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Attorneys for Defendant
CORTEZ GROWERS ASSOCIATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MERCED

ARTURO SCHULTE, individually and on
behalf of others similarly situated;

Plaintiff,

vs.

CORTEZ GROWERS ASSOCIATION, a
California corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: 22CV-00313

Assigned for all purposes to Hon. Brian
McCabe, Courtroom 8

**JOINT STIPULATION OF CLASS
ACTION AND PAGA SETTLEMENT**

Complaint Filed: August 18, 2021

Trial Date: None Set

1 **JOINT STIPULATION OF CLASS ACTION AND PAGA SETTLEMENT**

2 This Joint Stipulation of Class Action and PAGA Settlement is entered into by and
3 between Plaintiff Arturo Schulte, individually and on behalf of the Settlement Class and
4 Defendant Cortez Growers Association.

5 **DEFINITIONS**

6 1. “Agreement” or “Settlement Agreement” means this Joint Stipulation of Class
7 Action and PAGA Settlement.

8 2. “Action” means the court action, entitled *Schulte v. Cortez Growers Association*,
9 Merced County Superior Court, Case No. 22CV-00313.

10 3. “Class Counsel” means Heather Davis and Amir Nayebdadash of Protection Law
11 Group, LLP and Cody Payne and Kim Nguyen of Payne Nguyen, LLP.

12 4. “Class Counsel’s Fees and Costs” means attorneys’ fees for Class Counsel’s
13 litigation and resolution of the Action and their expenses and costs incurred in connection with
14 the Action, which shall be paid from the Gross Settlement Amount. Class Counsel will request
15 attorneys’ fees not to exceed Thirty-Five Percent (35%) of the Gross Settlement Amount, *i.e.*,
16 One Hundred Ninety-Two Thousand Five Hundred Dollars (\$192,500.00) and the reimbursement
17 of any costs and expenses associated with Class Counsel’s litigation and settlement of the Action,
18 not to exceed Thirty Thousand Dollars (\$30,000.00), subject to the Court’s approval. Defendant
19 has agreed not to oppose Class Counsel’s request for fees and reimbursement of costs and
20 expenses in the amounts set forth above.

21 5. “Class List” means a complete list of all Class Members that Defendant will
22 diligently and in good faith compile from their records and provide to the Settlement
23 Administrator within fourteen (14) calendar days after Preliminary Approval of this Settlement.
24 The Class List will be formatted in a readable Microsoft Office Excel spreadsheet and will include
25 each Class Member’s: (1) full name; (2) last known home address; (3) social security number; (4)
26 start and end dates of active employment as a non-exempt employee of Defendant in the state of
27 California; (5) total Workweeks during the Class Period; (6) total Workweeks during the PAGA
28 Period; and (7) any other information required by the Settlement Administrator in order to

1 effectuate the terms of the Settlement. Defendant will also provide the Settlement Administrator
2 with the last known telephone number for Class members upon request of the Settlement
3 Administrator.

4 6. "Class" or "Class Members" means all current and former non-exempt employees
5 of Cortez Growers Association, who were employed by Cortez Growers Association in the state
6 of California at any time during the Class Period.

7 7. "Class Notice" means the Notice of Class Action Settlement in a form
8 substantially similar to the form attached hereto as Exhibit A, that will be mailed to Class
9 Members' last known address and which will provide Class Members with information regarding
10 the Action and information regarding the settlement of the Action.

11 8. "Class Period" means the period from August 18, 2017, through the date of
12 preliminary approval of the settlement by the Court.

13 9. "Class Representative" means Plaintiff Arturo Schulte in his capacity as the
14 representative of the Participating Class Members.

15 10. "Class Representative Incentive Payment" means the amount that the Court
16 authorizes to be paid to Plaintiff Arturo Schulte, in addition to his Individual Settlement Payment,
17 in recognition of the efforts and risks he has taken in assisting with the prosecution of the Action
18 and in exchange for the General Release of his claims as provided herein.

19 11. "Court" means the Superior Court of the State of California for the County of
20 Merced.

21 12. "Defendant" means Cortez Growers Association.

22 13. "Effective Date" means the later of the following: (a) the day after the last day by
23 which a notice of appeal of the Final Approval Order and/or of an order rejecting any motion to
24 intervene may be timely filed, and none is filed; (b) if such an appeal is filed, and the Final
25 Approval Order is affirmed, the day after the last date for filing a request for further review of the
26 decision passes and no further review is requested; (c) if an appeal is filed and further review of
27 the decision affirming the Final Approval Order is requested, the day after the request for review
28

1 is denied with prejudice and/or no further review of the decision can be requested, or (d) if review
2 is accepted, the day after the United States or California Supreme Court affirms the Settlement.

3 14. “Final Approval Order” means the Court entering an order granting final approval
4 of the Settlement Agreement.

5 15. “Gross Settlement Amount” means the sum of Five Hundred Fifty Thousand
6 Dollars (\$550,000.00). The Gross Settlement Amount is non-reversionary; no portion of the Gross
7 Settlement Amount will return to Defendant. The Gross Settlement Amount is exclusive of the
8 employer-share of any applicable payroll taxes, and any such employer-side payroll taxes shall
9 be paid by Defendant separately and in addition to the Gross Settlement Amount.

10 16. “Individual Settlement Payment” means the amount payable from the Net
11 Settlement Amount to each Participating Class Member and any payment a PAGA Member is
12 eligible to receive from the employee portion of the PAGA Penalties. Individual Settlement
13 Payments shall be paid by a Settlement Check made payable to Participating Class Members
14 and/or PAGA Members.

15 17. “Net Settlement Amount” means the funds available for payments to the Class,
16 which shall be the amount remaining after the following amounts are deducted from the Gross
17 Settlement Amount: (1) Class Counsel’s fees, (2) Class Counsel’s costs, (3) Settlement
18 Administration costs, (4) Class Representative Incentive Payment to Plaintiff Arturo Schulte, (5)
19 PAGA Penalties to be paid to the California Labor and Workforce Development Agency
20 (“LWDA”) and PAGA Members, and (6) all employee-side taxes arising from the payments made
21 under this Settlement.

22 18. “Objection” means a Class Member’s valid and timely written objection to the
23 Settlement Agreement. For an Objection to be valid, it must include: (a) the objector’s full name,
24 address, telephone number, last four digits of the employee’s social security number or employee
25 ID number; (b) the name of the case and case number; and (c) a written statement of all grounds
26 for the objection accompanied by legal support, if any, for such objection.

27 19. “PAGA” means the California Labor Code Private Attorneys General Act of 2004
28 (Cal. Lab. Code §§ 2698, *et seq.*, “PAGA”).

1 20. “PAGA Penalties” means the amount that the Parties have agreed to allocate in
2 order to settle claims arising under the Private Attorneys General Act of 2004 (Cal. Lab. Code §§
3 2698, et seq.) (“PAGA”). The Parties have agreed that Forty Thousand Dollars (\$40,000.00) of
4 the Gross Settlement Amount will be allocated to the resolution of Plaintiff’s PAGA claims.
5 Seventy-Five Percent (75%) of this amount (\$30,000.00) will be paid to the LWDA in accordance
6 with Labor Code §§ 2698 *et seq.* Twenty-Five Percent (25%) of this amount (\$10,000.00) will be
7 distributed to PAGA Members. PAGA Members will receive payment from the employee portion
8 of the PAGA Penalties regardless of their decision to participate in the class action if the PAGA
9 Penalties is approved by the Court.

10 21. “PAGA Members” means all current and former non-exempt employees of
11 Defendant in the state of California at any time during the PAGA Period.

12 22. “PAGA Period” means the period from June 30, 2020, through the date of
13 preliminary approval of the settlement by the Court.

14 23. “Parties” means Plaintiff and Defendant, collectively, and “Party” shall mean
15 either Plaintiff or Defendant, individually.

