment of the amount allocated to such Participating Class Member as set forth
18 herein. Class Members, except those who request to be excluded from the settlement, will be paid
19 their portion of the Settlement, which will be considered 20% wages, 40% interest, and the
20 remaining 40% penalties. The Settlement Administrator will be responsible for issuing to
21 Participating Class Members a form W-2 for amounts deemed “wages” and an IRS Form 1099 for
22 the amounts deemed penalties and interest.

23 **Q. “LWDA Notice.”**

24 The Parties agree that Plaintiff will submit Notice to the LWDA of this Joint Stipulation of
25 Settlement at the same time it is presented to the Court in accordance with Labor Code Section
26 2699(1)(2) and thereafter submit a copy of any judgment or any other order providing for an award
27 of civil penalties in conformity with Labor Code Section 2699(1).

28

1 **R. “Net Settlement Amount.”**

2 The portion of the Class Settlement Amount remaining after deduction of the approved
3 (1) Attorneys’ Fees and Costs, (2) Settlement Administration Costs, (3) Class Representative
4 Incentive Awards, and (4) PAGA Payment. The Net Settlement Amount will be distributed to
5 Participating Class Members.

6 **S. “Notice of Class Action Settlement.”**

7 The document substantially in the form attached as **Exhibit A** that will be mailed to Class
8 Members’ last known addresses and that will provide Class Members with information regarding
9 the Action and information regarding the Settlement.

10 **T. “Notice of Objection.”**

11 A Class Member’s valid and timely written objection to the Settlement Agreement. For
12 the Notice of Objection to be valid, it must include: (a) the objector’s full name, signature,
13 address, and telephone number, and the last four digits of their social security number or employee
14 ID number (b) a written statement of all grounds for the objection accompanied by legal support,
15 if any, for such objection; and (c) copies of any papers, briefs, or other documents upon which the
16 objection is based. Class Members regardless of whether or not they submit a written objection to
17 the Settlement Administrator will have the right to appear at the Final Approval Hearing in order
18 to have their objections heard by the Court. The Settlement Administrator shall provide counsel
19 for the Parties with complete copies of all objections received, including the postmark dates or fax
20 timestamps for each objection, within five (5) calendar days of receipt. Plaintiff’s Counsel will
21 provide copies of any objections and supporting documents to the Court at least ten (10) days
22 before the Final Approval Hearing.

23 **U. “Notice Packet.”**

24 The Notice of Class Action Settlement the Settlement Administrator will mail to Class
25 Members.

26 **V. “PAGA Members.”**

27 All non-exempt employees employed by Defendant in California during the PAGA Period.
28 The PAGA Period will commence on February 4, 2020, and end on the earlier of either July 13,

1 2022, or the date the Court enters an order preliminarily approving the Parties' Settlement (the
2 "PAGA Period"). The PAGA Period and PAGA Members are a subset of the Class Members
3 during the Class Period.

4 **W. "PAGA Payment."**

5 The amount that the Parties have agreed to pay to the Labor and Workforce Development
6 Agency ("LWDA") in connection with the Labor Code Private Attorneys General Act of 2004
7 (Cal. Lab. Code §§ 2698, *et seq.*, "the PAGA"). The Parties have agreed that \$20,000 of the Class
8 Settlement Amount will be allocated to the resolution of any Class Members' claims arising under
9 the PAGA. Pursuant to the PAGA, \$15,000 (75%) of the PAGA Settlement Amount will be paid
10 to the California Labor and Workforce Development Agency and \$5,000 (25%) of the PAGA
11 Settlement Amount will be distributed to PAGA Members.

12 **X. "Participating Class Members."**

13 All Class Members who are entitled to receive his/her share of the Net Settlement Amount
14 and who do not submit a valid and timely Request for Exclusion.

15 **Y. "Pay Period(s)."**

16 A pay period is one of Defendant's pay periods in which a Class Member or PAGA
17 Member worked at least one day. During the Class Period, Defendant's pay periods were bi-
18 weekly.

19 **Z. "Plaintiff."**

20 Plaintiff Eric Hernandez.

21 **AA. "Preliminary Approval."**

22 The Court's order granting preliminary approval of the Settlement Agreement.

23 **BB. "Qualified Settlement Account."**

24 The fund established by the Claims Administrator pursuant to Internal Revenue Code
25 Section 1.468B-1.

26 **CC. "Released Claims."**

27 This term is defined as follows: Following the Effective Date, and upon Defendant fully
28 funding the Class Settlement Amount, all Class Members shall fully and finally release Released

1 Parties of the Released Claims for the Class Period. The Released Claims include, any and all
2 claims of any nature or description arising from the facts and claims asserted in the Operative
3 Complaint and/or that could have been asserted based on the facts alleged in the Operative
4 Complaint against Defendant, including without limitation, statutory, constitutional, contractual or
5 common law claims for wages, damages, unpaid costs, penalties, liquidated damages, interest,
6 attorneys' fees, litigation costs, restitution, or equitable relief based on the following categories:
7 (a) any and all claims involving any alleged failure to pay the minimum wages required by state or
8 federal law; (b) any and all claims arising under state or federal law involving any alleged failure
9 to pay for all hours worked, including but not limited to any claim for minimum, straight time,
10 overtime, or double time wages; (c) any and all claims arising under state or federal law involving
11 any alleged failure to pay straight time, overtime or double time wages, including but not limited
12 to any claim involving "off the clock" work, and any claim involving Defendant's workday or
13 workweek, and any claim involving failure to include compensation of any kind in the "regular
14 rate" of pay; (d) any and all claims arising under state or federal law involving any alleged failure
15 to properly provide meal periods and/or authorize and permit rest periods, to pay premiums for
16 missed, late, short or interrupted meal and/or rest periods, or to pay such premiums at the regular
17 rate of compensation required by Labor Code § 226.7; (e) any and all claims involving any alleged
18 failure to keep accurate records or to issue proper wage statements; (f) any and all claims
19 involving any alleged failure to timely pay wages, including but not limited to any claim that
20 Defendant violated Labor Code §§ 201 or 202, and any claim for waiting time penalties under
21 Labor Code § 203; (g) any and all claims involving any alleged failure to reimburse for necessary
22 business expenses under Labor Code §§2800 or 2802; (h) any and all claims for unfair business
23 practices in violation of Business and Professions Code sections 17200, et seq.; and (i) any and all
24 penalties pursuant to the Private Attorneys General Act ("PAGA") of 2004 (collectively, the
25 "Released Claims"). The Released Claims include all such claims arising under the California
26 Labor Code (including, but not limited to, sections 201, 201.3, 202, 203, 204, 210, 218.5, 218.6,
27 221, 225.5, 226, 226.3, 226.7, 227.3, 246, 256, 510, 511, 512, 516, 551, 552, 558, 558.1, 1174,
28 1174.5, 1182.12, 1194, 1197, 1197.1, 1197.2, 1198, 1199, 1770 et seq., 2800, 2802, 2810.5, and

