

BIBIYAN LAW GROUP, P.C.

David D. Bibiyan (SBN 287811)

david@tomorrowlaw.com

Jeffrey D. Klein (SBN 297296)

jeff@tomorrowlaw.com

Vedang J. Patel (SBN 328647)

vedang@tomorrowlaw.com

8484 Wilshire Boulevard, Suite 500

Beverly Hills, California 90211

Telephone: (310) 438-5555; Facsimile: (310) 300-1705

Attorneys for Plaintiff, JOSEPH KOUTNY and
on behalf of himself and all others similarly situated and aggrieved

Adam Y. Siegel (SBN 238568)

Martin P. Vigodnier (SBN 311834)

JACKSON LEWIS P.C.

725 South Figueroa Street, Suite 2500

Los Angeles, California 90017-5408

Tel: (213) 689-0404

Fax: (213) 689-0430

Adam.Siegel@jacksonlewis.com

Martin.Vigodnier@jacksonlewis.com

Attorneys for Defendants

PAE AVIATION AND TECHNICAL SERVICES,

LLC; PAE APPLIED TECHNOLOGIES, LLC; PAENATIONAL SECURITY SOLUTIONS,

LLC; PAE SHARED SERVICES, LLC; PAE PROFESSIONAL SERVICES, LLC; AND PAE

GOVERNMENT SERVICES, INC.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF KINGS**

JOSEPH KOUTNY, an individual and on
behalf of all others similarly situated,

Plaintiff,

v.

PAE AVIATION AND TECHNICAL
SERVICES, LLC, a Delaware limited liability
company; PAE APPLIED TECHNOLOGIES,
LLC, a Delaware limited liability company;
PAE NATIONAL SECURITY SOLUTIONS,
LLC, a Virginia limited liability company;
PAE SHARED SERVICES, LLC, a Delaware
limited liability company; PAE
PROFESSIONAL SERVICES, LLC, a
Virginia limited liability company; PAE
INTERNATIONAL, a California corporation;
PAE DESIGN AND FACILITY
MANAGEMENT, a California corporation;
PAE CANADA, INC., a California
corporation; PAE GOVERNMENT
SERVICES, INC., a California corporation;
and DOES 1 through 100, inclusive,

Defendants.

CASE NO.: 21C-0106

[Assigned for all purposes to the Hon.
Valerie R. Chrissakis, in Dept. 8]

**JOINT STIPULATION RE: CLASS
ACTION AND REPRESENTATIVE
ACTION SETTLEMENT**

Action Filed: April 6, 2021

Trial Date: None set

1 This Joint Stipulation re: Class Action and Representative Action Settlement
2 (“Settlement” or “Agreement” or “Settlement Agreement”) is made by and between plaintiff
3 JOSEPH KOUTNY (“Plaintiff”) individually and on behalf of the Settlement Class, on the one
4 hand, and defendants PAE AVIATION AND TECHNICAL SERVICES, LLC; PAE APPLIED
5 TECHNOLOGIES, LLC; PAE NATIONAL SECURITY SOLUTIONS, LLC; PAE SHARED
6 SERVICES, LLC; PAE PROFESSIONAL SERVICES, LLC; PAE INTERNATIONAL; PAE
7 DESIGN AND FACILITY MANAGEMENT; PAE CANADA, INC.; PAE GOVERNMENT
8 SERVICES, INC. (collectively “Defendants”), on the other hand, in the lawsuit entitled *Joseph*
9 *Koutny v. PAE Applied Technologies, LLC, et al.*, filed in Kings County Superior Court, Case
10 No. 21C-0106 (the “Action”). Plaintiff and Defendants shall be, at times, collectively referred
11 to as the “Parties”. This Agreement is intended by the Parties to fully, finally, and forever resolve
12 the claims as set forth herein, based upon and subject to the terms and conditions of this
13 Agreement.
14

15
16 **1. DEFINITIONS**

17 Unless otherwise defined herein, the following terms used in this Agreement shall have
18 the meanings ascribed to them as set forth below:

19 **A. “Action”** means *Joseph Koutny, an individual and on behalf of all others*
20 *similarly situated and aggrieved v. PAE Applied Technologies, LLC, a Delaware limited liability*
21 *company; PAE Applied Technologies, LLC, a Delaware limited liability company; PAE National*
22 *Security Solutions, LLC, a Virginia limited liability company; PAE Shared Services, LLC, a*
23 *Delaware limited liability company; PAE Professional Services, LLC, a Virginia limited liability*
24 *company; PAE International, a California corporation; PAE Design and Facility Management,*
25 *a California corporation; PAE Canada, Inc., a California corporation; PAE Government*
26 *Services, Inc., a California corporation; and DOES 1 through 100, inclusive, filed on April 6,*
27 *2021 in the Superior Court of the State of California for the County of Kings, Case No. 21C-*
28 *0106.*

1 **B. “Agreement”** means this Joint Stipulation of Settlement, including the attached
2 Exhibit(s).

3 **C. “Aggrieved Employee(s)”** means Class Members working for Defendants during
4 the PAGA Period as non-exempt employees in California.

5 **D. “Class Counsel”** means: David D. Bibiyan and Jeffrey D. Klein of Bibiyan Law
6 Group, P.C. The term “Class Counsel” shall be used synonymously with the term “Plaintiff’s
7 Counsel.”

8 **E. “Class List”** means a list based on Defendants’ business records that identifies
9 each Class Member’s name, last known home or mailing address, Social Security number or, as
10 applicable, other taxpayer identification number, and dates of employment.

11 **F. “Class Period”** means the period from April 6, 2017 through September 20, 2022,
12 unless Defendants elect to shorten the Class Period pursuant to Paragraph 17 of this Agreement.

13 **G. “Class Notice”** means and refers to the notice sent to Class Members after
14 preliminary approval of the Settlement in the manner described in Paragraph 9(A) of this
15 Agreement.

16 **H. “Court”** means the Superior Court of the State of California for the County of
17 Kings.

18 **I. “Effective Date”** means the later of: (1) sixty-five (65) days after the Final Order;
19 or (2) if an appeal or other judicial review is taken from the Court’s overruling of objections to
20 the Settlement Agreement, ten (10) days after the appeal is withdrawn or after an appellate
21 decision affirming the Final Order becomes final.

22 **J. “Defendants”** means, collectively, defendants PAE Aviation and Technical
23 Services, LLC, PAE Applied Technologies, LLC, PAE National Security Solutions, LLC, PAE
24 Shared Services, LLC, PAE Professional Services, LLC, PAE Government Services, Inc.

25 **K. “Defense Counsel”** means counsel for Defendants:

26 Adam Y. Siegel (SBN 238568)

27 Martin P. Vigodnier (SBN 311834)

28 JACKSON LEWIS P.C.

725 South Figueroa Street, Suite 2500

Los Angeles, California 90017-5408

Tel: (213) 689-0404

Fax: (213) 689-0430

L. “Disposition” means the method by which the Court approves the terms of the Settlement and retains jurisdiction over its enforcement, implementation, construction, administration, and interpretation.

M. “Employer Taxes” means employer-funded taxes and contributions imposed on the wage portions of the Individual Settlement Payments under the Federal Insurance Contributions Act, the Federal Unemployment Tax Act, and any similar state and federal taxes and contributions required of employers, such as for unemployment insurance.

N. “Final Order Approving Settlement” or “Final Order” means the final formal court order signed by the Court following the Final Fairness and Approval Hearing in accordance with the terms herein, approving this Agreement.

O. “General Release” means the broader release of claims by Plaintiff, which is in addition to Plaintiff’s limited release of claims as a Participating Class Member.

