

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AND RELEASE

This Settlement and Release (hereinafter “Settlement” or “Agreement”) is made and entered into by and between Plaintiff ATLAS VARGAS (hereinafter “Plaintiff” or “Vargas”) on behalf of himself, the State of California, and other allegedly aggrieved employees (as defined below), on the one hand, and Defendant SKYSKOPES, INC. (hereinafter, “Defendant” or “SkySkopes”), on the other hand. Plaintiff, the aggrieved employees, and Defendant are collectively referred to herein as the “Parties.”

I NATURE OF ACTION

1. Plaintiff commenced a putative class action lawsuit in the Superior Court of California – County of Ventura, on August 11, 2020, alleging six (6) causes of action against Defendant based on various wage and hour claims involving violations of the California Labor Code, on behalf of drone pilots and/or similarly titled job positions in California at any time since August 11, 2016 (the "Class Claims"), *Atlas Vargas v. SkySkopes, Inc.*, Case No. 56-2020-00544196-CU-OE-VTA (the Lawsuit"). Additionally, on August 11, 2020, Plaintiff electronically submitted a new Private Attorneys General Act (“PAGA”) Claim Notice via the California Labor Workforce Development Agency (“LWDA”) online portal and notified Defendant, via certified return-receipt mail, of the alleged PAGA claims. Thereafter, after exhausting his administrative requirements under the PAGA, on October 15, 2020, Plaintiff filed his First Amended Complaint (“FAC”) in the Lawsuit, adding an additional cause of action under the PAGA for himself and all other allegedly aggrieved employees who were employed by Defendant as drone pilots flying Unmanned Aerial Vehicles (“UAV” or “Drones”) and/or similarly titled job positions in the State of California at any time since August 11, 2019 (hereafter, the "Aggrieved Employees" or "PAGA Members"). Thereafter, on or about December 4, 2020, the Parties executed a Joint Stipulation to submit Plaintiff’s individual claims to arbitration and to “stay” the PAGA cause of action before the Superior Court of California – County of Ventura, which the Court granted on December 22, 2020.

2. This Settlement relates only to the PAGA cause of action asserted by Plaintiff in the Lawsuit and the dismissal of the Class Claims as set forth herein.

3. The Parties wish to avoid the expense of further proceedings and any future prosecution of Plaintiff's PAGA cause of action, as alleged in the Lawsuit and FAC.

II REPRESENTATIONS AND DEFINITIONS

4. "Lawsuit" refers to the civil action filed in the Superior Court of the State of California for the County of Ventura, entitled *Atlas Vargas v. SkySkopes, Inc.* (Case No. 56-2020-00544196-CU-OE-VTA), as currently presented in the operative FAC.

5. "PAGA Counsel" shall refer to Dychter Law Offices, APC and United Employees Law Group, PC, collectively.

6. Counsel for Defendant ("Defense Counsel") shall refer to Cary Kinkead, Esq. and Christopher Cianci, Esq. of Lagasse Branch Bell + Kinkead LLP.

7. "Covered Period" shall mean the period commencing on August 11, 2019 through April 8, 2021.

8. "PAGA Plaintiff" shall refer to the Plaintiff, Mr. Atlas Vargas.

9. "PAGA Members" shall refer to all Drone pilots flying Unmanned Aerial Vehicles ("UAV") and/or similarly titled job positions employed by SkySkopes, Inc. in California at any time between August 11, 2019 through April 8, 2021. Defendant represents that there are 82 PAGA Members, including PAGA Plaintiff.

10. "Court" refers to the Superior Court of California – County of Ventura (Dept. 40), the Honorable Mark Borrell, presiding.

11. "Covered Claims" means any and all claims, demands, rights, liabilities and/or causes of action asserting PAGA violations and seeking PAGA penalties, as alleged in the August 11, 2020 Notice to Defendant and the LWDA and asserted in the FAC or that could have been asserted based on the facts alleged in the FAC, including the specifically alleged violations of California Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 1194, 1197, and 2802, and Industrial Welfare Commission Wage Order(s), that accrued during the Covered Period.