16 24. “Participating Class Members” means all Class Members who do not submit valid
17 and timely Requests for Exclusion.

18 25. “Plaintiff” means Arturo Schulte.

19 26. “Preliminary Approval” means the Court order granting preliminary approval of
20 the Settlement Agreement.

21 27. “Released Claims” means all claims, rights, demands, liabilities, and causes of
22 action that are alleged, or reasonably could have been alleged based on the facts and claims
23 asserted in the operative complaint in the Action including the following claims: (i) failure to pay
24 all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods
25 or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu
26 thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide complete,
27 accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation;
28 (vii) failure to pay wages timely during employment; (viii) unfair business practices that could

1 have been premised on the claims, causes of action or legal theories of relief described above or
2 any of the claims, causes of action or legal theories of relief pleaded in the operative complaint;
3 and (ix) all claims under the California Labor Code Private Attorneys General Act of 2004 or for
4 civil penalties that could have been premised on the claims, causes of action or legal theories of
5 relief pleaded in the operative complaint including but not limited to Labor Code sections 210,
6 226.3, 1197.1, 558, and 2699. The Released Claims shall be limited to those claims that arose
7 during the Class Period. The Parties will meet and confer in good faith if the Court requires
8 changes to the scope of the Released Claims.

9 28. “Released Parties” means Defendant Cortez Growers Association and its past,
10 present and/or future, direct and/or indirect, officers, directors, members, managers, employees,
11 agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators,
12 parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint
13 venturers.

14 29. “Request for Exclusion” means a valid and timely written statement submitted by
15 a Class Member requesting to be excluded from the class settlement. To be effective, the Request
16 for Exclusion must contain (a) the Class Member’s name, address, telephone number, and the last
17 four digits of the Class Member’s Social Security number and/or the Employee ID number and
18 (b) a clear statement requesting to be excluded from the settlement of the class claims similar to
19 the following: “I wish to exclude myself from the class settlement reached in the matter of *Schulte*
20 *v. Cortez Growers Association*. I understand that by excluding myself, I will not receive money
21 from the settlement of my individual claims.” To be effective, the Request for Exclusion must be
22 post-marked by the Response Deadline and received by the Settlement Administrator. The
23 Request for Exclusion shall not be effective as to the release of claims arising under the Private
24 Attorneys General Act.

25 30. “Response Deadline” means the date sixty (60) calendar days after the Settlement
26 Administrator mails the Class Notice to Class Members and the last date on which Class Members
27 may submit Requests for Exclusion, Objections, or Workweek Disputes. In the event the 60th day
28 falls on a Sunday or Federal holiday, the Response Deadline will be extended to the next day on

1 which the U.S. Postal Service is open. The Response Deadline for Requests for Exclusion or
2 Objections will be extended fifteen (15) calendar days for any Class Member who is re-mailed a
3 Class Notice by the Settlement Administrator, unless the 15th day falls on a Sunday or Federal
4 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
5 Postal Service is open. The Response Deadline may also be extended by express agreement
6 between Class Counsel and Defendant. Under no circumstances, however, will the Settlement
7 Administrator have the authority to unilaterally extend the deadline for Class Members to submit
8 a Request for Exclusion or Objection to the settlement.

9 31. "Settlement" means the disposition of the Action pursuant to this Agreement.

10 32. "Settlement Administrator" means ILYM Group, Inc. The Parties each represent
11 that they do not have any financial interest in the Settlement Administrator or otherwise have a
12 relationship with the Settlement Administrator that could create a conflict of interest.

13 33. "Settlement Administration Costs" means the costs payable from the Gross
14 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
15 but not limited to, translating the Class Notice, printing, distributing, and tracking documents for
16 this Settlement, calculating/confirming the Class Members' Workweeks from the information
17 contained in the Class List, calculating each Participating Class Member's Individual Settlement
18 Payment, tax reporting, distributing the Gross Settlement Amount, providing necessary reports
19 and declarations, and other duties and responsibilities set forth herein to process this Settlement,
20 and as requested by the Parties. Settlement Administration Costs shall not exceed Ten Thousand
21 Dollars (\$10,000.00).

22 34. "Settlement Class Members" means all Participating Class Members and PAGA
23 Members.

24 35. "Workweek" means any calendar week (i.e. a week beginning on Sunday and
25 ending on Saturday) in which a Class Member or PAGA Member worked at least one day.

26 **TERMS OF AGREEMENT**

27 36. Settlement Consideration. Defendant shall fully fund the Gross Settlement
28 Amount and all applicable employer-side payroll taxes following the Final Approval Order by

the Court. The following will be paid out of the Gross Settlement Amount: the sum of the Individual Settlement Payments, the Class Representative Incentive Payment, Class Counsel's Fees and Costs, the PAGA Penalties, and the Settlement Administration Costs, as specified in this Agreement. Except for any employer-side payroll taxes due on the wage portion of the Individual Settlement Payments, or as a result of an increase in the number of workweeks as set forth below, Defendant shall not be required to pay more than the Gross Settlement Amount. The Gross Settlement Amount is non-reversionary; no portion of the Gross Settlement Amount will revert to Defendant.

37. Potential Increase to the Gross Settlement Amount. Defendant has represented there are approximately 5,360 Workweeks within the Class Period and approximately 153 class members. Upon request from Class Counsel, and no later than three days prior to the filing of Plaintiff's Motion for Preliminary Approval, Defendant shall provide Plaintiff with the updated total number of Workweeks for the Class and PAGA Members. Should the actual number of Workweeks increase by more than ten percent (10%) (i.e. increase by more than 536 Workweeks), Defendant shall choose to either:

a) Increase the Gross Settlement Amount on a *pro rata* basis equal to the percentage increase in the number of Workweeks worked by the Class Members above 10% (for example, if the number of Workweeks increases by 11%, the Gross Settlement Amount will increase by 1%), or

b) End the Class Period and PAGA Period on the date on which the actual number of Workweeks worked by the Class Members exceeded the 5,360 number by 10%.

38. Funding of the Gross Settlement Amount. Defendant will fund the Gross Settlement Amount and all applicable employer-side payroll taxes into a Qualified Settlement Fund ("QSF") to be established by the Settlement Administrator within thirty (30) calendar days of the Effective Date. Defendant shall provide all information necessary for the Settlement Administrator to calculate necessary payroll taxes including their official names, 8 digit state unemployment insurance tax ID numbers, and other information requested by the Settlement Administrator, no later than twenty-one (21) calendar days of the Effective Date.

39. Distribution of the Gross Settlement Amount. Within seven (7) calendar days of the funding of the Settlement, the Settlement Administrator will issue payments for: (a) Individual Settlement Payments; (b) the PAGA Penalties to the LWDA; (c) the Class Representative Incentive Payment; (d) Class Counsel's Fees and Costs; and (e) Settlement Administration Costs.

40. Attorneys' Fees and Costs. Defendant agrees not to oppose or impede any application or motion by Class Counsel for attorneys' fees of not more than One Hundred Ninety-Two Thousand Five Hundred Dollars (\$192,500.00) plus the reimbursement of costs and expenses associated with the litigation and settlement of the Action, in an amount not to exceed Thirty Thousand Dollars (\$30,000.00), both of which will be paid from the Gross Settlement Amount. Any portion of the requested fees or costs that is not awarded to the Class Counsel shall be reallocated to the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

41. Class Representative Incentive Payment. Defendant agrees not to oppose or object to any application or motion by Plaintiff for a Class Representative Incentive Payment of Seven Thousand Five Hundred Dollars (\$7,500.00) to Plaintiff Arturo Schulte. The Class Representative Incentive Payment is in exchange for the General Release of Plaintiff's individual claims, and for Plaintiff's time, effort and risk in bringing and prosecuting the Action. Any portion of the requested Class Representative Incentive Payment that is not awarded to the Class Representative shall be reallocated to the Net Settlement Amount and distributed to Participating Class Members as provided in this Agreement.