P. “Gross Settlement Amount” means a non-reversionary fund in the sum of Five Million, Five Hundred Thousand Dollars and Zero Cents (\$5,500,000.00),¹ which shall be paid by Defendants, from which all payments for the Individual Settlement Payments to Participating Class Members, the Court-approved amounts for attorneys’ fees and reimbursement of litigation costs and expenses to Class Counsel, Settlement Administration Costs, the Service Award, the PAGA Payment, and the LWDA Payment shall be paid. It expressly excludes Employer Taxes, which shall be paid by Defendants separate, apart, and in addition to the Gross Settlement Amount.

Q. “Individual PAGA Payment(s)” means a payment made to an Aggrieved Employee for his or her share of the PAGA Payment, which may be in addition to his or her Individual Settlement Share if he or she is also a Participating Class Member.

¹ As the same may be increased in accordance with Paragraph 17, below.

1 **R. “Individual Settlement Payment(s)”** means a payment to a Participating Class
2 Member of his or her net share of the Net Settlement Amount.

3 **S. “Individual Settlement Share”** means the gross amount of the Net Settlement
4 Amount that a Participating Class Member is projected to receive based on the number of
5 Workweeks that he or she worked as a Settlement Class Member during the Class Period, which
6 shall be reflected in his or her Class Notice.

7 **T. “LWDA”** means the State of California Labor and Workforce Development
8 Agency.

9 **U. “LWDA Payment”** means the payment to the LWDA for its seventy-five percent
10 (75%) share of the total amount allocated toward penalties under the PAGA all of which is to be
11 paid from the Gross Settlement Amount. The Parties have agreed that Two-Hundred Fifty
12 Thousand Dollars and Zero Cents (\$250,000.00) shall be allocated toward PAGA penalties, of
13 which One Hundred Eighty-Seven Thousand, Five Hundred Dollars and Zero Cents
14 (\$187,500.00) will be paid to the LWDA (*i.e.*, the LWDA Payment) and Sixty Two Thousand,
15 Five Hundred Dollars and Zero Cents (\$62,500.00) will be paid to Aggrieved Employees on a
16 *pro rata* basis based on the Workweeks worked for Defendants as a non-exempt employee in
17 California in the PAGA Period (*i.e.* the PAGA Payment).

18 **V. “Motion for Final Approval”** means Plaintiff’s submission of a written motion,
19 including any evidence as may be required for the Court to conduct an inquiry into the fairness
20 of the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval
21 Hearing, and to enter a Final Order in this Action.

22 **W. “Motion for Preliminary Approval”** means Plaintiff’s submission of a written
23 motion, including any evidence as may be required for the Court to grant preliminary approval
24 of the Settlement as required by Rule 3.769 of the California Rules of Court.

25 **X. “Net Settlement Amount”** means the portion of the Gross Settlement Amount
26 that is available for distribution to the Participating Class Members after deductions for the Court-
27 approved allocations for Settlement Administration Costs, a Service Award to Plaintiffs, an
28

award of attorneys' fees, reimbursement of litigation costs and expenses to Class Counsel, the LWDA Payment, and the PAGA Payment.

Y. “Non-Participating Class Member(s)” means any Class Member(s) who submit to the Settlement Administrator a valid and timely written request to be excluded from the Class pursuant to Paragraph 9(C) below. Non-Participating Class Member(s) shall still receive their pro rata share of the PAGA Settlement Amount, if applicable.

Z. “Operative Complaint” means the Second Amended Complaint to be filed with the Court.

AA. “PAGA” means the California Private Attorneys General Act of 2004, which is codified in California Labor Code §§ 2698 *et seq.*

BB. “PAGA Payment” is the 25% portion of the Two-Hundred Fifty Thousand Dollars and Zero Cents (\$250,000.00) that is allocated toward PAGA penalties (Sixty-Two Thousand Five Hundred Dollars and Zero Cents (\$62,500.00)) that will be paid to Aggrieved Employees on a *pro rata* basis based on the Workweeks worked as non-exempt employees in California in the PAGA Period, which would be in addition to their Individual Settlement Payment if they are Participating Class Members, as well. Aggrieved Employees are not permitted to exclude themselves from receiving their pro rata share of the PAGA Payment.

CC. “PAGA Period” means the period from April 6, 2020 through the end of the Class Period.

DD. “Participating Class Member(s)” means all Settlement Class Members who do not submit a timely and valid Request for Exclusion and will therefore receive his or her share of the Net Settlement Amount automatically without the need to return a claim form. Each Participating Class Member will be paid his/her Participating Individual Settlement Share. Class Members may not exclude themselves from receiving their pro rata share of the PAGA Settlement Amount, if applicable.

EE. “Participating Individual Settlement Share” means the gross amount of the Net Settlement Amount that a Participating Class Member is eligible to receive based on the number of Workweeks that he or she worked as a Settlement Class Member during the Class Period once

all opt-outs have been factored in, excluding any Individual PAGA Payment to which he or she may be entitled if he or she is also an Aggrieved Employee.

FF. “Plaintiff”, “Named Plaintiff” or “Class Representative” shall refer to Plaintiff Joseph Koutny.

GG. “Preliminary Approval Date” means the date on which the Court enters an Order granting preliminary approval of the Settlement embodied in this Agreement.

HH. “Qualified Settlement Fund” or “QSF” means a fund within the meaning of Treasury Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement Administrator for the benefit of Participating Class Members.

II. “Released Parties” shall mean a) Defendants and each and all past or present owners, partners, parent companies, subsidiaries, divisions, related or affiliated companies (regardless of whether such partners, parent companies, subsidiaries, divisions, related or affiliated companies are individuals, corporations, partnerships, limited partnerships, limited liability companies, or other forms of entity) of Defendants; (b) each and all of the predecessor or successor entities of any of those entities identified in subparagraph (a); (c) any other individuals or entities of any kind including, but not limited to, any payroll companies, which have been or could be alleged to be in any manner responsible (whether on an alter ego, joint employer, integrated enterprise, or any other theory) for any violations described in Paragraph 7 below and occurring as a result of employment with Defendants, including Defense Counsel of record in the Action; and (d) all past and present directors, officers, representatives, insurers, agents, shareholders, partners, members, lawyers, successors and assigns, and employees of any of the individuals or entities identified in subparagraphs (a), (b), or (c).

JJ. “Response Deadline” means the deadline for Settlement Class Members to postmark or fax any Requests for Exclusion, Objections, or Workweek Disputes to the Settlement Administrator. The Response Deadline is forty-five (45) calendar days from the date that the Class Notice is first mailed by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In such an instance, the Response Deadline shall be fifteen (15) calendar days from the date of re-mailing, or forty-five (45) calendar days from the date of the initial mailing,

1 whichever is later, in which to postmark a Request for Exclusion, Workweek Dispute or
2 Objection. The date of the postmark shall be the exclusive means for determining whether a
3 Request for Exclusion, Objection, or Workweek Dispute was submitted by the applicable
4 Response Deadline.

5 **KK. “Request for Exclusion”** means a written request to be excluded from the
6 Settlement Class pursuant to Paragraph 9(C) below.

7 **LL. “Service Award”** means monetary amounts to be paid to Named Plaintiff of up
8 to Seven Thousand, Five Hundred Dollars and Zero Cents (\$7,500.00), which subject to Court
9 approval, will be paid out of the Gross Settlement Amount.