12. "Settlement" shall mean this Settlement and Release.

13. “Effective Date” shall mean the first court date after final approval of this settlement is granted by the Court.

14. Defendant denies any liability or wrongdoing of any kind associated with the claims alleged in the Lawsuit, including but not limited to the Covered Claims asserted in the FAC. Defendant contends, among other things, that they have complied at all times with the California Labor Code, the related California Industrial Welfare Commission (I.W.C.) Wage Orders, and all other state and federal wage and hour laws, and further contend that all PAGA Members were properly paid all wages owed at the lawful applicable rates of pay, were provided with all required reimbursements, received all required breaks, were paid all wages owed in a timely manner upon separation of employment, received compliant itemized wage statements, and that the Lawsuit is without merit. Defendant has denied and continues to deny each and every material factual allegation and alleged claim asserted against them in the Lawsuit.

15. Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability, culpability, negligence or wrongdoing on the part of Defendant. Nothing herein shall constitute an admission by Defendant that the Lawsuit was properly brought against Defendant. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of either Defendant or of the truth of any of the factual allegations in the operative Complaint in the Lawsuit; and (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendant in any civil, criminal, or administrative proceeding in any court, administrative agency or other tribunal.

16. The Parties recognize that, absent this Settlement, the issues presented in the Lawsuit are likely to be resolved only with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay and expense disproportionate to the potential benefits of litigation. The Parties have taken into account the risk and uncertainty of the outcome inherent in any litigation.

17. Plaintiff and PAGA Counsel have diligently pursued an investigation of the claims against Defendant.

18. Based on their own independent investigations and evaluations, Plaintiff and PAGA Counsel are of the opinion that the resolution for the consideration and on the terms set forth in this Settlement is fair, reasonable and adequate and is in the best interests of all Parties.

19. The purpose of this Settlement is to settle and compromise all Covered Claims by Plaintiff that Plaintiff, on behalf of himself, the State of California, the California LWDA and all other PAGA Members, have against Defendant and the Releasees (as defined in Section IV, below).

III TERMS OF SETTLEMENT

20. In consideration of the mutual covenants, promises and representations set forth in this Settlement, Plaintiff and Defendant agree to fully and finally settle and compromise the Covered Claims, subject to the terms and conditions set forth in this Settlement.

21. The Amount of Settlement. As consideration for the settlement described herein and the release contained in this Settlement, the Parties have agreed that a total of \$166,000.00 (the “Gross PAGA Amount”) shall be paid by Defendant for all penalties under California Labor Code § 2698 *et seq.*, the Private Attorneys General Act of 2004 (the “PAGA”).

22. Pursuant to Labor Code § 2699(g)(1), the Parties agree that Plaintiff’s counsel is entitled to seek an award of attorney’s fees not to exceed \$55,333.33 (33.33% of the Gross PAGA Amount) and costs not to exceed \$7,500.00, subject to approval by the Court, which will both be paid from the Gross PAGA Amount and will not be opposed by Defendant.

23. The Parties agree that Plaintiff Atlas Vargas may seek a service award/incentive award in an amount not to exceed \$5,000.00, subject to approval by the Court, which will be paid from the Gross PAGA Amount, and will not be opposed by Defendant.

24. The Parties agree to utilize Atticus Administration, LLC (“Atticus”) for settlement administration purposes, the costs of which are estimated to be \$2,000.00, subject to approval by the Court, which will be paid from the Gross PAGA Amount.

25. The balance of the Gross PAGA Amount that remains after deduction of the amounts awarded for (i) attorney's fees, (ii) costs, (iii) service award, and (iv) settlement administration shall be the "Net PAGA Amount."

26. 75% of the Net PAGA Amount shall be paid directly to the LWDA by the court-approved settlement administration company.