42. Settlement Administration Costs. The Settlement Administrator will be paid for the reasonable costs of administration of the Settlement and distribution of payments from the Gross Settlement Amount as further set forth in this Agreement. Settlement Administration Costs shall not exceed Ten Thousand Dollars (\$10,000.00).

43. PAGA Penalties. Forty Thousand Dollars (\$40,000.00) shall be allocated from the Gross Settlement Amount for settlement of claims for civil penalties under the PAGA. The Settlement Administrator shall pay seventy-five percent (75%) of the PAGA Penalties, or Thirty Thousand Dollars (\$30,000.00), to the LWDA. The remaining twenty-five percent (25%) of the

PAGA Penalties, or Ten Thousand Dollars (\$10,000.00), will be distributed to PAGA Members on a *pro rata* basis based on the total number of Workweeks worked by each PAGA Member during the PAGA Period. PAGA Members shall receive their portion of the PAGA Penalties regardless of their decision to opt-out of the class settlement.

44. Net Settlement Amount for Payment of Class Claims. The Net Settlement Amount will be used to satisfy the class portion of Participating Class Members' Individual Settlement Payments in accordance with the terms of this Agreement. The estimated Net Settlement Amount is as follows:

Gross Settlement Amount	\$	550,000.00
Class Representative Incentive Payment:	\$	7,500.00
Class Counsel's Fees:	\$	192,500.00
Class Counsel's Costs:	\$	30,000.00
PAGA Penalties:	\$	40,000.00
Settlement Administration Costs:	\$	10,000.00
Estimated Net Settlement Amount:	\$	270,000.00

45. Individual Settlement Payment Calculations. Individual Settlement Payments will be paid from the Net Settlement Amount and the 25% portion of the PAGA Penalties allocated for PAGA Members and shall be paid pursuant to the formulas set forth herein:

a) Calculation of Class Portion of Individual Settlement Payments. The Settlement Administrator will calculate the total Workweeks for all Participating Class Members by adding the number of Workweeks worked by each Participating Class Member during the Class Period. The respective Workweeks for each Participating Class Member will be divided by the total Workweeks for all Participating Class Members, resulting in the Payment Ratio for each Participating Class Member. Each Participating Class Member's Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Participating Class Member's estimated share of the Net Settlement Amount.

b) Calculation of PAGA Portion of Individual Settlement Payments. The Settlement Administrator will calculate the total Workweeks for all PAGA Members by adding

1 the number of Workweeks worked by each PAGA Member during the PAGA Period. The
2 respective Workweeks for each PAGA Member will be divided by the total Workweeks for all
3 PAGA Members, resulting in the Payment Ratio for each PAGA Member. Each PAGA Member's
4 Payment Ratio will then be multiplied by the employee portion of the PAGA Penalties to calculate
5 each PAGA Member's estimated share of the PAGA Penalties. PAGA Members shall receive this
6 portion of their Individual Settlement Payment regardless of whether they opt out of the
7 participation regarding the class claims.

8 c) Allocation of Individual Settlement Payments. All Individual Settlement
9 Payments will be allocated as follows: twenty percent (20%) of each Individual Settlement
10 Payment will be allocated as wages, forty percent (40%) shall be allocated as interest, and forty
11 percent (40%) shall be allocated as penalties. The portion of the Individual Settlement Payment
12 allocated to wages will be reported by the Settlement Administrator on an IRS Form W-2. The
13 remaining non-wage payments will be reported on an IRS Form-1099 by the Settlement
14 Administrator. For PAGA Members who submit a timely and valid Request for Exclusion, 100%
15 of the Individual Settlement Payment to that PAGA Member shall be allocated as penalties, and
16 not wages, for which the Settlement Administrator will issue to the PAGA Member an IRS Form-
17 1099.

18 46. No Credit Toward Benefit Plans. The Individual Settlement Payments made to
19 Participating Class Members under this Settlement, as well as any other payments made pursuant
20 to this Settlement, will not be utilized to calculate any additional benefits under any benefit plans
21 to which any Class Members may be eligible, including, but not limited to profit-sharing plans,
22 bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and
23 any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not
24 affect any rights, contributions, or amounts to which any Class Members may be entitled under
25 any benefit plans.

26 46. Settlement Administration Process. The Parties agree to cooperate in the
27 administration of the Settlement and to make all reasonable efforts to control and minimize the
28 costs and expenses incurred in administration of the Settlement. The Settlement Administrator

will provide the following services:

- 46(a) Establish and maintain a Qualified Settlement Fund.
- 46(b) Calculate the Individual Settlement Payment each Participating Class Member is eligible to receive and the portion of the PAGA Penalties each PAGA Member shall receive.
- 46(c) Translate the Class Notice from English to Spanish.
- 46(d) Print and mail the Class Notice in English and Spanish.
- 46(e) Conduct additional address searches for mailed Class Notices that are returned as undeliverable.
- 46(f) Process Requests for Exclusion, field inquiries or disputes from Class Members.
- 46(g) Print and issue Settlement Payment Checks, prepare any IRS W2 and 1099 Tax Forms and any other filings required by any governmental taxing authority.
- 46(h) Provide declarations and/or other information to this Court as requested by the Parties and/or the Court regarding the settlement administration process.
- 46(i) Provide weekly status reports to counsel for the Parties.
- 46(j) Posting a notice of final judgment online at the Settlement Administrator's website.

47. Delivery of the Class List. Within fourteen (14) calendar days of Preliminary Approval, Defendant will provide the Class List to the Settlement Administrator. This is a material term of the Agreement, and if Defendant fails to comply, Plaintiff shall have the right to void the Agreement.

48. Class Notice by First-Class U.S. Mail. Within seven (7) calendar days after receiving the Class List from Defendant, the Settlement Administrator will mail the Class Notice to all Class Members via regular First-Class U.S. Mail, using the most current, known mailing addresses identified in the Class List.

1 49. Confirmation of Contact Information in the Class List. Prior to mailing, the
2 Settlement Administrator will perform a search based on the National Change of Address
3 Database for information to update and correct for any known or identifiable address changes.
4 Any Class Notice returned to the Settlement Administrator as non-deliverable on or before the
5 Response Deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding
6 address affixed thereto and the Settlement Administrator will indicate the date of such re-mailing
7 on the Class Notice. If no forwarding address is provided, the Settlement Administrator will
8 promptly attempt to determine the correct address using a skip-trace, or other search using the
9 name, address and/or Social Security number of the Class Member involved and will then perform
10 a single re-mailing. If any Class Notice sent to a Class Member by the Settlement Administrator
11 is returned as undeliverable to a current employee, then Defendant shall make reasonable efforts
12 to obtain the current address from the Class Member and provide the same within seven (7)
13 calendar days of notice from the Settlement Administrator. Those Class Members who receive a
14 re-mailed Class Notice, whether by skip-trace or by request, will have between the later of (a) an
15 additional fifteen (15) calendar days or (b) the Response Deadline to postmark a Request for
16 Exclusion, or an Objection to the Settlement.

17 50. Class Notice. All Class Members will be mailed a Class Notice in English and
18 Spanish. Each Class Notice will provide: (a) information regarding the nature of the Action; (b)
19 a summary of the Settlement's principal terms; (c) the Class definition; (d) the total number of
20 Workweeks each respective Class Member worked for Defendant during the Class Period; (e)
21 each Class Member's estimated Individual Settlement Payment and the formula for calculating
22 Individual Settlement Payments; (f) the dates which comprise the Class Period and PAGA Period;
23 (g) the deadlines by which the Class Member must postmark Requests for Exclusion, Objections
24 to the Settlement, or Workweek Disputes; (h) the claims to be released, as set forth herein; and
25 (i) the date for the final approval hearing.