1 2698 et seq.); the Wage Orders of the California Industrial Welfare Commission; California
2 Business and Professions Code section 17200 et seq.; the California Civil Code, to include but not
3 be limited to claims under §§ 3336; the California common law of contract; the Fair Labor
4 Standards Act, 29 U.S.C. § 201 et seq.; and federal common law.

5 Participating Class Members who negotiate or otherwise deposit their Settlement Payment
6 Check will be deemed to have opted into the Action for purposes of the Fair Labor Standards Act
7 (“FLSA”) and as to those Class Members they expressly waive and release any FLSA claims,
8 whether known or unknown, arising during the Class Period and reasonably related to the claims
9 and allegations in the Operative Complaint. This release excludes the release of claims not
10 permitted by law. The following language will be printed on the reverse of each Settlement
11 Payment Check, or words to this effect: “By endorsing or otherwise negotiating this check, I
12 acknowledge that I read, understood, and agree to the terms set forth in the Notice of Class Action
13 Settlement and I consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action,
14 elect to participate in the settlement of the FLSA claims, and agree to release all of my FLSA
15 claims that are covered by the Settlement.” It is the intent of the Parties that the judgment entered
16 by the Court upon final approval of the Settlement shall have res judicata effect and be final and
17 binding upon Plaintiff, all PAGA Members, and all Class Members who have not expressly
18 requested to be excluded from of the Settlement. This release shall apply to claims arising during
19 the Class Period.

20 **DD. “Released Parties.”**

21 The Released Parties include Castle & Cooke Aviation Services, Inc. as named by Plaintiff
22 in the Operative Complaint, as amended, and its past, present and/or future, direct and/or indirect,
23 parents, subsidiaries, equity sponsors, related companies/corporations and/or partnerships (defined
24 as a company/corporation and/or partnership that is, directly or indirectly, under common control
25 with Defendant or any of its parents), divisions, assigns, predecessors, successors, insurers,
26 consultants, joint venturers, joint employers, affiliates, alter-egos, any entity with potential joint
27 liability, employee benefit plans and fiduciaries thereof, and all of their respective employees,
28

1 directors, officers, agents, attorneys, stockholders, fiduciaries, parents, subsidiaries, other service
2 providers, and assigns.

3 **EE. “Request for Exclusion.”**

4 A notice submitted by a Class Member requesting to be excluded from the Settlement.
5 The Request for Exclusion must contain (a) the Class Member’s name, address, telephone number,
6 and the last four digits of the Class Member’s Social Security number and/or the Employee ID
7 number and (b) a clear statement requesting to be excluded from the settlement of the class claims
8 similar to the following: “I wish to exclude myself from the class settlement reached in the matter
9 of *Hernandez v. Castle & Cooke Aviation Services, Inc.*, I understand that by excluding myself, I
10 will not receive money from the settlement of my individual claims.” The Request for Exclusion
11 must be returned by mail to the Settlement Administrator at the specified address; and (c)
12 postmarked on or before the Response Deadline. The date of the postmark on the return mailing
13 envelope will be the exclusive means to determine whether a Request for Exclusion has been
14 timely submitted. A Class Member who does not request exclusion from the Settlement will be
15 deemed a Class Member and will be bound by all terms of the Settlement Agreement if the
16 Settlement is granted final approval by the Court. A request for exclusion only applies to the class
17 claims and not the PAGA claim. Accordingly, any Class Member who excludes himself or herself
18 will not be excluded from the PAGA claim release and will be bound by the Judgment entered by
19 this Court.

20 **FF. “Response Deadline.”**

21 The deadline by which Class Members must mail or fax to the Settlement Administrator
22 valid Requests for Exclusion or Notices of Objection to the Settlement. The Response Deadline
23 will be sixty (60) calendar days from the initial mailing of the Notice Packet by the Claims
24 Administrator, unless the 60th day falls on a Sunday or Federal holiday, in which case the
25 Response Deadline will be extended to the next day on which the U.S. Postal Service is open. The
26 Response Deadline for Requests for Exclusion will be extended fifteen (15) calendar days for any
27 Class Member who is re-mailed a Notice Packet by the Settlement Administrator, unless the 15th
28 day falls on a Sunday or Federal holiday, in which case the Response Deadline will be extended to

1 the next day on which the U.S. Postal Service is open. The Response Deadline may also be
2 extended by express agreement between Class Counsel and Defendant’s counsel. Under no
3 circumstances, however, will the Settlement Administrator have the authority to unilaterally
4 extend the deadline for Class Members to submit a Request for Exclusion or objection to the
5 Settlement.