27. 25% of the Net PAGA Amount shall be paid directly to the approximately 82 PAGA Members by the court-approved settlement administration company, including Plaintiff's share, based upon their respective number of pay periods in the applicable statutory time period. The payments to the PAGA Members shall be accompanied by a written notice letter, in a form agreed upon by Counsel for Plaintiff and Defendant and approved by the Court, providing a brief description of the resolution and the reasons the funds are being distributed and the basis for the calculated settlement payment. Such mailing to PAGA Members shall be conclusive evidence of payment and shall satisfy any and all due process requirements.

- a. Within ten (10) business days after the Effective Date, Defendant shall provide Atticus with an Excel Spreadsheet that contains the following information (herein, the "PAGA Members' Information"):
 - i. the full name of each individual;
 - ii. their last known home mailing addresses;
 - iii. their social security numbers; and
 - iv. the number of pay periods that they each worked, respectively, during the Covered Period (*i.e.* August 11, 2019 through April 8, 2021).
- b. Atticus shall use the PAGA Members' Information solely for the purpose of giving the PAGA Members notice of the right to a share of the funds and for distribution of those funds. PAGA Members' Information shall be kept confidential by Atticus and will not be disclosed to anyone other than as required to report to applicable taxing authorities or as required to carry out the reasonable efforts to identify PAGA Members' Information, pursuant to Defendant's express written authorization, or by order of the Court.

- c. In the event that Atticus mails a check to a PAGA Member that remains uncashed after 120 days, any and all such checks shall expire and the amounts shall be considered to be "Unclaimed Funds." The aggregated Unclaimed Funds shall be sent directly by Atticus to the designated *cy pres* of "Ventura County Legal Aid, Inc." www.vclegalaid.org, a 501(c)(3) IRS tax-exempt entity, providing free civil legal services to the underserved and impoverished population in the Ventura County Area. In the event the Court does not approve of "Ventura County Legal Aid, Inc." as the designated *cy pres*, the Parties and their counsel agree to select a different mutually agreeable *cy pres* that meets with the Court's approval.

28. Tax Treatment of Settlement Amounts. Form IRS 1099s shall be issued by Atticus to Plaintiff and the PAGA Members for the settlement payments, as deemed necessary by Atticus in accordance with the applicable IRS regulations. Nothing in this Settlement is intended to constitute legal advice regarding federal, state and/or local tax obligations. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any U.S. or Federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Each individual who receives a payment from this Settlement will be responsible for payment of any taxes owing on said amount. Neither Defendant, Defendant's counsel nor PAGA Counsel are responsible for any tax obligations regarding the allocation of the settlement payments. Plaintiff agrees to hold Defendant harmless from any liability, including, but not limited to, penalties imposed by the IRS or other government agency, resulting from the characterization and reporting of payments made pursuant to this Agreement.

EACH PARTY TO THIS AGREEMENT ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN THE MEANING OF UNITED STATES

TREASURY DEPARTMENT CIRCULAR 230 (31 CFR PART 10, AS AMENDED); (2) PLAINTIFF (A) HAS RELIED EXCLUSIVELY UPON HIS OWN, INDEPENDENT LEGAL AND TAX ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON HIM; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY PLAINTIFF OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS AGREEMENT

29. Defendant's monetary obligation under this Agreement is limited to the Gross PAGA Amount. Defendant shall not be required to contribute any additional monies above the Gross PAGA Amount under any circumstances whatsoever. Under no circumstances will Defendant be required to pay more than the Gross PAGA Amount to obtain the relief provided in this Agreement or to fully and finally settle and resolve the Covered Claims.

Notwithstanding the above, in the event that this Agreement is canceled, rescinded, terminated, voided, or nullified, in whole or in part, however that may occur, or the Settlement is barred by operation of law, or invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendant will cease to have any obligation to pay any portion of the Gross PAGA Amount to anyone under the terms of this Agreement. Defendant also does not waive but rather expressly reserves all rights to challenge the PAGA claim and allegations on all procedural and factual grounds, and to assert all applicable defenses, if this Agreement is not approved by the Court.

