
EXHIBIT 1

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Attorneys for Defendant
AUTOMATED HARVESTING, LLC

[Additional counsel listed on following page]

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MONTEREY

GUADALUPE HERNANDEZ, on behalf of
all aggrieved employees,

Plaintiffs,

v.

AUTOMATED HARVESTING, LLC; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: 22CV002717

*Assigned for all purposes to the
Hon. Thomas W. Wills, Dept. 15*

**LABOR CODE PRIVATE ATTORNEYS
GENERAL ACT SETTLEMENT
AGREEMENT**

Complaint Filed: September 13, 2022
SAC Filed: December 20, 2022
Trial Date: TBD

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Attorneys for Defendant
AUTOMATED HARVESTING, LLC

1 This Labor Code Private Attorneys General Act (Labor Code §§ 2698, *et seq.*) Settlement
2 Agreement (“Settlement Agreement” or “Agreement”) is made by and between GUADALUPE
3 HERNANDEZ (“Plaintiff”), on his own behalf and on behalf of all members of the PAGA Group
4 (as defined below) and the State of California, on the one hand, and AUTOMATED
5 HARVESTING, LLC (“Defendant”) on the other hand (collectively the “Parties”), in the lawsuit
6 entitled *Hernandez v. Automated Harvesting, LLC*, filed in Monterey County Superior Court,
7 Case No. 22CV002717 (the “Litigation”). This Settlement Agreement resolves all claims under
8 the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§
9 2698, *et seq.*, based on or arising out of alleged violations of the Labor Code, including all claims
10 that could have been alleged based on the factual allegations and identified Labor Code sections
11 in the operative pleading for the Litigation and the LWDA Letter.

12 **I. DEFINITIONS**

13 **A. Administrative Costs.** The term “Administrative Costs” as used herein means
14 all administrative costs of settlement, including cost of notice to the PAGA Group,
15 administration, the reminder postcards, and any fees and costs incurred or charged by the
16 Settlement Administrator in connection with the execution of its duties under this Settlement
17 Agreement.

18 **B. Agreement or Settlement Agreement.** The terms “Agreement” or “Settlement
19 Agreement” are used synonymously herein to mean this Labor Code Private Attorneys General
20 Act (Labor Code §§ 2698, *et seq.*) Settlement Agreement.

21 **C. Court.** The term “Court” as used herein means the Superior Court of the State
22 of California for the County of Monterey.

23 **D. Defendant.** The term “Defendant” as used herein means Automated Harvesting,
24 LLC.

25 **E. Defendant’s Counsel.** The term “Defendant’s Counsel” as used herein means
26 Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

27 **F. Individual Settlement Payment.** The term “Individual Settlement Payment” as
28 used herein means the payment that each member of the PAGA Group will receive as his or her

1 share of the Net Settlement Amount. The portion of the Net Settlement Amount to be distributed
2 to the PAGA Group shall be divided by the total number of full pay periods, with partial pay
3 periods rounded up to the next whole number, as determined by Defendant's records, for all
4 times during the PAGA Release Period which the PAGA Group worked for Defendant. This
5 amount shall be known as the "Pay Period Value." Each member of the PAGA Group shall be
6 paid an amount equal to the number of individual pay periods he or she worked for Defendant
7 during the PAGA Release Period multiplied by the Pay Period Value. Defendant represents that,
8 based on a reasonable investigation of its records, the total number of full pay periods worked
9 by individuals in the PAGA Group, including Plaintiff, does not exceed 14,000.

10 **G. Litigation.** The term "Litigation" as used herein means the action entitled
11 *Hernandez v. Automated Harvesting, LLC*, filed in Monterey County Superior Court, Case No.
12 22CV002717.

13 **H. LWDA Payment.** The term "LWDA Payment" as used herein means the
14 seventy-five percent (75%) of the Net Settlement Amount payable to the LWDA.

15 **I. Net Settlement Amount.** The term "Net Settlement Amount" as used herein
16 means the Settlement Amount minus any award of attorneys' fees and litigation costs to
17 Plaintiff's Counsel, Administrative Costs, and Plaintiff's enhancement award. Based on the
18 statutory requirement that seventy-five percent (75%) of PAGA civil penalties be paid to the
19 California Labor and Workforce Development Agency ("LWDA") and twenty-five percent
20 (25%) of PAGA civil penalties be distributed to the aggrieved employees, seventy-five percent
21 (75%) of the Net Settlement Amount will be paid to the LWDA and twenty-five percent (25%)
22 of the Net Settlement Amount will be paid to the PAGA Group based on the distribution formula
23 set forth below.

24 **J. PAGA Group.** The PAGA Group is defined as: All persons within the State of
25 California who are or were employed by Defendant in the State of California as an hourly, non-
26 exempt employee at any time within the PAGA Release Period. Defendant represents that, based
27 on a reasonable investigation of its records, the total number of individuals in the PAGA Group,
28 including Plaintiff, does not exceed 600.

1 **K. PAGA Release Period.** The term “PAGA Release Period” as used herein shall
2 refer to the time period from and including September 8, 2021 through August 12, 2023.

3 **L. Plaintiff.** The term “Plaintiff” as used herein means Guadalupe Hernandez.

4 **M. Plaintiff’s Counsel.** The term “Plaintiff’s Counsel” as used herein means Keller
5 Grover LLP.

6 **N. Settlement Administrator.** The term “Settlement Administrator” as used herein
7 means Simpluris Inc., which will be responsible for the administration of the settlement
8 embodied in this Agreement and all related matters.