10 **MM. “Settlement Administration Costs”** means all costs incurred by the Settlement
11 Administrator in administration of the Settlement, including, but not limited to, translating the
12 Class Notice to Spanish, the distribution of the Class Notice to the Settlement Class in English
13 and Spanish, calculating Individual Settlement Shares, Individual Settlement Payments,
14 Individual PAGA Payments, and Participating Individual Settlement Shares, as well as associated
15 taxes and withholdings, providing declarations, generating Individual Settlement Payment
16 checks and related tax reporting forms, doing administrative work related to unclaimed checks,
17 transmitting payment to Class Counsel for the Court-approved amounts for attorneys’ fees and
18 reimbursement of litigation costs and expenses, to Plaintiffs for their Service Award, and to the
19 LWDA for the LWDA Payment, providing weekly reports of opt-outs, objections and related
20 information, and any other actions of the Settlement Administrator as set forth in this Agreement,
21 all pursuant to the terms of this Agreement. The Settlement Administration Costs are estimated
22 not to exceed \$26,500.00. If the actual amount of the Settlement Administration Costs is less
23 than \$26,500.00, the difference between \$26,500.00 and the actual Settlement Administration
24 Costs shall be a part of the Net Settlement Amount. If the Settlement Administration Costs exceed
25 \$26,500.00 then such excess will be paid solely from the Gross Settlement Amount and
26 Defendants will not be responsible for paying any additional funds in order to pay these
27 additional costs.
28

1 **NN. “Settlement Administrator”** means the Third-Party Administrator mutually
2 agreed upon by the Parties that will be responsible for the administration of the Settlement
3 including, without limitation, translating the Class Notice in Spanish, the distribution of the
4 Individual Settlement Payments to be made by Defendants from the Gross Settlement Amount
5 and related matters under this Agreement.

6 **OO. “Settlement Class”, “Settlement Class Member(s)”, “Class”, or “Class**
7 **Member(s)”** means all current and former non-exempt employees who worked in California for
8 Defendants at any time during the Class Period.

9 **PP. “Workweeks”** means the number of weeks that a Settlement Class Member was
10 employed by and worked for the Defendants as a non-exempt employee during the Class Period
11 in California, based on hire dates, re-hire dates (as applicable), and termination dates (as
12 applicable).

13 **2. BACKGROUND**

14 **A.** On April 6, 2021, Plaintiff filed with the LWDA and served on Defendants a
15 notice under Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the
16 LWDA to recover civil penalties on behalf of Aggrieved Employees for various Labor Code
17 violations (“PAGA Notice”).

18 **B.** On April 6, 2021, Plaintiff filed a putative wage-and-hour class action alleging
19 that, during the Class Period, Defendants, as it pertains to Class Members: (1) failed to pay
20 overtime wages; (2) failed to pay minimum wages; (3) failed to provide meal periods or
21 compensation in lieu thereof; (4) failed to provide rest periods or compensation in lieu thereof;
22 (5) failed to all wages due upon separation from employment; (6) failed to issue accurate and
23 compliant wage statements; (7) failed to indemnify necessary expenditures or losses; and (8)
24 engaged in unfair competition (the “Action” or “Litigation”).

25 **C.** On August 13, 2021, after sixty-five (65) days had passed since Plaintiff filed and
26 served the PAGA Notice, without any action by the LWDA with respect to the alleged Labor
27 Code violations, Plaintiff filed a First Amended Complaint in the Action, seeking PAGA civil
28 penalties against Defendants for the Labor Code violations alleged in the PAGA Notice.

1 **D.** Shortly thereafter, the Parties agreed to exchange informal discovery and attend
2 an early mediation, in which Plaintiff was provided with, among other things: (1) time and payroll
3 records for the estimated 3,217 Class Members; (2) data points for Class Members, including the
4 total number of hours worked during the Class Period, the number of pay periods worked during
5 the Class Period, the number of separated Class Members eligible for waiting time penalties, the
6 number of Aggrieved Employees, the number of hours worked by Aggrieved Employees, the
7 number of pay periods during the statutory time period for wage statement violations, and the
8 number of pay periods during the PAGA Period; (3) Plaintiff's wage information; (4) Collective
9 Bargaining Agreements ("CBA") from the relevant time period; and (5) Defendants' wage and
10 hour policies and procedures.

11 **E.** On March 31, 2022, the Parties participated in a full-day mediation before Mark
12 S. Rudy, Esquire, a well-regarded mediator experienced in mediating complex labor and
13 employment matters. With the aid of the mediator's evaluation, and months of further
14 negotiations, the Parties reached the Settlement to resolve the Action.

15 **F.** Class Counsel has conducted significant investigation of the law and facts relating
16 to the claims asserted in the Class Action, and the PAGA Notice, and have concluded that the
17 Settlement set forth herein is fair, reasonable, adequate, and in the best interests of the Settlement
18 Class, taking into account the sharply contested issues involved, the expense and time necessary
19 to litigate the Action through trial and any appeals, the risks and costs of further litigation of the
20 Action, the risk of an adverse outcome, the uncertainties of complex litigation, the information
21 learned through informal discovery regarding Plaintiff's allegations, and the substantial benefits
22 to be received by Settlement Class Members.

23 **G.** Defendants have concluded that, because of the substantial expense of defending
24 against the Action, the length of time necessary to resolve the issues presented herein, the
25 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
26 interest to accept the terms of this Agreement. Defendants deny each of the allegations and
27 claims asserted against it in the Action and the PAGA Notice. However, Defendants nevertheless
28 desire to settle the Action for the purpose of avoiding the burden, expense and uncertainty of

1 continuing litigation and for the purpose of putting to rest the controversies engendered by the
2 Action.

3 **H.** This Agreement is intended to and does effectuate the full, final, and complete
4 resolution of all Class Released Claims of Plaintiff and Participating Class Members, and all
5 PAGA Released Claims of Plaintiffs and, to the extent permitted by law, of the State of California
6 and Aggrieved Employees.

7 **3. JURISDICTION**

8 The Court has jurisdiction over the Parties and the subject matter of the Action. The
9 Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the
10 applicable statutes. After the Court has granted the Final Order Approving Settlement and
11 entered judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the
12 judgment pursuant to California Rule of Court, rule 3.769, subdivision (h).

13 **4. STIPULATION OF CLASS CERTIFICATION**

14 The Parties stipulate to the certification of the Settlement Class under this Agreement for
15 purposes of settlement only.

16 **5. MOTIONS FOR APPROVAL OF SETTLEMENT**

17 After full execution of this Agreement, Plaintiff will move for an order granting
18 preliminary approval of the Settlement, approving and directing the mailing of the proposed
19 Notice of Class Action Settlement (“Class Notice”) attached hereto as **Exhibit “A”**, conditionally
20 certifying the Settlement Class for settlement purposes only, and approving the deadlines
21 proposed by the Parties for the submission of Requests for Exclusion, Workweek Disputes, and
22 Objections. If and when the Court preliminarily approves the Settlement, and after
23 administration of the Class Notice in a manner consistent with the Court’s Preliminary Approval
24 Order, Plaintiff will move for an order finally approving the Settlement and seek entry of a
25 Judgment consistent with this Settlement. The Parties may both respond to any Objections
26 lodged to final approval of the Settlement up to five (5) court days before the Final Fairness and
27 Approval Hearing.
28

1 **6. NO ADMISSION**

2 In entering into this Agreement, Defendants do not admit, and specifically deny, the
3 allegations in the Action, that they violated any federal, state, or local law; violated any
4 regulations or guidelines promulgated pursuant to any statute or any other applicable laws,
5 regulations or legal requirements; breached any contract; violated or breached any duty; engaged
6 in any misrepresentation or deception; or engaged in any other unlawful conduct with respect to
7 its employees. Neither this Agreement, nor any of its terms or provisions, nor any of the
8 negotiations connected with it, will be construed as an admission or concession by Defendants
9 of any such violations or failures to comply with any applicable law.