6 **GG. “Settlement Payment Check.”**

7 The payment to Participating Class Members and PAGA Members. The back of the
8 Settlement Payment Check shall state, immediately below the space where the check is to be
9 endorsed by the payee: “By endorsing or otherwise negotiating this check, I acknowledge that I
10 read, understood, and agree to the terms set forth in the Notice of Class Action Settlement and I
11 consent to join in the Fair Labor Standards Act (“FLSA”) portion of the Action, elect to participate
12 in the settlement of the FLSA claims, and agree to release all of my FLSA claims that are covered
13 by the Settlement .”

14 **HH. “Work Week.”**

15 A “Workweek” refers to any calendar week (i.e., a week beginning with Sunday and
16 ending with Saturday), in which a Class Member or PAGA Member worked at least one day.

17

18 **II. FUNDING OF THE CLASS SETTLEMENT AMOUNT.**

19 Within fourteen (14) calendar days after the Effective Date of the Settlement, Defendants
20 will make a one-time deposit of the Class Settlement Amount (less the amount paid in Prior
21 Release Payments) plus all employer-side payroll taxes into a Qualified Settlement Account to be
22 established by the Settlement Administrator. The Settlement Administrator will then issue
23 payments within fourteen (14) calendar days to: (a) Participating Class Members/PAGA
24 Members; (b) the Labor and Workforce Development Agency; (c) Plaintiff; and (d) Class Counsel.
25 The Claims Administrator will also issue a payment to itself for Court-approved services
26 performed in connection with the Settlement. Defendant has no obligation to deposit such funds
27 prior to the deadline set forth herein.

28

1 **III. ATTORNEYS' FEES AND COSTS.**

2 Defendants agrees not to oppose or impede any application by Class Counsel for attorneys'
3 fees of not more than \$91,666.66, or the reimbursement of costs and expenses associated with
4 Class Counsel's litigation and settlement of the Action not to exceed \$13,500.00.

5 **IV. CLASS REPRESENTATIVE INCENTIVE AWARD.**

6 In exchange for a separate general release by Plaintiff, and in recognition of Plaintiff's
7 effort and work in prosecuting the Action on behalf of Class Members, Defendant agrees not to
8 oppose or impede any application or motion for Class Representative Incentive Awards for
9 Plaintiff for up to \$7,500. The Class Representative Incentive Awards will be paid from the Class
10 Settlement Amount and will be in addition to Plaintiff's individual settlement payment paid
11 pursuant to the Settlement, and is conditioned on the execution of a general release of claims
12 (including a release under California Civil Code § 1542) as set forth herein. Plaintiff will be
13 solely and legally responsible for paying any and all applicable taxes on the payments made
14 pursuant to this paragraph and will indemnify and hold Defendant harmless from any claim or
15 liability for taxes, penalties, or interest arising as a result of the payment.

16 **V. SETTLEMENT ADMINISTRATION COSTS.**

17 The Settlement Administrator will be paid for the reasonable costs of administration of the
18 Settlement and distribution of payments from the Class Settlement Amount, which are currently
19 estimated to be \$10,000. To the extent actual Settlement Administrations Costs are greater than
20 \$10,000, such excess amount will be deducted from the Class Settlement Amount, subject to Court
21 approval, provided the Settlement Administration Costs will not increase the Class Settlement
22 Amount.

23 **VI. LABOR AND WORKFORCE DEVELOPMENT AGENCY PAYMENT.**

24 Subject to Court approval, the Parties agree that \$20,000 of the Class Settlement Amount
25 will be designated for satisfaction of claims arising under PAGA. Pursuant to the PAGA, \$15,000
26 (75%) of the PAGA Settlement Amount will be paid to the California Labor and Workforce
27 Development Agency and \$5,000 (25%) of the PAGA Settlement Amount will be distributed to
28

1 PAGA Members on a *pro rata* basis based on the number of weeks worked during the PAGA
2 Period.

3 **VII. NET SETTLEMENT AMOUNT.**

4 The Net Settlement Amount and 25% portion of the PAGA Payment will be used to satisfy
5 Individual Settlement Payments to Participating Class Members/PAGA Members in accordance
6 with the terms of this Settlement.

7 **VIII. INDIVIDUAL SETTLEMENT PAYMENT CALCULATIONS.**

8 1. Individual Settlement Payments will be paid from the Net Settlement Amount and
9 the 25% portion of the PAGA Penalties allocated for PAGA Members. Specific calculations of
10 Individual Settlement Payments will be made as follows:

11 a. Defendant will provide the Settlement Administrator with the total number
12 of Work Weeks for each Participating Class Member. Defendant will also
13 provide the total aggregated number of Work Weeks worked by all
14 Participating Class Members during the Class Period. The amount that each
15 Participating Class Member will be eligible to receive will be calculated by
16 dividing each participating Class Member's individual Work Weeks by the
17 total Work Weeks of all Participating Class Members and multiplying the
18 resulting fraction by the Net Settlement Amount.

19 b. Defendant will also provide the Settlement Administrator with the total
20 number of Work Weeks for each PAGA Member. Defendant will also
21 provide the total aggregated number of Work Weeks worked by all PAGA
22 Members during the PAGA Period. The amount that each PAGA Member
23 will receive will be calculated by dividing each participating PAGA
24 Member's individual Work Weeks by the total Pay Periods of all PAGA
25 Members, and multiplying the resulting fraction by the 25% share of the
26 PAGA Penalties designated for distribution to aggrieved employees. PAGA
27 Members shall receive this portion of their Individual Settlement Payment
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1 regardless of whether they opt out of the participation regarding the class
2 claims.

3 c. The Individual Settlement Payments estimate indicated on the Notice are
4 subject to change, depending on factors including how many Class
5 Members become Excluded Class Members (resulting in their Individual
6 Work Weeks being removed from the final Class Pay Periods, thereby
7 increasing the final per class member settlement amount).