IV RELEASE

30. Release by Plaintiff. Upon the Effective Date of this Settlement, Plaintiff, the LWDA, and all PAGA Members shall fully release and forever discharge Defendant and its respective past, present, and future officers, directors, owners, employees, shareholders, agents, trustees, representatives, attorneys, insurers, parent companies, subsidiaries, divisions, affiliates, related entities, predecessors, successors, assigns, including and any individual or entity that could be jointly liable with, or vicariously liable, for Defendant (the foregoing are collectively referred to herein as the “Releasees”) from the Covered Claims that arose during the Covered Period.

V COURT APPROVAL

31. The Parties recognize that in accordance with Labor Code section 2699(l), Court approval is required in the event of a settlement of a PAGA action. The Agreement is contingent upon the approval by the Court of this Settlement. Plaintiff shall file a noticed motion seeking Court approval of the PAGA Settlement. At the same time that Plaintiff files and serves his motion to approve the settlement, he shall also submit the motion to the LWDA, in accordance with Labor Code section 2699(l)(2). Plaintiff shall also provide the LWDA with the Order approving or denying the settlement, upon its entry by the Court, in compliance with Labor Code section 2699(l)(3).

32. This Settlement and any and all releases contained herein shall be void if the Court declines to approve the Settlement or if the approval of the Settlement does not survive any appeals process.

33. Should the Court approve of this Settlement, Plaintiff will also request that the Court dismiss the remaining Class Claims on behalf of the putative class ***without prejudice***.

VI PAYMENT OF THE SETTLEMENT

34. Within ten (10) business days after the Effective Date, Defendant shall wire transfer the Gross PAGA Amount (*i.e.*, \$166,000.00) to the Qualified Settlement Fund (“QSF”) setup and maintained by Atticus, and Atticus shall thereafter distribute the Gross PAGA Amount in accordance with the terms of this Agreement, no later than seven (7) business days after receipt of the Gross PAGA Amount and PAGA Members’ Information excel spreadsheet.

VII DUTIES OF THE PARTIES PRIOR TO APPROVAL

35. Promptly upon execution of this Settlement, PAGA Counsel shall file a noticed motion to approve the Settlement and to request dismissal of the remaining Class Claims *without prejudice*. PAGA Counsel shall provide a draft of the settlement motion to counsel for Defendant at least two (2) court days prior to filing, for purposes of receiving any feedback or comments. Provided that the noticed motion is consistent with the terms of this Settlement Agreement, the motion will be unopposed and Defendant shall file a notice of non-opposition within two (2) court days of Plaintiff's motion seeking approval of the Settlement being filed.

36. Neither Plaintiff nor Defendant, nor their respective counsel, will directly or indirectly solicit or otherwise encourage any PAGA Member to object to the Settlement.

VIII PARTIES' AUTHORITY

37. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions hereof.

IX MUTUAL FULL COOPERATION

38. The Parties agree to cooperate fully with each other to accomplish the terms of this Settlement, including but not limited to, execution of such documents, and to take such other action(s) as may reasonably be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement, and any other efforts that may become necessary by Order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein. As soon as practicable after execution of this Agreement, PAGA Counsel shall, with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the approval of this Settlement from the Court.

X NO PRIOR ASSIGNMENTS

39. The Parties hereto represent, covenant and warrant that they have not, directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein.

XI NO ADMISSION

40. The Parties agree that this Agreement does not constitute an admission by Defendant or any of the Releasees of any of the matters alleged in the Lawsuit or of any violation by any of them of any federal, state or local law, ordinance or regulation, or of any violation of any policy or procedure, or of any liability or wrongdoing whatsoever. Neither this Agreement nor anything in this Agreement shall be construed to be or shall be admissible in any proceeding as evidence of liability or wrongdoing by Defendant or the Releasees. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expenses.