10 **7. RELEASE OF CLAIMS**

11 **A. Release by All Participating Class Members**

12 Upon the date Defendants transfer the Gross Settlement Amount and Employer Taxes
13 necessary to effectuate the Settlement, entry of an Order granting Final Approval of the
14 Settlement, and entry of Judgment, Plaintiff and Participating Class Members release the
15 Released Parties from any and all claims alleged or that could have been alleged in Plaintiff's
16 Operative Complaint based on the facts alleged therein, which arose during the Class Period,
17 including but not limited to (1) all claims for failure to pay overtime wages; (2) all claims for
18 failure to pay minimum wages; (3) all claims for failure to provide meal periods or compensation
19 in lieu thereof; (4) all claims for failure to provide rest periods or compensation in lieu thereof;
20 (5) all claims for failure to pay all wages due upon separation from employment; (6) all claims
21 for failure to issue accurate and compliant wage statements; (7) all claims for failure to indemnify
22 necessary expenditures or losses; and (8) all claims asserted through California Business &
23 Professions Code section 17200, *et seq.* arising out of the Labor Code violations referenced in
24 the Operative Complaint (the "Class Released Claims").

25 **B. Release by All Aggrieved Employees**

26 Upon the date Defendants transfer the Gross Settlement Amount and Employer Taxes
27 necessary to effectuate the Settlement, entry of an Order granting Final Approval of the
28 Settlement, and entry of Judgment, the State of California and Aggrieved Employees release the

Released Parties from all claims exhausted in Plaintiff's notice(s) sent to the LWDA and alleged in the Operative Complaint and/or based on the Released Claims, which arose during the PAGA Period, regardless of whether Aggrieved Employees opt out of the Settlement Class ("PAGA Released Claims"). The Class Released Claims and PAGA Released Claims shall be referred to herein as the "Released Claims".

C. Claims Not Released

The releases above expressly exclude all other claims, including claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, workers' compensation, and any other claims outside of the Class Released Claims of Participating Class Members arising during the Class Period and the PAGA Released Claims of Aggrieved Employees (and, to the extent permitted by law, the State of California) arising outside of the PAGA Period.

D. Plaintiff's General Release of All Known and Unknown Claims

Upon the date of funding of the Gross Settlement Amount, in addition to the claims being released by all Participating Class Members, the named Plaintiff will release and forever discharge the Released Parties, to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not asserted, which the Named Plaintiff has or may have against the Released Parties as of the date of execution of this Agreement ("Named Plaintiff's Released Claims"). The Named Plaintiff's Released Claims include, but are not limited to, all of the Released Claims, the PAGA Released Claims and any other claims arising under the California Labor Code; any claim arising out of the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, and federal common law; all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, and wrongful termination, including but not limited to, 42 U.S.C. section 1981, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the California Fair Employment and Housing Act, the California Labor Code, and the law of contract and tort. This release excludes the release of claims not permitted by law.

1 The Named Plaintiff's Released Claims include all claims, whether known or unknown.
2 Even if the Named Plaintiff discovers facts in addition to or different from those that he now
3 knows or believes to be true with respect to the subject matter of the Named Plaintiff's Released
4 Claims, those claims will remain released and forever barred. To effectuate a full and complete
5 general release as described above, the Named Plaintiff expressly waives any and all rights and
6 benefits conferred upon him by the provisions of Section 1542 of the California Civil Code or
7 similar provisions of applicable law which are as follows:

8 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT
9 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR
10 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
11 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM
12 OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR
13 HER SETTLEMENT WITH THE DEBTOR OR RELEASED
14 PARTY.

15 Thus, notwithstanding the provisions of section 1542, and to implement a full and complete
16 release and discharge of the Released Parties, the Named Plaintiff expressly acknowledges this
17 Agreement is intended to include in its effect, without limitation, all claims the Named Plaintiff
18 does not know or suspect to exist in the Named Plaintiff's favor at the time of signing this
19 Agreement, and that this Agreement contemplates the extinguishment of any such claims. The
20 Named Plaintiff warrants that the Named Plaintiff has read this Settlement, including this waiver
21 of California Civil Code section 1542, and that the Named Plaintiff has consulted with or had the
22 opportunity to consult with counsel of the Named Plaintiff's choosing about this Agreement and
23 specifically about the waiver of section 1542, and that the Named Plaintiff understands this
24 Agreement and the section 1542 waiver, and so the Named Plaintiff freely and knowingly enter
25 into this Agreement. The Named Plaintiff further acknowledges that the Named Plaintiff later may
26 discover facts different from or in addition to those the Named Plaintiff now knows or believes to
27 be true regarding the matters released or described in this Agreement, and even so the Named
28 Plaintiff agrees that the releases and agreements contained in this Agreement shall remain effective

1 in all respects notwithstanding any later discovery of any different or additional facts. The Named
2 Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts
3 involved in the matters, disputes, or controversies released or described in this Agreement or with
4 regard to any facts now unknown to the Named Plaintiff relating thereto.

5 **8. SETTLEMENT ADMINISTRATOR**

6 Plaintiff and Defendants, through their respective counsel, have selected Phoenix
7 Settlement Administrators to administer the Settlement, which includes but is not limited to
8 translating the Class Notice to Spanish, distributing and responding to inquiries about the Class
9 Notice and calculating all amounts to be paid from the Gross Settlement Amount. Charges and
10 expenses of the Settlement Administrator, currently estimated to be \$26,500.00 will be paid from
11 the Gross Settlement Amount. If the actual amount of the Settlement Administration Costs is
12 less than \$26,500.00, the difference between \$26,500.00 and the actual Settlement
13 Administration Costs shall be a part of the Net Settlement Amount. If the Settlement
14 Administration Costs exceed \$26,500.00, then such excess will be paid solely from the Gross
15 Settlement Amount and Defendants will not be responsible for paying any additional funds in
16 order to pay these additional costs.

17 **9. NOTICE, WORKWEEK DISPUTE, OBJECTION, AND EXCLUSION PROCESS**

18 **A. Notice to the Settlement Class Members**

19 Within ten (10) calendar days after the Preliminary Approval Date, Defense Counsel shall
20 provide the Settlement Administrator with information with respect to each Settlement Class
21 Member, including his or her: (1) name; (2) last known address(es) currently in Defendants'
22 possession, custody, or control; (3) last known Social Security Number(s) in Defendants'
23 possession, custody, or control; and (4) the dates of employment (*i.e.*, hire dates, and, if
24 applicable, re-hire date(s) and/or separation date(s)) for each Settlement Class Member ("Class
25 List"), which shall be made available to Class Counsel upon request for the purpose of
26 effectuating the Settlement. The Settlement Administrator shall perform an address search using
27 the United States Postal Service National Change of Address ("NCOA") database and update the
28 addresses contained on the Class List with the newly-found addresses, if any. Within ten (10)

1 calendar days, or soon thereafter, of receiving the Class List from Defendants, the Settlement
2 Administrator shall mail the Class Notice in English and Spanish to the Settlement Class
3 Members via first-class regular U.S. Mail using the most current mailing address information
4 available. The Settlement Administrator shall maintain the Class List and digital copies of all
5 the Settlement Administrator's records evidencing the giving of notice to any Settlement Class
6 Member, for at least four (4) years from the Effective Date.

7 The Class Notice will set forth the following:

- 8 (1) the Settlement Class Member's estimated Individual Settlement Payment
9 and Individual PAGA Payment, and the basis for each;
- 10 (2) the information required by California Rule of Court, rule 3.766,
11 subdivision (d);
- 12 (3) the material terms of the Settlement;
- 13 (4) the proposed Settlement Administration Costs;
- 14 (5) the definition of the Settlement Class;
- 15 (6) a statement that the Court has preliminarily approved the Settlement;
- 16 (7) how the Settlement Class Member can obtain additional information,
17 including contact information for Class Counsel;
- 18 (8) information regarding opt-out and objection procedures;
- 19 (9) the date and location of the Final Fairness and Approval Hearing; and
- 20 (10) that the Settlement Class Member must notify the Settlement
21 Administrator no later than the Response Deadline if the Settlement Class
22 Member disputes the accuracy of the number of Workweeks as set forth
23 on his or her Class Notice ("Workweek Dispute"). If a Settlement Class
24 Member fails to timely dispute the number of Workweeks attributed to
25 him or her in conformity with the instructions in the Class Notice, then he
26 or she shall be deemed to have waived any objection to its accuracy and
27 any claim to any additional settlement payment based on different data.
28

1 If a Class Notice from the initial notice mailing is returned as undeliverable, the
2 Settlement Administrator will attempt to obtain a current address for the Settlement Class
3 Member to whom the returned Class Notice had been mailed, within five (5) calendar days of
4 receipt of the returned Class Notice, by: (1) contacting the Settlement Class Member by phone,
5 if possible, and (2) undertaking skip tracing. If the Settlement Administrator is successful in
6 obtaining a new address, it will promptly re-mail the Class Notice to the Settlement Class
7 Member. Further, any Class Notices that are returned to the Settlement Administrator with a
8 forwarding address before the Response Deadline shall be promptly re-mailed to the forwarding
9 address affixed thereto.