8 2. The Individual Settlement Payment will be reduced by any required deductions for
9 each Participating Class Members as set forth herein, including employee-side tax withholdings or
10 deductions. Class Members, except those who request to be excluded from the settlement, will be
11 paid their portion of the Settlement, which will be considered 20% wages, 40% interest, and the
12 remaining 40% penalties. The Parties agree that the Claims Administrator will issue each
13 Participating Class Member a Form W-2 and a Form 1099 for all amounts paid under this
14 Settlement, making all deductions and withholdings required under law.

15 3. Eligible PAGA Members will receive their share of the employee portion of the
16 PAGA Penalties and will be deemed to have released any claims arising out of PAGA, regardless
17 of whether they opt-out from the release of their class claims.

18 4. The Individual Settlement Payments made to Participating Class Members under
19 this Settlement, and any other payments made pursuant to this Settlement, will not be utilized to
20 calculate any additional benefits under any benefit plans to which any Class Members may be
21 eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock
22 purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it
23 is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or
24 amounts to which any Class Members may be entitled under any benefit plans.

25 **IX. SETTLEMENT ADMINISTRATION PROCESS.**

26 1. The Parties agree to cooperate in the administration of the Settlement and to make
27 all reasonable efforts to control and minimize the costs and expenses incurred in administration of
28 the Settlement. The Claims Administrator will provide the following services:

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- a. Establish and maintain a Qualified Settlement Account.
- b. Calculate the Individual Settlement Payment each Class Member is eligible to receive.
- c. Assist Class Members who have questions regarding the Notice Packet.
- d. Conduct additional address searches for mailed Notice Packets that are returned as undeliverable.
- e. Calculate Participating Class Members' Individual Settlement Payment, field inquiries from Class Members, and administer any Requests for Exclusion. This service will include settlement proceed calculation, printing and issuance of Settlement Payment Checks, and preparation of IRS W-2 and 1099 Tax Forms. Basic accounting for and payment of employee tax withholdings and forwarding all payroll taxes and penalties to the appropriate government authorities will also be included as part of this service.
- f. Calculate and make any and all payments on behalf of Defendant required pursuant to the Settlement Agreement, including but not limited to, FICA, FUTA, and SDI contributions and the employer's portion of all payroll taxes, which shall be made from the Class Settlement Amount.
- g. Issue to Plaintiffs, Participating Class Members, and Plaintiff's Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement.
- h. Provide declarations and/or other information to the Court as requested by the Parties and/or the Court.
- i. Provide weekly status reports to counsel for the Parties.
- j. Post the final judgment on the claim administrator's website after it is entered.

2. Within fourteen (14) calendar days of Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator.

1 3. Within fourteen (14) calendar days after receiving the Class List from Defendant,
2 the Settlement Administrator will mail a Notice Packet to all Class Members via regular First-
3 Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

4 4. Prior to mailing, the Settlement Administrator will perform a search based on the
5 National Change of Address Database for information to update and correct for any known or
6 identifiable address changes. Any Notice Packets returned to the Settlement Administrator as
7 non-deliverable on or before the Response Deadline will be sent promptly via regular First-Class
8 U.S. Mail to the forwarding address affixed thereto and the Settlement Administrator will indicate
9 the date of such re-mailing on the Notice Packet. If no forwarding address is provided, the
10 Settlement Administrator will promptly attempt to determine the correct address using a skip-
11 trace, or other search using the name, address and/or Social Security number of the Class Member
12 involved, and will then perform a single re-mailing. Those Class Members who receive a re-
13 mailed Notice Packet, whether by skip-trace or by request, will have between the later of (a) an
14 additional fourteen (14) calendar days or (b) the Response Deadline to postmark or electronically
15 submit a Request for Exclusion or an objection to the Settlement.

16 5. All Class Members will be mailed a Notice Packet containing the Form attached as
17 **Exhibit A** as approved by the Court.

18 6. Class Members will have an opportunity to dispute the information provided in
19 their Notice Packets. If Class Members dispute the number of Work Weeks to which they have
20 been credited or the amount of their Individual Settlement Payment, Class Members may produce
21 evidence to the Settlement Administrator showing that such information is inaccurate. Absent
22 evidence rebutting Defendant's records, Defendant's records will be presumed determinative.
23 However, if a Class Member produces evidence to the contrary, the Settlement Administrator will
24 consult with Class Counsel and Defendant's counsel, and will evaluate the evidence submitted by
25 the Class Member. Together, the Claims Administrator, Class Counsel and Defendant's counsel
26 will make the final decision as to the number of eligible Work weeks that should be applied and/or
27 the Individual Settlement Payment to which the Class Member may be entitled. If an agreement
28 cannot be reached between the Claims Administrator, Class Counsel and Defendant's counsel, the

1 Claims Administrator shall make the final determination. All such disputes are to be resolved not
2 later than fourteen (14) calendar days after the Response Deadline.

3 7. Request for Exclusion Procedures. Any Class Member wishing to be excluded from
4 the Settlement Agreement must sign and postmark a written Request for Exclusion to the Claims
5 Administrator within the Response Deadline. The Request for Exclusion must contain (a) the
6 Class Member's name, address, telephone number, and the last four digits of the Class Member's
7 Social Security number and/or the Employee ID number and (b) a clear statement requesting to be
8 excluded from the settlement of the class claims similar to the following: "I wish to exclude
9 myself from the class settlement reached in the matter of *Hernandez v. Castle & Cooke Aviation*
10 *Services, Inc.* I understand that by excluding myself, I will not receive money from the settlement
11 of my individual claims." The date of the postmark on the return mailing envelope will be the
12 exclusive means to determine whether a Request for Exclusion has been timely submitted. All
13 Requests for Exclusion will be submitted to the Settlement Administrator, who will certify jointly
14 to Class Counsel and Defendant's Counsel the Requests for Exclusion that were timely submitted.
15 Any Class Member who does not timely seek exclusion will be bound by the terms of this
16 Settlement Agreement.