XII CONSTRUCTION

41. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, extensive arm's-length negotiations between the Parties and were achieved only after a full-day mediation session with Kristin Rizzo, Esq. and via a "mediator's proposal." This Agreement supersedes all prior agreements, written or oral, between or among the Parties with regard to the Covered Claims and is entered into concurrently along with the Confidential Settlement Agreement and General Release of Individual Claims between Plaintiff and Defendant, releasing all of Plaintiff's non-PAGA individual claims that have been asserted against Defendant.

XIII CAPTIONS AND INTERPRETATIONS

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

XIV MODIFICATION

43. This Settlement may not be changed, altered, or modified, except in writing and signed by the Parties hereto, and approved by the Court. This Settlement may not be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

XV MISCELLANEOUS

44. This Settlement contains the entire agreement between the Parties relating to the

Settlement of the Covered Claims, and all prior or contemporaneous agreements, understandings, representations and statements, whether oral or written and whether by a Party or such Party's legal counsel, regarding the resolution of the Covered Claims, are merged herein. No rights hereunder may be waived except in writing.

45. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors and assigns.

46. This Settlement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be transmitted electronically (as PDF files) or by facsimile.

47. The Parties agree that upon approval by the Court, this Settlement shall be enforceable by the Court, and the Court shall retain exclusive and continuing equity jurisdiction of this action over all Parties to interpret and enforce the terms, conditions and obligations set forth in this Settlement. The Parties agree that if any provision of this Settlement is determined to be invalid, the invalid portion shall be deemed severed and the remaining Settlement deemed enforceable, which the Parties shall cooperate to effectuate. The Parties intend for this Agreement to be enforceable pursuant to Code of Civil Procedure Section 664.6.

**I HAVE READ THE FOREGOING AGREEMENT CONTAINING 48
PARAGRAPHS. I ACCEPT AND AGREE TO THE PROVISIONS IT
CONTAINS, AND HEREBY EXECUTE IT VOLUNTARILY WITH FULL
UNDERSTANDING OF ITS CONSEQUENCES AND WITH AMPLE
OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL.**

DATED: May 3, 2021



Atlas (May 3, 2021 19:23 PDT)

Atlas Vargas

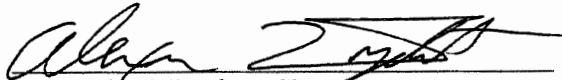
DATED: _____

SKYSKOPES, INC.

By: Dan Daffinrud, CFO

APPROVED AS TO FORM AND CONTENT:

DATED: MAY 3, 2021



Alexander I. Dychter, Esq.
Dychter Law Offices, APC
Co-Counsel for Plaintiff Vargas

DATED: May 4, 2021



Walter L. Haines, Esq.
United Employees Law Group, PC
Co-Counsel for Plaintiff Vargas

DATED: _____

Cary Kinhead, Esq.
Christopher Cianci, Esq.
Lagasse Branch Bell + Kinhead LLP
Counsel for Defendant SKYSKOPES, INC.

DATED: 5-5-2021



SKYSKOPES, INC.

By: Dan Daffinrud, CFO

APPROVED AS TO FORM AND CONTENT:

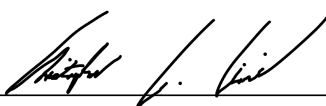
DATED: _____

Alexander I. Dychter, Esq.
Dychter Law Offices, APC
Co-Counsel for Plaintiff Vargas

DATED: _____

Walter L. Haines, Esq.
United Employees Law Group, PC
Co-Counsel for Plaintiff Vargas

DATED: 05/05/2021



Cary Kinkead, Esq.
Christopher Cianci, Esq.
Lagasse Branch Bell + Kinkead LLP
Counsel for Defendant SKYSKOPES, INC.