10 No later than seven (7) calendar days from the Response Deadline, the Settlement
11 Administrator shall provide counsel for the Parties with a declaration attesting to the completion
12 of the notice process, including the number of attempts to obtain valid mailing addresses for and
13 re-sending of any returned Class Notices, as well as the identities, number of, and copies of all
14 Requests for Exclusion and Objections received by the Settlement Administrator.

15 **B. Objections**

16 Only Participating Class Members may object to the Settlement. In order for any
17 Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must
18 do so by mailing a written objection to the Settlement Administrator at the address or phone
19 number provided on the Class Notice no later than the Response Deadline. The Settlement
20 Administrator shall email a copy of the Objection forthwith to Class Counsel and Defense
21 Counsel and attach copies of all Objections to the Declaration it provides Class Counsel, which
22 Class Counsel shall file in support of Plaintiff's Motion for Final Approval. The Objection
23 should set forth in writing: (1) the Objector's name; (2) the Objector's address; (3) the last four
24 digits of the Objector's Social Security Number; (4) the Objector's signature; (5) a statement of
25 whether the Objector plans to appear at the Final Fairness and Approval Hearing; and (6) the
26 reason(s) for the Objection, along with whatever legal authority, if any, the Objector asserts in
27 support of the Objection. If a Settlement Class Member objects to the Settlement, the Settlement
28 Class Member will remain a member of the Settlement Class and if the Court approves this

1 Agreement, the Settlement Class Member will be bound by the terms of the Settlement in the
2 same way and to the same extent as a Settlement Class Member who does not object. The date
3 of mailing of the Class Notice to the objecting Settlement Class Member shall be conclusively
4 determined according to the records of the Settlement Administrator. Settlement Class Members
5 need not object in writing to be heard at the Final Fairness and Approval Hearing; they may
6 object or comment in person at the hearing at their own expense. Class Counsel and Defense
7 Counsel may respond to any objection lodged with the Court up to five (5) court days before the
8 Final Fairness and Approval Hearing. Settlement Class Members who worked during the PAGA
9 Period are not permitted to object to the PAGA Released Claims or any portion of the Settlement
10 pertaining to the PAGA Released Claims.

11 **C. Requesting Exclusion**

12 Any Settlement Class Member may request exclusion from (*i.e.*, “opt out” of) the
13 Settlement by mailing a written request to be excluded from the Settlement (“Request for
14 Exclusion”) to the Settlement Administrator, postmarked on or before the Response Deadline.
15 To be valid, a Request for Exclusion must include: (1) the Class Member’s name; (2) the Class
16 Member’s Social Security Number; (3) the Class Member’s signature; and (4) the following
17 statement: “Please exclude me from the Settlement Class in the *Koutny v. PAE Aviation and*
18 *Technical Services, LLC, et al.* matter” or any statement of similar meaning standing for the
19 proposition that the Class Member does not wish to participate in the Settlement. The Settlement
20 Administrator shall immediately provide copies of all Requests for Exclusion to Class Counsel
21 and Defense Counsel and shall report the Requests for Exclusions that it receives, to the Court,
22 in its declaration to be provided in advance of the Final Fairness and Approval Hearing. Any
23 Settlement Class Member who requests exclusion using this procedure will not be entitled to
24 receive any payment from the Settlement and will not be bound by the Settlement Agreement or
25 have any right to object to, appeal, or comment on the Settlement. Any Settlement Class Member
26 who does not opt out of the Settlement by submitting a timely and valid Request for Exclusion
27 will be bound by all terms of the Settlement, including those pertaining to the Released Claims,
28 as well as any Judgment that may be entered by the Court if Final Order Approving Settlement

1 is granted. A Settlement Class Member cannot submit both a Request for Exclusion and an
2 objection. If a Settlement Class Member submits an Objection and a Request for Exclusion, the
3 Request for Exclusion will control and the Objection will be overruled. Settlement Class
4 Members who worked during the PAGA Period that submit a valid Request for Exclusion will
5 still be deemed Aggrieved Employees, will still receive their Individual PAGA Payments, and
6 will be bound by the release of the PAGA Released Claims.

7 **D. Disputes Regarding Settlement Class Members' Workweek Data**

8 Each Settlement Class Member may dispute the number of Workweeks attributed to him
9 or her on his or her Class Notice ("Workweek Dispute"). Any such disputes must be mailed to
10 the Settlement Administrator by the Settlement Class Member, postmarked on or before the
11 Response Deadline. The Settlement Administrator shall immediately provide copies of all
12 disputes to Class Counsel and counsel for Defendants and shall immediately attempt to resolve
13 all such disputes directly with relevant Settlement Class Member(s) with the assistance of
14 Defendants and Class Counsel. If the dispute cannot be resolved in this manner, the Court shall
15 adjudicate the dispute.

16 **10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL PAGA**
17 **PAYMENTS**

18 Individual Settlement Payments will be calculated and distributed to Participating Class
19 Members from the Net Settlement Amount on a *pro rata* basis, based on the Participating Class
20 Members' respective number of Workweeks during the Class Period. Individual PAGA
21 Payments to Aggrieved Employees will be calculated and distributed to Aggrieved Employees
22 from the PAGA Payment on a *pro rata* basis based on Aggrieved Employees' respective
23 number of Workweeks during the PAGA Period. Specific calculations of the Individual
24 Settlement Shares and Individual PAGA Payments to Aggrieved Employees will be made as
25 follows:

26 **A.** The Settlement Administrator will determine the total number of Workweeks
27 worked by each Settlement Class Member during the Class Period ("Class Member's
28 Workweeks"), as well as the aggregate number of Workweeks worked by all Settlement Class

1 Members during the Class Period (“Class Workweeks”). Additionally, the Settlement
2 Administrator will determine the total number of Workweeks worked by each Aggrieved
3 Employee during the PAGA Period (“Aggrieved Employee’s Workweeks”), as well as the
4 aggregate number of Workweeks worked by all Aggrieved Employees during the PAGA Period
5 (“PAGA Workweeks”).

6 **B.** To determine each Settlement Class Member’s Individual Settlement Share, the
7 Settlement Administrator will use the following formula: Individual Settlement Share =
8 (Settlement Class Member’s Workweeks ÷ Class Workweeks) × Net Settlement Amount.

9 **C.** To determine each Participating Class Member’s Participating Individual
10 Settlement Share, the Settlement Administrator will determine the aggregate number of
11 Workweeks worked by all Participating Class Members during the Class Period (“Participating
12 Class Workweeks”) and use the following formula: Individual Settlement Share =
13 (Participating Class Member’s Workweeks ÷ Participating Class Workweeks) × Net Settlement
14 Amount.

15 **D.** The net amount of the Participating Individual Settlement Share is to be paid out
16 to Participating Class Members by way of check and is referred to as “Individual Settlement
17 Payment(s)”.