17 **X. NULLIFICATION OF THE SETTLEMENT AGREEMENT.**

18 1. Defendants' Option to Nullify the Settlement Agreement. If 20 or more Class
19 Members request to be excluded from the Settlement (or are otherwise excluded), Defendant, in its
20 sole discretion, shall have the option of nullifying the Settlement Agreement. Should Defendant
21 nullify the Settlement Agreement, it must notify Class Counsel in writing within thirty (30) days
22 of the Notice Packet Response Deadline. Prior to nullifying and withdrawing from the Settlement
23 pursuant to this provision, Defendant shall meet and confer with Class counsel. In such a case, the
24 Parties and any funds to be awarded under this Settlement Agreement shall be returned to their
25 respective statuses as of the date and time immediately prior to the execution of this Agreement,
26 and the Parties shall proceed in all respects as if this Settlement Agreement had not been executed.

27 2. Nullification of the Settlement Agreement. In the event: (i) the Court does not
28 enter the Preliminary Approval Order and approve the Released Claims specified herein; (ii) the

1 Court does not finally approve the Settlement as provided herein; (iii) the Effective Date does not
2 occur as provided herein; (iv) Defendant exercises its option to nullify the Settlement Agreement
3 based on an excessive number of excluded Class Members, as described in the above paragraph;
4 or (v) the Settlement does not become final for any other reason (e.g., an objection by the LWDA),
5 this Settlement Agreement shall be null and void. However, before becoming null and void, the
6 Parties and counsel shall meet and confer in good faith to attempt to resolve the issue. Should this
7 Settlement Agreement be nullified, any order or award entered by the Court in furtherance of this
8 Settlement Agreement shall be treated as void from the beginning, and the Stipulations and
9 Recitals contained herein shall be of no force or effect, and shall not be treated as an admission by
10 the Parties or their Counsel. In such a case, the Parties and any funds to be awarded under this
11 Settlement Agreement shall be returned to their respective statuses as of the date and time
12 immediately prior to the execution of this Settlement Agreement, and the Parties shall proceed in
13 all respects as if this Settlement Agreement had not been executed, except that any fees already
14 incurred by the Settlement Administrator shall be paid by the Parties. A reduction in attorneys'
15 fees or costs, or a reduction in the Class Representative Incentive Award, shall not be grounds for
16 nullification of the Settlement Agreement.

17 3. Settlement Terms Bind All Class Members Who Do Not Request Exclusion. Any
18 Class Member who does not affirmatively request to be excluded from the Settlement Agreement
19 by submitting a timely and valid Request for Exclusion will be bound by all its terms, including
20 those pertaining to the Released Claims, as well as any Judgment that may be entered confirming
21 the Settlement. Eligible PAGA Members will receive their share of the employee portion of the
22 PAGA Penalties and will be deemed to have released any claims arising out of PAGA, regardless
23 of whether they opt-out from the release of their class claims.

24 **XI. OBJECTION PROCEDURES.**

25 To object to the Settlement Agreement, a Class Member must postmark a valid Notice of
26 Objection to the Settlement Administrator before the Response Deadline. The Notice of Objection
27 must be signed by the Class Member and contain all information required by this Settlement
28 Agreement. The postmark date will be deemed the exclusive means for determining that the

1 Notice of Objection is timely. Class Members regardless of whether or not they submit a written
2 objection to the Settlement Administrator will have the right to appear at the Final Approval
3 Hearing in order to have their objections heard by the Court. Neither the Parties nor their counsel
4 will solicit or otherwise encourage Class Members to submit written objections to the Settlement
5 Agreement or appeal from the Order and Judgment. Class Counsel will not represent any Class
6 Members with respect to any such objections to this Settlement.

7 **XII. CERTIFICATION REPORTS REGARDING INDIVIDUAL SETTLEMENT**
8 **PAYMENT CALCULATIONS.**

9 1. Weekly Reports The Settlement Administrator will provide Defendant's counsel
10 and Class Counsel a weekly report that certifies: (a) the number and names of Participating Class
11 Members from the Settlement Class who have disputed their anticipated Individual Settlement
12 Payment; (b) the number of Class Members who have submitted valid Requests for Exclusion; and
13 (c) any objections submitted to the Settlement along with a copy of any such objection.

14 Additionally, the Settlement Administrator will provide to counsel for both Parties any updated
15 reports regarding the administration of the Settlement Agreement as needed or requested.

16 2. Declaration re Notice Administration Within fourteen (14) calendar days of the
17 response deadline, the Settlement Administrator shall provide Class Counsel a declaration
18 regarding administration of the Notice Packet which shall name all individuals who chose to opt-
19 out of or object to the settlement.

20 3. Uncashed Settlement Checks. Any checks issued by the Claims Administrator to
21 Participating Class Members will be negotiable for at least one hundred eighty (180) calendar
22 days. Those funds represented by settlement checks returned as undeliverable and those
23 settlement checks remaining uncashed for more than one hundred eighty (180) calendar days after
24 issuance shall be forwarded to the Controller of the State of California pursuant to the Unclaimed
25 Property Law, California Civil Code § 1500, *et seq.*, to be held in trust for those Participating
26 Class Members and PAGA Members who did not timely cash their Settlement checks. The
27 Parties agree that C.C.P. Section 384(b), permits the Court for good cause to approve an
28 alternative distribution method for uncashed checks when it better serves the public's interest, and

1 that such good cause exists here for payment to be made to the California State Unclaimed
2 Property Fund for the benefit of the Class Members. The Parties agree that this disposition results
3 in no “unpaid residue” under California Civil Procedure Code § 384, as all payments to the
4 Participating Class Members and PAGA Members will be paid out, whether or not these
5 individuals cash their Settlement checks. Therefore, Defendants will not be required to pay any
6 interest on such amounts.