26 51. Disputed Information on Class Notice. Class Members will have an opportunity
27 to dispute the information provided in their Class Notice. To the extent Class Members dispute
28 the number of Workweeks with which they have been credited or the amount of their Individual

1 Settlement Payment, Class Members may produce evidence to the Settlement Administrator
2 showing that such information is inaccurate. Absent evidence rebutting Defendant's records,
3 Defendant's records will be presumed determinative. However, if a Class Member produces
4 evidence to the contrary by the Response Deadline, the Parties will evaluate the evidence
5 submitted by the Class Member and the Parties will make the final decision as to the number of
6 eligible Workweeks that should be applied and/or the Individual Settlement Payment to which
7 the Class Member may be entitled. If the Parties do not agree, the dispute will be submitted to the
8 Court.

9 52. Defective Submissions. If a Class Member's Request for Exclusion is defective as
10 to the requirements listed herein, that Class Member will be given an opportunity to cure the
11 defect(s). The Settlement Administrator will mail the Class Member a cure letter within three (3)
12 business days of receiving the defective submission to advise the Class Member that his or her
13 submission is defective and that the defect must be cured to render the Request for Exclusion
14 valid. The Class Member will have until the later of (a) the Response Deadline or (b) fifteen (15)
15 calendar days from the date of the cure letter, whichever date is later, to postmark a revised
16 Request for Exclusion. If a Class Member responds to a cure letter by filing a defective claim,
17 then the Settlement Administrator will have no further obligation to give notice of a need to cure.
18 If the revised Request for Exclusion is not postmarked within that period, it will be deemed
19 untimely.

20 47. Request for Exclusion Procedures. Any Class Member wishing to opt-out from the
21 class settlement must sign and postmark a written Request for Exclusion to the Settlement
22 Administrator by the Response Deadline. The Request for Exclusion must include (a) the Class
23 Member's name, address, telephone number, and the last four digits of the Class Member's Social
24 Security number and/or the Employee ID number and (b) a clear statement requesting to be
25 excluded from the settlement of the class claims similar to the following: "I wish to exclude
26 myself from the class settlement reached in the matter of *Schulte v. Cortez Growers Association*.
27 I understand that by excluding myself, I will not receive money from the settlement of my
28 individual claims." The date of the postmark on the return mailing envelope receipt confirmation

1 will be the exclusive means to determine whether a Request for Exclusion has been timely
2 submitted. All Requests for Exclusion will be submitted to the Settlement Administrator, who
3 will certify jointly to Class Counsel and Defendant's Counsel the Requests for Exclusion that
4 were timely submitted. All Class Members who do not request exclusion from the class settlement
5 will be bound by all terms of the Settlement Agreement if the Settlement is granted final approval
6 by the Court. The Request for Exclusion shall not be effective as to the release of claims arising
7 under the Private Attorneys General Act.

8 53. Defendant's Right to Rescind. If more than ten percent (10%) of the Class
9 Members (rounded to the next whole number) elect not to participate in the Settlement, Defendant
10 may, at its election, rescind the Settlement Agreement and all actions taken in furtherance of it
11 will be thereby null and void. Defendant must meet and confer with Class Counsel prior to
12 exercising this right and must make clear its intent to rescind the Agreement within fourteen (14)
13 calendar days of the Settlement Administrator notifying the Parties of these opt-outs. If Defendant
14 exercises its right to rescind the Agreement, Defendant shall be responsible for all Settlement
15 Administration Costs incurred to the date of rescission.

16 54. Settlement Terms Bind All Class Members Who Do Not Opt-Out. Upon the
17 complete funding of the Gross Settlement Amount, any Class Member who does not affirmatively
18 opt-out of the Settlement by submitting a timely and valid Request for Exclusion will be bound
19 by all of its terms, including those pertaining to the Released Claims, as well as any Judgment
20 that may be entered by the Court if it grants final approval to the Settlement. Class Members who
21 opt-out of the Settlement shall not be bound by such Judgment or release. The names of Class
22 Members who have opted-out of the settlement shall be disclosed to the Counsel for both Plaintiff
23 and Defendant and noted in the proposed Judgment submitted to the Court.

24 55. Objection Procedures. To object to the Settlement, a Participating Class Member
25 must postmark a valid Objection to the Settlement Administrator on or before the Response
26 Deadline. The Objection must be signed by the Participating Class Member and contain all
27 information required by this Settlement Agreement including the objector's full name, address,
28 telephone number, the last four digits of their social security number and/or Employee ID number,

1 the name of the case and case number, and the specific reason including any legal grounds for the
2 Participating Class Member's objection. The postmark date will be deemed the exclusive means
3 for determining that the Objection is timely. Participating Class Members who fail to object in
4 the manner specified above will be foreclosed from making a written objection, but shall still
5 have a right to appear at the Final Approval Hearing in order to have their objections heard by the
6 Court. At no time will any of the Parties or their counsel seek to solicit or otherwise encourage
7 Participating Class Members to submit written objections to the Settlement or appeal from the
8 Order and Judgment. Class Counsel will not represent any Class Members with respect to any
9 objections to this Settlement.

10 56. Certification Reports Regarding Individual Settlement Payment Calculations. The
11 Settlement Administrator will provide Defendant's Counsel and Class Counsel a weekly report
12 which certifies: (a) the number of Class Members who have submitted valid Requests for
13 Exclusion; (b) the number of re-mailed and/or undeliverable Class Notices; and (c) whether any
14 Class Member has submitted a challenge to any information contained in the Class Notice.
15 Additionally, the Settlement Administrator will provide to counsel for both Parties any updated
16 reports regarding the administration of the Settlement Agreement as needed or requested.

17 57. Uncashed Settlement Checks. Any checks issued by the Settlement Administrator
18 to Participating Class Members and PAGA Members will be negotiable for at least one hundred
19 eighty (180) calendar days. If a Participating Class Member or PAGA Member does not cash his
20 or her settlement check within one hundred eighty (180) days, the uncashed funds, subject to
21 Court approval, shall be distributed to the Controller of the State of California to be held pursuant
22 to the Unclaimed Property Law, California Civil Code §1500, *et. seq.* for the benefit of those
23 Participating Class Members and PAGA Members who did not cash their checks until such time
24 that they claim their property. The Parties agree that this disposition results in no "unpaid residue"
25 under California Civil Procedure Code § 384, as the entire Net Settlement Amount will be paid
26 out to Participating Class Members and PAGA Members, whether or not they all cash their
27 settlement checks. Therefore, Defendant will not be required to pay any interest on such amounts.
28 The Individual Settlement Payments provided to Participating Class Members and PAGA

Members shall prominently state the expiration date or a statement that the settlement check will expire in one hundred eighty (180) days, or alternatively, such a statement may be made in a letter accompanying the Individual Settlement Payment. Expired Individual Settlement Payments will not be reissued, except for good cause and as mutually agreed by the Parties in writing. The Parties agree no unclaimed funds will result from the settlement.

58. Administration of Taxes by the Settlement Administrator. The Settlement Administrator will be responsible for issuing to Plaintiff, Participating Class Members, and Class Counsel any W-2, 1099, or other tax forms as may be required by law for all amounts paid pursuant to this Settlement. The Settlement Administrator will also be responsible for forwarding all payroll taxes and penalties to the appropriate government authorities.

59. Tax Liability. Defendant makes no representation as to the tax treatment or legal effect of the payments called for hereunder, and Plaintiff and Participating Class Members are not relying on any statement, representation, or calculation by Defendant or by the Settlement Administrator in this regard. Plaintiff and Participating Class Members understand and agree that they will be solely responsible for the payment of any taxes and penalties assessed on the payments described herein. Defendant's share of any employer-side payroll taxes and other required employer withholdings due on the Individual Settlement Payments, including, but not limited to, Defendant's FICA and FUTA contributions, shall be paid separate and apart from the Gross Settlement Amount.