18 **E.** To determine each Aggrieved Employee’s Individual PAGA Payment, the
19 Settlement Administrator will use the following formula: Aggrieved Employee’s Individual
20 PAGA Payment = (Aggrieved Employee’s Workweeks ÷ PAGA Workweeks) x \$62,500.00
21 (the PAGA Payment).

22 **F.** Individual Settlement Payments and Individual PAGA Payments shall be paid
23 to Participating Class Members and/or Aggrieved Employees by way of check. When a
24 Participating Class Member is also an Aggrieved Employee, one check may be issued that
25 aggregates both the Individual Settlement Payment and the Individual PAGA Payment.
26
27
28

1 **11. DISTRIBUTION OF PAYMENTS**

2 **A. Distribution of Individual Settlement Payments**

3 Participating Class Members will receive an Individual Settlement Payment and
4 Aggrieved Employees will receive an Individual PAGA Payment. Individual Settlement
5 Payment and Individual PAGA Payment checks shall remain valid and negotiable for one-
6 hundred and eighty (180) calendar days after the date of their issuance. Within seven (7)
7 calendar days after expiration of the 180-day period, checks for such payments shall be
8 canceled and funds associated with such checks shall be transmitted to the California
9 Controller's Office, Unclaimed Property Fund, thereby leaving no "unpaid residue" subject to
10 the requirements of California Code of Civil Procedure Section 384. In the event a
11 Participating Class Member fails to cash/deposit his or her Individual Settlement Payment, the
12 Participating Class Member shall nevertheless remain bound by the Settlement.

13 **B. Funding of Settlement**

14 Defendants shall, within seven (7) calendar days of the Effective Date, make payment of
15 the Gross Settlement Amount (as the same may be escalated pursuant to Paragraph 17 of this
16 Agreement) and Employer Taxes to the Settlement Administrator pursuant to Internal Revenue
17 Code section 1.468B-1 for deposit in an interest-bearing qualified settlement account ("QSA")
18 with an FDIC insured banking institution, for distribution in accordance with this Agreement and
19 the Court's Orders and subject to the conditions described herein.

20 **C. Time for Distribution**

21 Within seven (7) calendar days after payment of the Gross Settlement Amount and
22 Employer Taxes by Defendants, or as soon thereafter as practicable, the Settlement Administrator
23 shall distribute Payments from the QSA for: (1) the Service Award to Plaintiff as specified in
24 this Agreement and approved by the Court; (2) the Attorneys' Fees and Cost Award to be paid
25 to Class Counsel, as specified in this Agreement and approved by the Court; (3) the Settlement
26 Administrator Costs, as specified in this Agreement and approved the Court; (4) the LWDA
27 Payment, as specified in this Agreement and approved by the Court; and (5) Individual PAGA
28 Payments as specified in this Agreement and approved by the Court. The balance remaining

1 shall constitute the Net Settlement Amount from which Individual Settlement Payments shall be
2 made to Participating Class Members, less applicable taxes and withholdings. All interest
3 accrued shall be for the benefit of the Class Members and distributed on a *pro rata* basis to
4 Participating Class Members based on the number of Workweeks worked by them in the Class
5 Period.

6 **D. Tax Liability and Circular 230 Disclaimer**

7 Named Plaintiff, Defendants, Class Counsel, and Defense Counsel make no
8 representation as to the tax treatment or legal effect of the payments called for hereunder. The
9 Named Plaintiff and Participating Class Members are not relying on any statement,
10 representation, or calculation by Defendants or by the Settlement Administrator in this regard.
11 Participating Class Members understand and agree that they shall be responsible for the payment
12 of all taxes and penalties assessed on the payments specified herein, and shall hold the Parties,
13 Class Counsel and Defense Counsel free and harmless from and against any claims resulting from
14 treatment of such payments as non-taxable, including the treatment of such payments as not subject
15 to withholding or deduction for payroll and employment taxes.

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

1 OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT
2 ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY
3 ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY
4 THAT MAY BE IMPOSED ON THE ACKNOWLEDGING PARTY; AND (3) NO
5 ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION
6 THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR
7 ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS
8 LEGALLY BINDING) UPON DISCLOSURE BY THE ACKNOWLEDGING PARTY OF
9 THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING
10 ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT.

11 **12. ATTORNEYS' FEES AND LITIGATION COSTS**

12 Class Counsel shall apply for, and Defendants shall not oppose, an award of attorneys'
13 fees of up to 35% of the Gross Settlement Amount, which, unless escalated pursuant to Paragraph
14 17 of this Agreement, amounts to One Million Nine Hundred Twenty-Five Thousand Dollars and
15 Zero Cents (\$1,925,000.00). Class Counsel shall further apply for, and Defendants shall not
16 oppose, an application or motion by Class Counsel for reimbursement of actual costs associated
17 with Class Counsel's prosecution of this matter as set forth by declaration testimony in an amount
18 up to Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00). Awards of attorneys' fees
19 and costs shall be paid out of the Gross Settlement Amount, for all past and future attorneys' fees
20 and costs necessary to prosecute, settle, and obtain Final Order Approving Settlement in the
21 Action. The "future" aspect of the amounts stated herein includes, without limitation, all time
22 and expenses expended by Class Counsel (including any appeals therein). There will be no
23 additional charge of any kind to either the Settlement Class Members or request for additional
24 consideration from Defendants for such work unless, Defendants materially breach this
25 Agreement, including any term regarding funding, and further efforts are necessary from Class
26 Counsel to remedy said breach, including, without limitation, moving the Court to enforce the
27 Agreement. Should the Court approve attorneys' fees and/or litigation costs and expenses in
28

1 amounts that are less than the amounts provided for herein, then the unapproved portion(s) shall
2 be a part of the Net Settlement Amount.

3 Class Counsel shall be solely and legally responsible to pay all applicable taxes on the
4 award of attorneys' fees. Class Counsel shall provide the Settlement Administrator with properly
5 completed and signed copies of IRS Form W-9 in order for the Settlement Administrator to
6 process such fees approved by the Court. The Settlement Administrator shall issue an IRS
7 Form 1099 to Class Counsel for the Class Counsel Award.

8 **13. SERVICE AWARD TO PLAINTIFF**

9 Named Plaintiff Joseph Koutny shall seek, and Defendants shall not oppose, a Service
10 Award in an amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents
11 (\$7,500.00) to Plaintiff, for participation in and assistance with the Action. Any Service Award
12 awarded to Plaintiff shall be paid from the Gross Settlement Amount and shall be reported on an
13 IRS Form 1099. If the Court approves the Service Award to Plaintiff in less than the amounts
14 sought herein, then the unapproved portion(s) shall be a part of the Net Settlement Amount.

15 The Named Plaintiff will be solely and legally responsible to pay any and all applicable
16 taxes on the Service Award and shall hold harmless Defendants, Class Counsel and Defense
17 Counsel from any claim or liability for taxes, penalties, or interest arising as a result of payment
18 of the Service Award. Any amount requested by the Named Plaintiff for the Service Award and
19 not awarded by the Court shall become part of the Net Settlement Amount and shall be distributed
20 to Participating Class Members as part of their Individual Settlement Payment.

21 **14. TAXATION AND ALLOCATION**

22 Each Individual Settlement Share shall be allocated as follows: 20% as wages (to be
23 reported on an IRS Form W-2); and 80% as interest and penalties (to be reported on an IRS Form
24 1099). Each Individual PAGA Payment shall be allocated entirely as penalties. The Parties agree
25 that the employees' share of taxes and withholdings with respect to the wage-portion of the
26 Individual Settlement Share will be withheld from the Individual Settlement Share in order to
27 yield the Individual Settlement Payment. The amount of federal income tax withholding will be
28 based upon a flat withholding rate for supplemental wage payments in accordance with Treasury

1 Regulation § 31.3402(g)-1(a)(2) as amended or supplemented. Income tax withholding will also
2 be made pursuant to applicable state and/or local withholding codes or regulations.