7 4. Certification of Completion. Upon completion of administration of the Settlement,
8 the Settlement Administrator will provide a written declaration under oath to certify such
9 completion to the Court and counsel for all Parties.

10 **XIII. TAX TREATMENT OF INDIVIDUAL SETTLEMENT PAYMENTS.**

11 All Individual Settlement Payments will be allocated as follows: twenty percent (20%) of
12 each Individual Settlement Payment will be allocated as wages and eighty percent (80%) will be
13 allocated as non-wages (40% to interest and 40% to penalties). The portion allocated to wages
14 will be reported on an IRS Form W-2 and the portions allocated to non-wages will be reported on
15 an IRS Form-1099 by the Claims Administrator. The gross Individual Settlement Payments will
16 be reduced by any required legal deductions for each Class Member. All standard employee
17 payroll deductions will be made for state and federal withholding taxes, including any other
18 applicable payroll deductions owed by the Participating Class Members as a result of the wage
19 component, resulting in a net wage component. The Settlement Administrator will issue a check
20 and W-2 Form to each Class Member for the wage component. No withholding shall be made on
21 the interest and penalty portions of the gross Individual Settlement Payment. The Settlement
22 Administrator will issue a second check and IRS Form 1099 for the remaining interest and penalty
23 component. The Settlement Administrator shall be responsible for issuing the payments and
24 calculating and withholding all required state and federal taxes. The Parties and the Settlement
25 Administrator shall determine the eligibility for, and the amounts of, any Individual Settlement
26 Payments under the terms of this Settlement Agreement. Any disputes not resolved concerning
27 the administration of the Settlement will be resolved by the Court, under the laws of the State of
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1 California. Prior to any such involvement of the Court, counsel for the Parties will confer in good
2 faith to resolve the dispute without the necessity of involving the Court.

3 **XIV. ADMINISTRATION OF TAXES BY THE CLAIMS ADMINISTRATOR.**

4 1. Tax Liability. Defendant makes no representation as to the tax treatment or legal
5 effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not
6 relying on any statement, representation, or calculation by Defendant or by the Claims
7 Administrator in this regard. Plaintiff and Participating Class Members understand and agree they
8 will be solely responsible for the payment of their share of any taxes and penalties assessed on the
9 payments described herein.

10 2. Circular 230 Disclaimer. EACH PARTY TO THIS SETTLEMENT AGREEMENT
11 (FOR PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH
12 PARTY TO THIS SETTLEMENT AGREEMENT OTHER THAN THE ACKNOWLEDGING
13 PARTY, AN “OTHER PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO
14 PROVISION OF THIS SETTLEMENT AGREEMENT, AND NO WRITTEN
15 COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR
16 ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR WILL ANY
17 SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE
18 RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES
19 TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) THE
20 ACKNOWLEDGING PARTY (A) HAS RELIED EXCLUSIVELY UPON HIS, HER OR ITS
21 OWN, INDEPENDENT LEGAL AND TAX COUNSEL FOR ADVICE (INCLUDING TAX
22 ADVICE) IN CONNECTION WITH THIS SETTLEMENT AGREEMENT, (B) HAS NOT
23 ENTERED INTO THIS SETTLEMENT AGREEMENT BASED UPON THE
24 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
25 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
26 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
27 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
28 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER

1 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
2 OF ANY SUCH ATTORNEY’S OR ADVISER’S TAX STRATEGIES (REGARDLESS OF
3 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
4 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
5 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
6 SETTLEMENT AGREEMENT.

7 **XV. RELEASE BY CLASS MEMBERS.**

8 1. No Prior Assignments. The Parties and their counsel represent, covenant, and
9 warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to
10 assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand,
11 action, cause of action or right herein released and discharged.

12 2. Class Release. It is the desire of the Plaintiff, Class Members (except those who
13 exclude themselves from the Settlement), and Defendant to fully, finally, and forever settle,
14 compromise, and discharge the Released Claims as to the Released Parties. Thus, following the
15 Effective Date and after Defendant fully funds the Class Settlement Amount, and except as to such
16 rights or claims as may be created by this Settlement Agreement, the Class Members shall fully
17 release and discharge the Released Parties from any and all Released Claims for the entire Class
18 Period. This release shall be binding on all Class Members who have not timely submitted a valid
19 and complete Request for Exclusion, including each of their respective attorneys, agents, spouses,
20 executors, representatives, guardians ad litem, heirs, successors, and assigns, and shall inure to the
21 benefit of the Released Parties, who shall have no further or other liability or obligation to any
22 Settlement Class Member with respect to the Released Claims, except as expressly provided
23 herein.

24 3. Release of Additional Claims and Rights by Plaintiff (“Plaintiff’s Released
25 Claims”). Following the Effective Date and upon the complete funding of the Class Settlement
26 Amount as a material condition of receiving any portion of the Class Representative Incentive
27 Awards and the additional compensation set forth in their respective separate agreements, Plaintiff
28 agrees to execute a separate stand-alone agreement and release all claims related to his respective

1 employment with Defendant, including all claims alleged in the Action, and be bound by a Civil
2 Code Section 1542 release and waiver of all claims known and unknown, without exception,
3 except as may be prohibited by law. This specifically excludes claims for unemployment
4 insurance, disability, social security, and worker's compensation (except for claims pursuant to
5 Labor Code Sections 132a and 4553).