60. Circular 230 Disclaimer. Each Party to this Agreement (for purposes of this section, the "acknowledging party" and each Party to this Agreement other than the acknowledging party, an "other party") 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) the acknowledging party (a) has relied exclusively upon his, her or its own, independent legal and tax counsel for advice (including tax advice) in connection with this Agreement, (b) has not entered into this

1 Agreement based upon the recommendation of any other Party or any attorney or advisor to any
2 other Party, and (c) is not entitled to rely upon any communication or disclosure by any attorney
3 or adviser to any other party to avoid any tax penalty that may be imposed on the acknowledging
4 party, and (3) no attorney or adviser to any other Party has imposed any limitation that protects
5 the confidentiality of any such attorney's or adviser's tax strategies (regardless of whether such
6 limitation is legally binding) upon disclosure by the acknowledging party of the tax treatment or
7 tax structure of any transaction, including any transaction contemplated by this Agreement.

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

12 62. Release by Participating Class Members. Upon the complete funding of the Gross
13 Settlement Amount and all applicable employer-side payroll taxes by Defendant, Participating
14 Class Members shall fully release and discharge the Released Parties from the Released Claims
15 that arose during the Class Period. This release shall be binding on all Participating Class
16 Members.

17 63. Release by the State of California and the LWDA. Upon the complete funding of
18 the Gross Settlement Amount and all applicable employer-side payroll taxes by Defendant, the
19 State of California and the LWDA, through Plaintiff as its agent and/or proxy, shall release and
20 discharge the Released Parties from the Released Claims arising under PAGA for the PAGA
21 Period. Eligible PAGA Members will receive their share of the employee portion of the PAGA
22 Penalties and will be deemed to have released any claims arising out of PAGA, regardless of
23 whether they opt-out from the release of their class claims. The fact that a PAGA Member has
24 decided not to participate in the class settlement shall not affect the release of Released Claims
25 arising under PAGA for the PAGA Period. The Parties agree that there is no right for a PAGA
26 Member to opt out of or object to the PAGA settlement. A copy of this Agreement will be
27 provided to the LWDA concurrently with the submission of the Preliminary Approval Motion.

28 64. Release of Additional Claims & Rights by Plaintiff. Upon the complete funding

1 of the Gross Settlement Amount, Plaintiff Schulte agrees—on behalf of himself only—to the
2 additional following General Release: In consideration of Defendant’s promises and agreements
3 as set forth herein, Plaintiff hereby fully releases the Released Parties from the Released Claims
4 and also generally releases and discharges the Released Parties from any and all claims, demands,
5 obligations, causes of action, rights, or liabilities of any kind which have been or could have been
6 asserted against the Released Parties arising out of or relating to his employment by Defendant
7 or termination thereof, including but not limited to claims for wages, restitution, penalties,
8 retaliation, defamation, discrimination, harassment, or wrongful termination of employment. This
9 release specifically includes any and all claims, demands, obligations and/or causes of action for
10 damages, restitution, penalties, interest, and attorneys’ fees and costs (except provided by the
11 Settlement Agreement) relating to or in any way connected with the matters referred to herein,
12 whether or not known or suspected to exist, and whether or not specifically or particularly
13 described herein. Specifically, Plaintiff Schulte waives all rights and benefits afforded by
14 California Civil Code Section 1542, which provides:

15 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
16 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
17 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
18 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
19 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
20 DEBTOR OR RELEASED PARTY.

21 This release specifically excludes claims for unemployment insurance, disability, social
22 security, and workers’ compensation (with the exception of claims arising pursuant to California
23 Labor Code Sections 132(a) and 4553).

24 65. Neutral Employment Reference. Defendant agrees that it will adopt a neutral
25 reporting policy regarding any future employment references related to Plaintiff. In the event that
26 any potential or future employers of Plaintiff request a reference regarding Defendant’s
27 employment of Plaintiff, Defendant shall only provide Plaintiff’s dates of employment and job
28 titles during employment. Defendant shall not refer to the Action or this Settlement.

1 66. Nullification of Settlement Agreement. In the event that: (a) the Court does not
2 finally approve the Settlement as provided herein; (b) the Court strikes or does not approve any
3 material term of this Settlement Agreement; or (c) the Settlement does not become final as written
4 and agreed to by the Parties for any other reason, then this Settlement Agreement, and any
5 documents generated to bring it into effect, will be null and void, all amounts deposited into the
6 QSF will be returned to Defendant, and the Parties shall be returned to their original respective
7 positions. Any order or judgment entered by the Court in furtherance of this Settlement
8 Agreement will likewise be treated as void from the beginning. Should the Court fail to approve
9 this settlement for any reason, the Parties agree that they will return to and attend mediation with
10 a mutually agreed mediator in an effort to reach a settlement that may be approved by the Court.

11 67. Preliminary Approval Hearing. Plaintiff will request a hearing before the Court to
12 request Preliminary Approval of the Settlement Agreement, and the entry of a Preliminary
13 Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes
14 only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for
15 a Final Approval Hearing. The Preliminary Approval Order will provide for the Class Notice to
16 be sent to all Class Members as specified herein. In conjunction with the Preliminary Approval
17 hearing, Plaintiff will submit this Agreement, which sets forth the terms of the Settlement, and
18 will include the proposed Class Notice attached as Exhibit A. Defendant agrees that it will not
19 oppose Plaintiff's Motion for Preliminary Approval. Any failure by the Court to fully and
20 completely approve the Agreement as to the Action will result in this Settlement Agreement and
21 the Memorandum of Understanding entered into by the Parties, and all obligations under this
22 Settlement Agreement and the Memorandum of Understanding being nullified and voided.

23 68. Final Settlement Approval Hearing and Entry of Judgment. Upon expiration of the
24 deadlines to postmark Requests for Exclusion or Objections to the Settlement Agreement, and
25 with the Court's permission, a Final Approval Hearing will be conducted to determine the Final Approval
26 of the Settlement Agreement along with the amounts properly payable for: (a) Individual Settlement
27 Payments; (b) the PAGA Penalties; (c) Class Counsel's Fees and Costs; (d) the Class Representative
28 Incentive Payment; and (e) the Settlement Administration Costs. Class Counsel will be responsible for

1 drafting all documents necessary to obtain Final Approval. Any failure by the Court to fully and
2 completely approve the Settlement Agreement as to all of the Action, or the entry of any Order
3 by another Court with regard to any of the Action which has the effect of modifying material
4 terms of this Agreement or preventing the full and complete approval of the Settlement
5 Agreement as written and agreed to by the Parties, will result in this Agreement and all obligations
6 under this Agreement being null and void. Defendant agrees it shall not oppose the granting of
7 the Motion for Final Approval, provided Defendant has not exercised its right to rescind pursuant
8 to the terms of this Agreement.

9 69. Judgment and Continued Jurisdiction. Upon Final Approval of the Settlement by
10 the Court or after the Final Approval Hearing, the Parties will present the Judgment to the Court
11 for its approval. After entry of the Judgment, the Court will have continuing jurisdiction solely
12 for purposes of addressing: (a) the interpretation and enforcement of the terms of the Settlement,
13 (b) Settlement administration matters, and (c) such post-Judgment matters as may be appropriate
14 under court rules or as set forth in this Settlement.

15 70. Exhibits Incorporated by Reference. The terms of this Settlement include the terms
16 set forth in any attached Exhibits, which are incorporated by this reference as though fully set
17 forth herein. Any Exhibits to this Agreement are an integral part of the Settlement.

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

21 72. Amendment or Modification. This Settlement Agreement may be amended or
22 modified only by a written instrument signed by counsel for all Parties or their successors-in-
23 interest.