3 All monies received by Participating Class Members under the Settlement which are
4 attributable to wages shall constitute income to such Participating Class Members solely in the
5 year in which such monies actually are received by the Participating Class Members. It is the
6 intent of the Parties that Individual Settlement Payments provided for in this Agreement are the
7 sole payments to be made by Defendants to Participating Class Members in connection with this
8 Settlement, with the exception of the Named Plaintiff, and that the Participating Class Members
9 are not entitled to any new or additional compensation or benefits as a result of having received
10 the Individual Settlement Payments. Furthermore, the receipt of Individual Settlement Payments
11 by Participating Class Members shall not, and does not, by itself establish any general, special,
12 or joint employment relationship between and among the Participating Class Member(s) and
13 Defendants.

14 Forms W-2 and/or Forms 1099 will be distributed by the Settlement Administrator at
15 times and in the manner required by the Internal Revenue Code of 1986 (the “Code”) and
16 consistent with this Agreement. If the Code, the regulations promulgated thereunder, or other
17 applicable tax law, is changed after the date of this Agreement, the processes set forth in this
18 Section may be modified in a manner to bring Defendants into compliance with any such
19 changes.

20 All Employer Taxes shall be paid by Defendants separate, apart, and in addition to the
21 Gross Settlement Amount. Defendants shall remain liable to pay the employer’s share of payroll
22 taxes as described above.

23 Neither Counsel for Plaintiff nor Defendants intend anything contained in this Agreement
24 to constitute advice regarding taxes or taxability, nor shall anything in this Agreement be relied
25 upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R.
26 Part 10, as amended) or otherwise.

1 **15. PRIVATE ATTORNEYS' GENERAL ACT ALLOCATION**

2 The Parties agree to allocate Two Hundred Fifty Thousand Dollars and Zero Cents
3 (\$250,000.00) of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA,
4 seventy-five percent (75%) of the amount allocated toward PAGA (\$187,500.00) will be paid to
5 the LWDA and twenty-five percent (25%) (\$62,500.00) will be distributed to Aggrieved
6 Employees on a *pro rata* basis based upon their respective Workweeks worked as Aggrieved
7 Employees during the PAGA Period.

8 **16. COURT APPROVAL**

9 This Agreement is contingent upon an order by the Court granting Final Order Approving
10 Settlement, and that the LWDA does not intervene and object to the Settlement. In the event it
11 becomes impossible to secure approval of the Settlement by the Court and the LWDA, the Parties
12 shall be restored to their respective positions in the Action prior to entry of this Settlement. If
13 this Settlement Agreement is voided, not approved by the Court or approval is reversed on appeal,
14 it shall have no force or effect and no Party shall be bound by its terms except to the extent: (a)
15 the Court reserves any authority to issue any appropriate orders when denying approval; and/or
16 (b) there are any terms and conditions in this Settlement Agreement specifically stated to survive
17 the Settlement Agreement being voided or not approved, and which control in such an event.

18 **17. INCREASE IN WORKWEEKS**

19 Defendants have estimated there are 253,987 Workweeks at issue for the Class
20 Members during the Class Period. If, as of the close of the Class Period, the actual number of
21 Workweeks worked by Class Members during the Class Period is more than one hundred ten
22 percent (110%) of this estimate (i.e., if there are 279,386 or more Workweeks worked by the
23 Class Members during the Class Period), then either the Gross Settlement Amount will be
24 increased by the same proportion above one hundred ten percent (110%) using the Workweek
25 Value or Defendants, at their sole discretion, may elect to cut off the Class Period and PAGA
26 Period as of the date the total Workweeks worked by Class Members during the Class Period
27 exceeds 10% of estimated 253,987 Workweeks worked by Class Members during the Class
28 Period. The Workweek Value shall be calculated by dividing the Gross Settlement Amount by

the estimate of Workweeks at issue, meaning that the parties agree that the Workweek Value shall be \$21.66. ($\$5,500,000 / 253,987$ Workweeks.) Thus, for example, if the Workweeks worked by Class Members during the Class Period amount to 304,784 Workweeks, Defendants may choose either that (i) the Gross Settlement Amount to be paid will be increased by \$550,135.84 ($((253,987 \text{ Workweeks} \times .1) \times \$21.66)$); or (ii) the Class Period and the PAGA Period will end on the date on which 279,386 Workweeks are reached.

18. WITHDRAWAL FROM SETTLEMENT BASED ON REQUESTS FOR EXCLUSION

Defendants shall retain the option to nullify the Agreement in the event that more than 2% of Class Members submit timely and valid Requests for Exclusion. Defendants must provide written notice to Class Counsel of their withdrawal within thirty (30) calendar days of receiving sufficient information to determine that the opt out rate exceeds 2%. If Defendants exercise this right, it shall be solely responsible for the costs incurred for settlement administration up to the date of nullification.

19. NOTICE OF JUDGMENT

In addition to any duties set out herein, the Settlement Administrator shall provide notice of the Final Judgment entered in the Action by posting the same on its website for a period of no less than four (4) years.

20. LIMITATIONS ON USE OF THIS SETTLEMENT

A. Non-Evidentiary Use

Whether or not the Effective Date occurs, neither this Agreement, nor any of its terms, nor the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendants or any other 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 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this Agreement, for Defendants to establish that a Class Member has

resolved any of his or her claims released through this Agreement, or any motion necessary to enforce the terms of the Settlement.

B. Nullification

The Parties have agreed to the certification of the Class encompassing all claims alleged in the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the Action in its entirety, then the Parties shall meet and confer to address the Court's concerns and make necessary revisions to the Agreement. However, in the event the Court requests revisions which would frustrate the purpose of this Settlement and the Parties are unable to come to a resolution, then: (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court; (iv) the fact that the Parties were willing to stipulate to class certification of all causes of action pled in the Action as part of the Settlement will have no bearing on, and will not be admissible in connection with, the issue of whether the Class should be certified by the Court in a non-settlement context in this Action or any other action, and in any of those events, Defendants expressly reserve the right to oppose certification of the Class; and (v) the Second Amended Complaint in the Action shall be null and void and of no force or effect, and the First Amended Complaint filed in the Action shall thereafter become the operative complaint. The Parties will then take the appropriate steps to lift the stay currently in place in the Federal Court Action.

Additionally, should the Settlement not become final for any reason, any Settlement Administration Costs already incurred by the Settlement Administrator shall be split evenly amongst the Parties. If Defendants elect to revoke the Settlement, as specified in Paragraph 18, the Parties and any monies required to be paid under this Settlement shall be returned to their respective statuses as of the date and time immediately prior to the execution of this Settlement,

1 and the Parties shall proceed in all respects as if this Settlement had not been executed, except
2 that any Settlement Administration Costs already incurred by the Settlement Administrator shall
3 be paid to the Settlement Administrator by Defendants.

4 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and
5 the Gross Settlement Amount shall not be distributed pending the completion of the appeal.

6 **21. MISCELLANEOUS PROVISIONS**

7 **A. Interpretation of the Agreement**

8 This Agreement constitutes the entire agreement between the Parties with respect to its
9 subject matter. Except as expressly provided herein, this Agreement has not been executed in
10 reliance upon any other written or oral representations or terms, and no such extrinsic oral or
11 written representations or terms shall modify, vary or contradict its terms. In entering into this
12 Agreement, the Parties agree that this Agreement is to be construed according to its terms and
13 may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and
14 enforced under the laws of the State of California, both in its procedural and substantive aspects,
15 without regard to its conflict of law provisions. Any claim arising out of or relating to the
16 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
17 Court of the State of California for the County of Kings, and Plaintiff and Defendants hereby
18 consent to the personal jurisdiction of the Court in the Action over it solely in connection
19 therewith. The foregoing is only limited to disputes concerning this Agreement. The Parties,
20 and each of them, participated in the negotiation and drafting of this Agreement and had available
21 to them the advice and assistance of independent counsel. As such, neither Plaintiff nor
22 Defendants may claim that any ambiguity in this Agreement should be construed against the
23 other. The Agreement may be modified only by a writing signed by counsel for the Parties and
24 approved by the Court.