6 **XVI. PRELIMINARY APPROVAL HEARING.**

7 1. Plaintiff will obtain a hearing before the Court to request Preliminary Approval of
8 the Settlement Agreement and the entry of a Preliminary Approval Order for: (a) conditional
9 certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the
10 proposed Settlement Agreement, and (c) setting a date for a Final Approval/Settlement Fairness
11 Hearing.

12 2. The Preliminary Approval Order will provide for the Notice Packet to be sent to all
13 Class Members as specified herein. In conjunction with the Preliminary Approval hearing,
14 Plaintiffs will submit this Settlement Agreement and will include the proposed Notice Packet.

15 3. Class Counsel will be responsible for drafting all documents necessary to obtain
16 preliminary approval. Class Counsel will provide Defendant's Counsel the opportunity to review
17 these papers two (2) business days prior to filing. Class Counsel shall consider in good faith, but
18 shall not be required to accept revisions or suggested changes by Defendant's Counsel. Defendant
19 shall not oppose Plaintiff's Motion for Preliminary Approval. Any failure by the Court to fully
20 and completely approve the Settlement Agreement, which has the effect of preventing the full and
21 complete approval of the terms of the Settlement Agreement as set forth herein, will result in this
22 Settlement Agreement and all obligations under this Settlement Agreement being nullified and
23 voided.

24 **XVII. FINAL SETTLEMENT APPROVAL HEARING AND ENTRY OF JUDGMENT.**

25 1. Upon expiration of the Response Deadline, a Final Approval/Settlement Fairness
26 Hearing will be conducted to determine the Final Approval of the Settlement Agreement along
27 with the amounts properly payable for: (a) Individual Settlement Payments; (b) the LWDA
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1 Payment; (c) the Attorneys' Fees and Costs; (d) the Class Representative Incentive Payments; and
2 (e) all Settlement Administration Costs.

3 2. Class Counsel will be responsible for drafting all documents necessary to obtain
4 Final Approval and shall draft a Proposed Final Approval Order and Judgment which includes all
5 individuals who opted-out of the proposed settlement. Class Counsel will provide Defendant's
6 Counsel the opportunity to review these papers two (2) business days prior to filing Class Counsel
7 shall consider in good faith, but shall not be required to accept revisions or suggested changes by
8 Defendant's Counsel. Defendant shall not oppose Final Approval of this settlement. Any failure
9 by the Court to fully and completely grant final approval of the Settlement will result in this
10 Settlement Agreement entered into by the Parties and all obligations under this Settlement
11 Agreement being nullified and voided. Upon such failure, any order or award entered by the
12 Court in further of this Settlement Agreement shall be treated as void from the beginning, and the
13 stipulations and agreements contained herein shall be of no force or effect and shall not be treated
14 as an admission by the Parties or their counsel. In such a case, the Parties and any funds to be
15 awarded under this Settlement shall be returned to their respective statuses as of the date and time
16 immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects
17 as if this Settlement Agreement had not been executed, except that any fees already incurred by
18 the Claims Administrator shall be paid equally by the Parties.

19 **XVIII. JUDGMENT AND CONTINUED JURISDICTION.**

20 After entry of the Final Approval Order, the Court shall have continuing jurisdiction solely
21 for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement;
22 (ii) Settlement administration matters; and (iii) such post-Final Judgment matters as may be
23 appropriate under court rules or as set forth in this Agreement.

24 **XIX. OTHER PROVISIONS.**

25 1. Exhibits Incorporated by Reference. The terms of this Settlement include the terms
26 set forth in any attached Exhibits, which are incorporated by this reference as though fully set
27 forth herein. Any Exhibits to this Settlement are an integral part of the Settlement.

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1 2. Entire Agreement. This Settlement Agreement and any attached Exhibits constitute
2 the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral
3 agreements may be deemed binding on the Parties.

4 3. Amendment or Modification. This Settlement Agreement may be amended or
5 modified only by a written instrument signed by counsel for all Parties or their successors-in-
6 interest and approved by the Court.

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

17 5. Binding on Successors and Assigns. This Settlement Agreement will be binding
18 upon, and inure to the benefit of, the successors or assigns of the Parties hereto as previously
19 defined.

20 6. California Law Governs. All terms of this Settlement Agreement and Exhibits
21 hereto will be governed by and interpreted according to the laws of the State of California, except
22 for the FLSA claims, which shall be governed by federal law.

23 7. Execution and Counterparts. This Settlement Agreement is subject only to the
24 execution of all Parties. However, the Settlement Agreement may be executed in one or more
25 counterparts. All executed counterparts and each of them, including facsimile and scanned copies
26 of the signature page, will be deemed to be one and the same instrument. The Parties may execute
27 this Settlement Agreement electronically (e.g., DocuSign), and such copies shall have the same
28 force and effect as an executed original.

1 8. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe
2 this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have
3 arrived at this Settlement after arm's-length negotiations in mediation with an experienced wage-
4 and-hour class action mediator, Louis Marlin, Esq., and in the context of adversarial litigation,
5 taking into account all relevant factors, present and potential. The Parties further acknowledge
6 that they are each represented by competent counsel and that they have had an opportunity to
7 consult with their counsel regarding the fairness and reasonableness of this Settlement.

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

12 10. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to
13 class certification for purposes of this Settlement only; except, however, that either party may
14 appeal any Court order that materially alters the Settlement Agreement's terms.

15 11. Class Action Certification for Settlement Purposes Only. The Parties agree to
16 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the
17 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
18 that certification for purposes of the Settlement is not an admission that class action certification is
19 proper under the standards applied to contested certification motions and that this Settlement
20 Agreement will not be admissible in this or any other proceeding as evidence that either: (a) a
21 class action should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other
22 than according to the Settlement's terms.