24 73. Authorization to Enter Into Settlement Agreement. Counsel for all Parties warrant
25 and represent they are expressly authorized by the Parties whom they represent to negotiate this
26 Settlement Agreement and to take all appropriate action required or permitted to be taken by such
27 Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other
28 documents required to effectuate the terms of this Settlement Agreement. The Parties and their

counsel will cooperate with each other and use their best efforts to affect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

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

75. California Law Governs. All terms of this Settlement Agreement and Exhibits hereto will be governed by and interpreted according to the laws of the State of California.

76. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

77. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations and in the context of adversarial litigation, taking into account all relevant factors, present and potential. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

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

79. Waiver of Certain Appeals. The Parties agree to waive appeals and to stipulate to class certification for purposes of this Settlement only; except, however, that either party may

1 appeal any court order that materially alters the Settlement Agreement's terms.

2 80. Class Action Certification for Settlement Purposes Only. The Parties agree to
3 stipulate to class action certification only for purposes of the Settlement. If, for any reason, the
4 Settlement is not approved, the stipulation to certification will be void. The Parties further agree
5 that certification for purposes of the Settlement is not an admission that class action certification
6 is proper under the standards applied to contested certification motions and that this Agreement
7 will not be admissible in this or any other proceeding as evidence that either: (a) a class action
8 should be certified or (b) Defendant is liable to Plaintiff or any Class Member, other than
9 according to the Settlement's terms.

10 81. Non-Admission of Liability. The Parties enter into this Agreement to resolve the
11 dispute that has arisen between them and to avoid the burden, expense and risk of continued
12 litigation. In entering into this Agreement, Defendant does not admit, and specifically denies, it
13 has violated any federal, state, or local law; violated any regulations or guidelines promulgated
14 pursuant to any statute or any other applicable laws, regulations or legal requirements; breached
15 any contract; violated or breached any duty; engaged in any misrepresentation or deception; or
16 engaged in any other unlawful conduct with respect to their employees. Neither this Agreement,
17 nor any of its terms or provisions, nor any of the negotiations connected with it, shall be construed
18 as an admission or concession by Defendant of any such violations or failures to comply with any
19 applicable law. Except as necessary in a proceeding to enforce the terms of this Agreement, this
20 Agreement and its terms and provisions shall not be offered or received as evidence in any action
21 or proceeding to establish any liability or admission on the part of Defendant or to establish the
22 existence of any condition constituting a violation of, or a non-compliance with, federal, state,
23 local or other applicable law.

24 82. Captions. The captions and section numbers in this Agreement are inserted for the
25 reader's convenience, and in no way define, limit, construe or describe the scope or intent of the
26 provisions of this Agreement.

27 83. Waiver. No waiver of any condition or covenant contained in this Settlement
28 Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered

to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

84. Dispute About Terms. Should a dispute arise about the terms of this Agreement, such disputes shall be submitted to Deborah Saxe, Esq. for consultation.

85. Enforcement Action. To the extent consistent with class action procedure, this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure § 664.6. In the event that one or more of the Partis institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions.

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

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

88. All Terms Subject to Final Court Approval. All amounts and procedures described in this Settlement Agreement herein will be subject to final Court approval.

89. Cooperation and Execution of Necessary Documents. The Parties agree to cooperate to promote participation in the Settlement, and in seeking court approval of the Settlement. The Parties and their counsel agree not to take any action to encourage any Class Members to opt out of and/or object to the Settlement. Defendant agrees not to obtain any settlement agreement waivers, *Pick Up Stix* agreements or arbitration agreements from any Class

Member prior to the funding of the Gross Settlement Amount concerning claims released via this Agreement, or enter into any arbitration agreement with any Class Member that covers the claims released via this Agreement during the Settlement approval process prior to the funding of the Gross Settlement Amount and that the Parties will work in good faith to reach an agreement approved by the Court.

90. Confidentiality. The Parties and their counsel agree to keep the terms of the Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Plaintiff, Class Counsel, Defendant, and its counsel agree that they will not issue any press releases, initiate any contact with the press, respond to any press inquiry or have any communication with the press about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement Agreement shall limit Defendant's ability to fulfill disclosure obligations reasonably required by law or in furtherance of business purposes, including the fulfillment of obligations stated in this Settlement Agreement or limit Class Counsel's communications with the Class Members in furtherance of approval of this Settlement.

91. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality provisions that otherwise might apply under federal or state law.

11/7/2022
Dated: _____

PLAINTIFF

By:  _____
Arturo Schulte

Dated: _____

**DEFENDANT CORTEZ GROWERS
ASSOCIATION**

By: _____

Name: _____

Title: _____

1 Member prior to the funding of the Gross Settlement Amount concerning claims released via this
2 Agreement, or enter into any arbitration agreement with any Class Member that covers the claims
3 released via this Agreement during the Settlement approval process prior to the funding of the
4 Gross Settlement Amount and that the Parties will work in good faith to reach an agreement
5 approved by the Court.

6 90. Confidentiality. The Parties and their counsel agree to keep the terms of the
7 Settlement confidential until the filing of Plaintiff's Motion for Preliminary Approval. Plaintiff,
8 Class Counsel, Defendant, and its counsel agree that they will not issue any press releases, initiate
9 any contact with the press, respond to any press inquiry or have any communication with the press
10 about the fact, amount or terms of the Settlement Agreement. Nothing in this Settlement
11 Agreement shall limit Defendant's ability to fulfill disclosure obligations reasonably required by
12 law or in furtherance of business purposes, including the fulfillment of obligations stated in this
13 Settlement Agreement or limit Class Counsel's communications with the Class Members in
14 furtherance of approval of this Settlement.

15 91. Binding Agreement. The Parties warrant that they understand and have full
16 authority to enter into this Settlement, and further intend that this Settlement Agreement will be
17 fully enforceable and binding on all Parties, and agree that it will be admissible and subject to
18 disclosure in any proceeding to enforce its terms, notwithstanding any settlement confidentiality
19 provisions that otherwise might apply under federal or state law.

20 Dated: _____

PLAINTIFF

21 By: _____
22 Arturo Schulte

23 Dated: _____

24 DEFENDANT CORTEZ GROWERS
ASSOCIATION

25 By:  _____

26 Name: DAVID THIEL

27 Title: General Manager
28

1 **Approved As To Form And Content:**

2
3 Dated: _____

PROTECTION LAW GROUP, LLP

5 By: _____

6 Heather Davis, Esq.
7 Amir Nayebdadash, Esq.
8 Attorneys for Plaintiff Arturo Schulte

9
10 Dated: _____

PAYNE NGUYEN, LLP

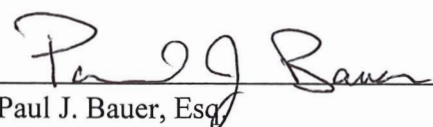
12 By: _____

13 Cody Payne, Esq.
14 Kim Nguyen, Esq.
15 Attorneys for Plaintiff Arturo Schulte

16
17 Dated: 19 Oct 2022

SAGASER, WATKINS, & WIELAND, P.C.

18
19 By: _____

20 
21 Paul J. Bauer, Esq.
22 Attorneys for Defendant
23
24
25
26
27
28

1 **Approved As To Form And Content:**

2
3 Dated: November 7, 2022

PROTECTION LAW GROUP, LLP

4
5 By: 

6 Heather Davis, Esq.

7 Amir Nayebdadash, Esq.

8 Attorneys for Plaintiff Arturo Schulte

9 Dated: November 7, 2022

PAYNE NGUYEN, LLP

10
11 By: 

12 Cody Payne, Esq.

13 Kim Nguyen, Esq.

14 Attorneys for Plaintiff Arturo Schulte

15
16
17 Dated: _____

SAGASER, WATKINS, & WIELAND, P.C.