25 **B. Further Cooperation**

26 The Parties and their respective attorneys shall proceed diligently to prepare and execute
27 all documents, to seek the necessary approvals from the Court, and to do all things reasonably
28 necessary to consummate the Settlement as expeditiously as possible. The Parties agree that they

1 will not take any action inconsistent with this Agreement, including, without limitation,
2 encouraging Class Members to opt out of the Settlement. In the event the Court finds that any
3 Party has taken actions inconsistent with the Settlement, including, without limitation,
4 encouraging Class Members to opt out of the Settlement, the Court may take any corrective
5 actions, including enjoining any Party from communicating regarding the Settlement on an *ex*
6 *parte* basis, issuing (a) corrective notice(s), awarding monetary, issue, evidentiary and/or
7 terminating sanctions against that Party, and/or enforcing this Agreement despite the presence of
8 opt-outs and/or objections.

9 **C. Counterparts**

10 The Agreement may be executed in one or more actual or non-original counterparts, all
11 of which will be considered one and the same instrument and all of which will be considered
12 duplicate originals.

13 **D. Authority**

14 Each individual signing below warrants that he or she has the authority to execute this
15 Agreement on behalf of the Party for whom or which that individual signs.

16 **E. No Third-Party Beneficiaries**

17 Plaintiff, Participating Class Members, Aggrieved Employees, the State of California,
18 Class Counsel, and Defendants are direct beneficiaries of this Agreement, but there are no third-
19 party beneficiaries.

20 **F. Deadlines Falling on Weekends or Holidays**

21 To the extent that any deadline set forth in this Agreement falls on a Saturday, Sunday,
22 or legal holiday, that deadline shall be continued until the following business day.

23 **G. No Public Comment**

24 The Parties and their counsel agree that they will not issue any press releases, initiate any
25 contact with the press, respond to any press inquiry, or have any communication with the press
26 about the fact, amount or terms of the Agreement. Class Counsel further agrees not to use the
27 Agreement or any of its terms for any marketing or promotional purposes. Nothing herein will
28 restrict Class Counsel from including publicly available information regarding this settlement in

1 future judicial submissions regarding Class Counsel's qualifications and experience. Further,
2 Class Counsel will not include, reference or use the Agreement for any marketing or promotional
3 purposes, or for attempting to influence business relationships at Defendants' locations, either
4 before or after the Motion for Preliminary Approval is filed. However, nothing in this Agreement
5 shall prevent Class Counsel from communicating with Class Members who request Class
6 Counsel's assistance regarding this Settlement.

7 **H. Jurisdiction of the Court**


8 Pursuant to California Code of Civil Procedure section 664.6, the Court shall retain
9 jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of
10 this Settlement Agreement and all orders and judgments entered in connection therewith, and the
11 Parties and their counsel hereto submit to the jurisdiction of the Court for purposes of
12 interpreting, implementing, and enforcing the settlement embodied in this Settlement Agreement
13 and all orders and judgments entered in connection therewith.

14 **I. Severability**

15 In the event that one or more of the provisions contained in this Agreement shall for any
16 reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
17 unenforceability shall in no way effect any other provision if Defense Counsel and Class Counsel,
18 on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed as if such
19 invalid, illegal, or unenforceable provision had never been included in this Agreement.

20 **IT IS SO AGREED:**

21 Dated: Nov 22, 2022, 2022


Joseph Koutny (Nov 22, 2022 14:57 PST)

22 JOSEPH KOUTNY
23 Plaintiff and Class Representative

24
25 ///

26 ///

27 ///

28 ///

1 Dated: _____, 2022

2 PAE AVIATION AND TECHNICAL
3 SERVICES,
4 LLC; PAE APPLIED TECHNOLOGIES, LLC;
5 PAE NATIONAL SECURITY SOLUTIONS,
6 LLC; PAE SHARED SERVICES, LLC; PAE
7 PROFESSIONAL SERVICES, LLC; AND PAE
8 GOVERNMENT SERVICES, INC.
9 Defendants

10 By: _____

11 Its: _____

12 **AGREED AS TO FORM:**

13 Dated: November 23
14 _____, 2022

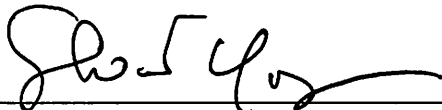
Vedang J. Patel

15 DAVID D. BIBIYAN
16 VEDANG J. PATEL
17 **Counsel for Plaintiff JOSEPH KOUTNY**

18 Dated: _____, 2022

19 ADAM Y. SIEGEL
20 MARTIN P. VIGODNIER
21 **Counsel for Defendants PAE AVIATION**
22 **AND TECHNICAL SERVICES,**
23 **LLC; PAE APPLIED TECHNOLOGIES,**
24 **LLC; PAE NATIONAL SECURITY**
25 **SOLUTIONS, LLC; PAE SHARED**
26 **SERVICES, LLC; PAE PROFESSIONAL**
27 **SERVICES, LLC; AND PAE**
28 **GOVERNMENT SERVICES, INC.**

1 Dated: 29 November 2022, 2022


PAE AVIATION AND TECHNICAL
SERVICES,
LLC; PAE APPLIED TECHNOLOGIES, LLC;
PAE NATIONAL SECURITY SOLUTIONS,
LLC; PAE SHARED SERVICES, LLC; PAE
PROFESSIONAL SERVICES, LLC; AND PAE
GOVERNMENT SERVICES, INC.
Defendants

7 By: Stuart Young
8
9 Its: Executive Vice President and
General Counsel

12 **AGREED AS TO FORM:**

14 Dated: _____, 2022

DAVID D. BIBIYAN
VEDANG J. PATEL
Counsel for Plaintiff JOSEPH KOUTNY

17 Dated: _____, 2022

ADAM Y. SIEGEL
MARTIN P. VIGODNIER
Counsel for Defendants PAE AVIATION
AND TECHNICAL SERVICES,
LLC; PAE APPLIED TECHNOLOGIES,
LLC; PAE NATIONAL SECURITY
SOLUTIONS, LLC; PAE SHARED
SERVICES, LLC; PAE PROFESSIONAL
SERVICES, LLC; AND PAE
GOVERNMENT SERVICES, INC.

1 Dated: _____, 2022

2 PAE AVIATION AND TECHNICAL
3 SERVICES,
4 LLC; PAE APPLIED TECHNOLOGIES, LLC;
5 PAE NATIONAL SECURITY SOLUTIONS,
6 LLC; PAE SHARED SERVICES, LLC; PAE
7 PROFESSIONAL SERVICES, LLC; AND PAE
8 GOVERNMENT SERVICES, INC.
9 Defendants

10 By: _____


11 Its: _____

12 **AGREED AS TO FORM:**

13
14 Dated: _____, 2022

15 _____
16 DAVID D. BIBIYAN
17 VEDANG J. PATEL
18 **Counsel for Plaintiff JOSEPH KOUTNY**

19 Dated: November 29, 2022

20 
21 _____
22 ADAM Y. SIEGEL
23 MARTIN P. VIGODNIER
24 **Counsel for Defendants PAE AVIATION**
25 **AND TECHNICAL SERVICES,**
26 **LLC; PAE APPLIED TECHNOLOGIES,**
27 **LLC; PAE NATIONAL SECURITY**
28 **SOLUTIONS, LLC; PAE SHARED**
SERVICES, LLC; PAE PROFESSIONAL
SERVICES, LLC; AND PAE
GOVERNMENT SERVICES, INC.