23 12. Nonadmission of Liability. The Parties enter into this Settlement Agreement to
24 resolve the dispute that has arisen between them and to avoid the burden, expense and risk of
25 continued litigation. In entering into this Settlement Agreement, Defendant does not admit, and
26 specifically denies, that it have violated any federal, state, or local law; violated any regulations or
27 guidelines promulgated pursuant to any statute or any other applicable laws, regulations or legal
28 requirements; breached any contract; violated or breached any duty; engaged in any

1 misrepresentation or deception; or engaged in any other unlawful conduct with respect to its
2 employees. Neither this Settlement Agreement, nor any of its terms or provisions, nor any of the
3 negotiations connected with it, shall be construed as an admission or concession by Defendant of
4 any such violations or failures to comply with any applicable law. Except as necessary in a
5 proceeding to enforce the terms of this Settlement Agreement, this Settlement Agreement and its
6 terms and provisions shall not be offered or received as evidence in any action or proceeding to
7 establish any liability or admission on the part of Defendant or to establish the existence of any
8 condition constituting a violation of, or a non-compliance with, federal, state, local or other
9 applicable law.

10 13. Captions. The captions and section numbers in this Settlement Agreement are
11 inserted for the reader's convenience, and in no way define, limit, construe or describe the scope
12 or intent of the provisions of this Settlement Agreement.

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

17 15. Enforcement Action. If one or more of the Parties institutes any legal action or
18 other proceeding against any other Party or Parties to enforce the provisions of this Settlement or
19 to declare rights and/or obligations under this Settlement, the successful Party or Parties will be
20 entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, in
21 connection with any enforcement actions, to the extent permitted by California law.

22 16. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms
23 and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be
24 construed more strictly against one party than another merely by virtue of the fact that it may have
25 been prepared by counsel for one of the Parties, it being recognized that, because of the arms-
26 length negotiations between the Parties, all Parties have contributed to the preparation of this
27 Settlement Agreement.

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1 17. Representation by Counsel. The Parties acknowledge that they have been
2 represented by counsel throughout all negotiations that preceded the execution of this Settlement
3 Agreement and that this Settlement Agreement has been executed with the consent and advice of
4 counsel and reviewed in full. Further, Plaintiff and Class Counsel warrant and represent that there
5 are no liens on the Settlement Agreement.

6 18. All Terms Subject to Court Approval. All amounts and procedures described in this
7 Settlement Agreement herein will be subject to final approval by the Court.

8 19. Cooperation and Execution of Necessary Documents. All Parties will cooperate in
9 good faith and execute all documents to the extent reasonably necessary to effectuate the terms of
10 this Settlement Agreement. The Parties and their counsel agree not to take any action to encourage
11 any Class Members to opt out of and/or object to the Settlement. Defendant further agrees that it
12 will not oppose Plaintiff's motion for preliminary approval or motion for final approval.

13 20. Confidentiality. Neither Plaintiff nor Class Counsel shall issue any press release or
14 announcement of any kind related in any way to the Settlement. Plaintiff and Class Counsel agree
15 that, prior to preliminary approval of the Settlement, they will keep the terms of this Settlement
16 confidential except for purposes of communicating with Plaintiff only. Plaintiff shall be informed
17 that the Settlement is confidential and shall be advised to keep the settlement confidential prior to
18 preliminary approval. After preliminary approval of the settlement, the Class Members (including
19 Plaintiff and Class Counsel) may: (1) as required by law; (2) as required under the terms of the
20 settlement; or (3) as required under counsel's duties and responsibilities as Class Counsel,
21 comment regarding the specific terms of the settlement. In all other cases, Plaintiff and Class
22 Counsel agree to limit their statements regarding the terms of the settlement, whether oral, written
23 or electronic (including the world wide web), to say the Class Action has been resolved and that
24 Plaintiff and Class Counsel are satisfied with the settlement terms. Nothing in this Paragraph is
25 intended to interfere with Class Counsel's duties and obligations to faithfully discharge their
26 duties as Class Counsel, including but not limited to, communicating with Class Members
27 regarding the Settlement.

28

1 21. Binding Agreement. The Parties warrant that they understand and have full
2 authority to enter into this Settlement, intend that this Settlement Agreement will be fully
3 enforceable and binding on all Parties, and agree that it will be admissible and subject to
4 disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality
5 provisions that otherwise might apply under federal or state law. Plaintiffs, and not their
6 respective representative(s), must personally execute this Settlement Agreement.

7
8
9 Dated: _____

Plaintiff Eric Hernandez

10
11
12 5/27/2022

13 Dated: _____

Castle & Cooke Aviation Services, Inc.

DocuSigned by:



2A00E47627174EF...
Tony L. Marlow
President

14
15
16 5/31/2022

17 Dated: _____

Castle & Cooke Aviation Services, Inc.

DocuSigned by:



53EA88CAD4EB4D6...
Ryan S. Gores
Vice President, General Counsel and Secretary

18
19 **APPROVED AS TO FORM**

20 **RASTEGAR LAW GROUP, APC**

21 Dated: _____

Farzad Rastegar
Attorneys for Plaintiff

22
23
24 **SHEPPARD, MULLIN, RICHTER &
HAMPTON LLP**

25 Dated: May 31, 2022



Michael Campbell
Attorneys for Defendant

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6 respective representative(s), must personally execute this Settlement Agreement.

7
8 Dated: May 25, 2022



Plaintiff Eric Hernandez

10
11 **Castle & Cooke Aviation Services, Inc.**

12
13 Dated: _____

Please Print Name of Authorized Signatory

14
15
16 **APPROVED AS TO FORM**

17 **RASTEGAR LAW GROUP, APC**

18
19 Dated: May 31, 2022



Farzad Rastegar
Attorneys for Plaintiff

20
21 **SHEPPARD, MULLIN, RICHTER &
22 HAMPTON LLP**

23 Dated: _____

Michael Campbell
Attorneys for Defendant