18
19 By: _____

20 Paul J. Bauer, Esq.

21 Attorneys for Defendant

EXHIBIT A

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Schulte v. Cortez Growers Association

Merced County Superior Court, Case No. 22CV-00313

**THIS IS A COURT-AUTHORIZED NOTICE. IT IS NOT A SOLICITATION.
PLEASE READ THIS NOTICE CAREFULLY.
YOUR LEGAL RIGHTS ARE AFFECTED WHETHER YOU ACT OR DO NOT ACT.**

To:	All current and former non-exempt employees of Cortez Growers Association, who were employed by Cortez Growers Association in the state of California at any time from August 18, 2017, through [date of Preliminary Approval].
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BASIC INFORMATION

1. What Is This Settlement About?

A lawsuit was commenced by Arturo Schulte ("Plaintiff"), a former employee of Cortez Growers Association ("Defendant"), on August 18, 2021. On September 7, 2021, Plaintiff filed a First Amended Complaint to add a cause of action under the Private Attorneys General Act of 2004 ("PAGA"). The case is currently pending in the Merced County Superior Court, Case No. 22CV-00313 (the "Lawsuit" or "Action").

The Lawsuit claims that Defendant violated sections of the California Labor Code and California Business and Professions Code. Specifically, Plaintiff alleges that Defendant failed to provide compliant meal and rest periods and associated premium pay, did not properly pay employees all wages owed for time worked, did not provide accurate wage statements, did not timely pay all wages during employment and all wages owed at termination of employment, failed to reimburse employees for necessary business expenses, and maintained unfair business practices. The settlement also seeks to recover penalties pursuant to PAGA. The Lawsuit claims that the Defendant violated the California Labor Code and the California Business and Professions Code, entitling Class Members to, *inter alia*, damages, penalties and restitution. Defendant denies all alleged violations and denies that it owes Class Members any remedies, and contends it provided compliant meal periods and rest breaks, properly paid employees all wages owed for time worked, provided accurate wage statements, timely paid all wages during employment and at time of termination of employment, reimbursed employees for necessary business expenses, and maintained fair business practices. The Court has not made a ruling on the merits of the Lawsuit. Rather, the Court has determined that there is sufficient evidence to suggest that the proposed settlement might be fair, adequate, and reasonable. Any final determination of those issues will be made at the Final Approval Hearing.

2. Why Is This A Class Action?

In a class action, one or more people called the Class Representative (in this case Arturo Schulte, also known as "Plaintiff"), sue on behalf of people who appear to have similar claims (in this case all individuals who were employed by Defendant Cortez Growers Association in the state of California as non-exempt employees at any time from August 18, 2017 to [date of Preliminary Approval]). All these people are referred to here as Class Members. In a class action one court resolves the issues for all Class Members in one lawsuit, except for those who exclude themselves from the Class. The Merced County Superior Court ("Court") is in charge of this class action.

3. Why Is There A Settlement?

The Court has not decided in favor of the Plaintiff or Defendant. Instead, both sides agreed to a settlement which is

memorialized in the Joint Stipulation of Class Action and PAGA Settlement (“Agreement” or “Settlement”).

On [DATE OF PRELIMINARY APPROVAL] the Court granted preliminary approval of the Settlement, appointed Plaintiff Arturo Schulte as the Class Representative, and appointed his attorneys at Protection Law Group, LLP and Payne Nguyen, LLP as counsel for the Class (“Class Counsel”).

The Class Representative and Class Counsel think the Settlement is best for the Class.

WHO IS IN THE SETTLEMENT?

4. How Do I Know If I Am Part Of The Settlement?

You are part of the Settlement, and a Class Member, if you were employed by Defendant as a non-exempt employee and worked for Cortez Growers Association within the state of California at any time from August 18, 2017, through [date of Preliminary Approval] (the “Class Period”).

You are part of the Settlement, and a PAGA Member, if you were employed by Defendant as a non-exempt employee and worked for Cortez Growers Association within the state of California at any time from June 30, 2020, through [date of Preliminary Approval] (the “PAGA Period”).

THE SETTLEMENT BENEFITS—WHAT YOU GET

5. What Does The Settlement Provide?

The Settlement provides that Defendant will pay a gross settlement amount of Five Hundred Fifty Thousand Dollars (\$550,000.00) (“Gross Settlement Amount”). This includes all costs and attorneys’ fees for Class Counsel.

The “Net Settlement Amount” is the portion of the Gross Settlement Amount that will be available for distribution to Class Members who do not submit timely and valid requests for exclusion in exchange for the release of their class claims. The Net Settlement Amount is the Gross Settlement Amount less the following amounts (which are subject to Court approval):

- A. **Attorneys’ Fees to Class Counsel** not to exceed 35% of the Gross Settlement Amount or One Hundred Ninety-Two Thousand Five Hundred Dollars (\$192,500.00);
- B. **Litigation Costs/Expenses to Class Counsel** not to exceed Thirty Thousand Dollars (\$30,000.00);
- C. **Incentive Payment to the Class Representative** in an amount not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00);
- D. **Settlement Administration Costs** not to exceed Ten Thousand Dollars (\$10,000.00); and
- E. **PAGA Penalties** in the amount of Forty Thousand Dollars (\$40,000.00) for the settlement of claims arising under the PAGA. Seventy-Five percent (75%) of this amount (\$30,000.00) shall be paid to the Labor & Workforce Development Agency (“LWDA”). The remaining twenty-five percent (25%) (\$10,000.00) will be distributed to the PAGA Members.

The amount you are eligible to receive from the settlement, your “Individual Settlement Payment,” will be determined on a *pro rata* basis, based on the number of weeks you worked in California as a non-exempt employee of Defendant from August 18, 2017, through [date of Preliminary Approval] (“Workweeks”). Your Individual Settlement Payment includes both your estimated share of the Net Settlement Amount and, if eligible, your share of the PAGA Penalties.

Your Individual Settlement Payment will be apportioned as twenty percent (20%) wages, forty percent (40%) interest, and forty percent (40%) penalties. The wage portion of the Individual Settlement Payment will be subject to withholding for the employee taxes and will be reported on a W-2 Form. Employer-side payroll taxes shall be paid separately from and in addition to the Gross Settlement Amount. The penalties and interest portions of each Class Member's settlement payment will not be subject to any withholdings and will be reported on an IRS Form 1099.

You worked [redacted] Workweeks during the Class Period. Your Individual Settlement Payment is \$ [redacted]. The amount of the payment may change depending on the number of timely and valid requests for exclusions submitted in the Settlement, if any.

This amount was determined based on Defendant's record of your employment from August 18, 2017, through [date of Preliminary Approval], and is presumed correct. If you dispute the accuracy of Defendant's records as to the number of Workweeks you worked during the period described above you must contact the Settlement Administrator and provide any documentation you have supporting such dispute. Submission of these documents must be postmarked before [RESPONSE DEADLINE]. All disputes regarding your Workweeks will be resolved and decided by the Parties after you submit evidence to the Settlement Administrator. If the Parties do not agree, the dispute will be submitted to the Court. The Settlement Administrator's contact information is listed below:

[Settlement Administrator]

[Address]

[Telephone No.]

HOW TO GET A PAYMENT FROM THE SETTLEMENT

6. How Can I Get A Payment?

You do not have to do anything to qualify for a payment of your portion of the Settlement.

7. What Am I Giving Up If I Do Not Request To Be Excluded From The Settlement?

Upon the funding of the Gross Settlement Amount by Defendant, in exchange for the consideration set forth by the Settlement, Class Members who do not submit a timely request for exclusion will release the "Released Parties" from the "Released Claims" for the Class Period.

The "Released Parties" include Defendant and any of its past, present and/or future, direct and/or indirect, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, partners, investors, shareholders, administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns, and joint venturers.

The "Released Claims" include any and all claims, rights, demands, liabilities and causes of action that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the operative complaint in this Action including the following claims: (i) failure to pay all regular wages, minimum wages and overtime wages due; (ii) failure to provide meal periods or compensation in lieu thereof; (iii) failure to provide rest periods or compensation in lieu thereof; (iv) failure to reimburse necessary business expenses; (v) failure to provide complete, accurate wage statements; (vi) failure to pay wages timely at time of termination or resignation; (vii) failure to pay wages timely during employment; (viii) unfair business practices that could have been premised on the claims, causes of action or legal theories of relief described above or any of the claims, causes of action or legal theories of relief pleaded in the operative Complaint; and (ix) all claims under the California Labor Code Private Attorneys General Act of 2004 or

for civil penalties that could have been premised on the claims, causes of action or legal theories of relief pleaded in the operative complaint including but not limited to Labor Code sections 210, 226.3, 1197.1, 558, and 2699.

All PAGA Members will be deemed to have fully and discharged any and all Released Claims arising under PAGA with respect to all of the Released Parties irrespective of whether the Class Member submits a request for exclusion.

EXCLUDING YOURSELF FROM THE RELEASE OF NON-PAGA CLAIMS

If you want to keep the right to sue or continue to sue Defendant with respect to the Released Claims (other than those which arise under the Private Attorneys General Act (California Labor Code sections 2698 *et seq.*), then you must submit a request for exclusion in conformity with the requirements set forth herein. If you exclude yourself, you will not receive payment from Net Settlement Amount. However, if eligible, you will still receive a payment in an amount equal to your estimated *pro rata* share of the PAGA Penalties because the Request for Exclusion does not apply to this claim.

8. How Can I Not Participate In The Settlement?

To exclude yourself from the release of Released Claims (other than those which arise under the Private Attorneys General Act (California Labor Code sections 2698 *et seq.*) you must submit a written request for exclusion. You must include your name, address, telephone number and the last four digits of your social security number and/or Employee ID number. Your request for exclusion must also include a statement that you do not wish to be included in this action similar to the following: I wish to exclude myself from the class action settlement reached in the matter of *Schulte v. Cortez Growers Association*. I understand that by excluding myself, I will not receive money from the settlement of my individual claims.”

The written for Exclusion must be mailed to the Settlement Administrator at the address listed below, post-marked by **[RESPONSE DEADLINE]**. You cannot exclude yourself by phone.

[Settlement Administrator]

[Address]

[Telephone No.]

If you ask to be excluded, you will not receive payment of any portion of the Net Settlement Amount and you cannot object to the Settlement. You will not be legally bound by the release of Released Claims (except for Released Claims that arise under the Private Attorneys General Act (California Labor Code sections 2698 *et seq.*)).

You may be able to sue Defendant and/or the Released Parties or continue any suit you have pending against Defendant or the Released Parties, regarding the Released Claims (except for Released Claims that arise under the Private Attorneys General Act (California Labor Code sections 2698 *et seq.*)).

9. If I Don't Exclude Myself, Can I Sue Defendant For The Same Thing Later?

No. Unless you submit a request for exclusion, you give up the right to sue Defendant and Released Parties for the Released Claims. If you have a pending lawsuit involving the Released Claims, speak to your lawyer in that lawsuit immediately.

10. If I Exclude Myself, Can I Get Money From This Settlement?

No, except if you worked for Defendant at any time from June 30, 2020, through **[date of Preliminary Approval]**, in

which case you will still receive the portion of your Individual Settlement Payment for Released Claims that arise under PAGA. But if you submit a timely and valid request for exclusion, you retain any right that you may have to sue, continue to sue, or be part of a different lawsuit against Released Parties for Released Claims (except for Released Claims that arise under PAGA).

THE LAWYERS REPRESENTING YOU

11. Do I Have A Lawyer In This Case?

The Court has approved PROTECTION LAW GROUP, LLP and PAYNE NGUYEN, LLP as Class Counsel. The contact information for Class Counsel is:

PROTECTION LAW GROUP, LLP

Heather Davis, Esq.
Amir Nayebdadash, Esq.
237 California Street
El Segundo, California 90245
Telephone: (424) 290-3095
Facsimile: (866) 264-7880

PAYNE NGUYEN LLP

Cody Payne, Esq.
Kim Nguyen, Esq.
4640 Admiralty Way, Suite 500
Marina del Rey, California 90292
Telephone: (310) 360-9882

Class Counsel will ask the Court for attorneys' fees of up to \$192,500.00 and reimbursement of litigation cost/expenses of up to \$30,000.00. These amounts are subject to Court approval and the Court may award less than these amounts.

Defendant Cortez Growers Association is represented by Paul J. Bauer, Esq. of Sagaser Watkins & Wieland, PC, 5260 North Palm, Suite 400, Fresno, California 93704. Telephone: (559) 421-7000.

OBJECTING TO THE SETTLEMENT

You can object to the Settlement or some part of it.

12. How Do I Tell The Court If I Don't Like The Settlement?

If you are a Class Member, you can object to the Settlement and you can give reasons for why you think the Court should not approve it. The Court will consider your views. To object, you must mail your objection to the Settlement Administrator no later than **[RESPONSE DEADLINE]**. Your objection must include your full name, address, telephone number, the last four digits of your social security number and/or Employee ID number, the case name and case number, and the specific reason for your objection. You may also come to the Final Approval Hearing on **[DATE]** and make an objection at that time, regardless of whether you submitted a written objection. However, if you have an attorney who will represent you in your objection to the Settlement, that attorney must file a notice of appearance with the Court and serve Class Counsel and Defendant's Counsel no later than **[RESPONSE DEADLINE]**.

13. What Is The Difference Between Objecting And Excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT’S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement (“Final Approval Hearing”). You may attend, but you do not have to attend.

14. When And Where Will The Court Decide Whether To Approve The Settlement?

The Court will hold the Final Approval Hearing at [REDACTED] a.m./p.m. on [REDACTED], at the Merced County Superior Court, located at 627 W. 21st Street, Merced, California 95340, in Courtroom 8.

At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate, and determine whether to grant final approval of the Settlement. If there are objections, the Court will consider them.

15. Do I Have To Come To The Hearing?

No. If you agree to the Settlement, you do not have to come to Court to talk about it. However, you may attend. You may also retain your own lawyer at your expense to attend on your behalf. You may attend in person, but you may also attend remotely if you wish. Please see <https://www.merced.courts.ca.gov/online-services/remote-appearances> for information on how to schedule remote appearances.

16. How Will I Learn If The Settlement Was Approved?

A notice of final judgment will be posted on the Settlement Administrator website located at [www.\[REDACTED\].com](http://www.[REDACTED].com).

IF YOU DO NOTHING

17. What Happens If I Do Nothing At All?

If you do nothing, you will receive your share of the Settlement, and you will release the Released Claims. You will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendant or Released Parties about the Released Claims, ever again. Your Individual Settlement Payment will be mailed to you and will remain valid and negotiable for 180 calendar days. If you do not cash your settlement check within 180 calendar days, these funds will be forwarded to the Controller of the State of California pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et seq.*, to be held in trust. You may then claim these funds from there.

GETTING MORE INFORMATION

18. How Do I Get More Information?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement by viewing the settlement located on the Settlement Administrator’s website at

or by contacting the Settlement Administrator or Class Counsel.

WHAT IF MY INFORMATION CHANGES?

19. What If My Contact Information Changes?

It is your responsibility to inform the Settlement Administrator of your updated information to ensure receipt of settlement payments or communications regarding this matter. You can change or update your contact information by contacting the Settlement Administrator.

DO NOT ADDRESS ANY QUESTIONS ABOUT THE SETTLEMENT OR THE LITIGATION TO THE CLERK OF THE COURT OR THE JUDGE