9 **O. Settlement Amount.** The term “Settlement Amount” as used herein means a
10 fund in the sum of Four Hundred Thousand dollars (\$400,000), which shall be paid by
11 Defendant. The Settlement Amount shall cover, resolve, and fully satisfy the Administrative
12 Costs and any and all amounts owed to Plaintiff, the PAGA Group, the LWDA, and Plaintiff’s
13 Counsel, including all amounts allocated to attorneys’ fees and litigation costs.

14 **II. BACKGROUND**

15 A. On December 20, 2022, Plaintiff filed the operative Second Amended Complaint
16 against Defendant for penalties pursuant to Labor Code § 2699(f) for alleged violations and
17 penalties under Labor Code §§ 201, 202, 203, 204b, 226, 226.3, 510, 511, 1194, 1198, and 1199.

18 Following the filing of the Second Amended Complaint, counsel for the Parties met and
19 conferred with respect to the potential settlement of the Litigation. Pursuant to these discussions,
20 the Parties agreed to exchange informal discovery and engage in private mediation. The Parties
21 subsequently exchanged informal discovery, including: timekeeping and payroll records;
22 information and documentation concerning the claims set forth in the Litigation; and information
23 regarding the number of PAGA Group members and the total workweeks and pay periods
24 worked by the PAGA Group during the PAGA Release Period.

25 B. Plaintiff and Defendant and their respective counsel have engaged in good faith,
26 arms-length negotiations. On July 13, 2023, the Parties participated in a mediation with Mark S.
27 Rudy. Even though the Parties did not reach an agreement on the day of the mediation, through
28 the assistance of the mediator, an agreement was reached on July 20, 2023, which resulted in

1 resolution of this matter. The Parties have entered into this more detailed, formalized Settlement
2 Agreement for submission to the Court for approval.

3 C. Plaintiff's counsel has conducted an investigation of the law and facts relating to
4 the claims asserted in the Litigation and has concluded, taking into account the sharply contested
5 issues involved, the expense and time necessary to pursue the Litigation through trial and any
6 appeals, the risks and costs of further prosecution of the Litigation, the risk of an adverse
7 outcome, the uncertainties of complex litigation, and the substantial benefits to be received by
8 the Plaintiff, the State of California, and the members of the PAGA Group pursuant to this
9 Agreement, that a settlement with Defendant on the terms and conditions set forth herein is fair,
10 reasonable, adequate, and in the best interests of the State of California and the PAGA Group.
11 Plaintiff, on his own behalf and as a representative pursuant to PAGA, has agreed to settle the
12 Litigation with Defendant on the terms set forth herein.

13 D. Defendant has concluded that, because of the substantial expense of defending
14 against the Litigation, the length of time necessary to resolve the issues presented herein, the
15 inconvenience involved, and the concomitant disruption to its business operations, it is in its best
16 interests to accept the terms of this Agreement. Defendant denies each of the allegations and
17 claims asserted against it in the Litigation. However, Defendant nevertheless desires to settle
18 the Litigation for the purpose of avoiding the burden, expense and uncertainty of continuing
19 litigation and for the purpose of putting to rest the controversies engendered by the Litigation.

20 E. This Agreement is intended to and does effectuate the full, final and complete
21 resolution of all allegations and claims under the California Labor Code Private Attorneys
22 General Act of 2004 ("PAGA"), Labor Code §§ 2698, *et seq.*, based on or arising out of alleged
23 violations of the Labor Code including all claims that could have been alleged based on the
24 factual allegations and identified Labor Code sections in the operative pleading for the Litigation.

25 **III. JURISDICTION**

26 The Court has jurisdiction over the Parties and the subject matter of this Litigation. The
27 Litigation includes claims that, while Defendant denies them in their entirety, would, if proven,
28 authorize the Court to grant relief pursuant to the applicable statutes. After the Court has granted

1 approval of this Agreement, pursuant to California Code of Civil Procedure § 664.6 the Court
2 shall retain jurisdiction of this action solely for the purpose of interpreting, implementing, and
3 enforcing this Agreement consistent with the terms set forth herein, and the Parties and their
4 counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing and
5 enforcing this Agreement and all orders and judgments entered in connection therewith.

6 **IV. STATEMENT OF NO ADMISSION**

7 **A.** Defendant denies liability to Plaintiff and to the PAGA Group upon any and all
8 claims or cause of actions. This Agreement does not constitute, and is not intended to constitute,
9 an admission by Defendant as to the merits, validity, or accuracy of any of the allegations or
10 claims made against it in the Litigation.

11 **B.** Nothing in this Agreement, nor any action taken in implementation thereof, nor
12 any statements, discussions or communications, nor any materials prepared, exchanged, issued
13 or used during the course of the negotiations leading to this Agreement is intended by the Parties
14 to constitute, nor will any of the foregoing constitute, be introduced, be used or be admissible in
15 any way in this case or any other judicial, arbitral, administrative, investigative or other forum
16 or proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance,
17 regulation, rule or executive order, or any obligation or duty at law or in equity. The Parties
18 themselves agree not to introduce, use, or admit this Agreement, directly or indirectly, in this
19 case or any other judicial, arbitral, administrative, investigative or other forum or proceeding, as
20 purported evidence of any violation of any federal, state, or local law, statute, ordinance,
21 regulation, rule or executive order, or any obligation or duty at law or in equity, or for any other
22 purpose. Notwithstanding the foregoing, this Agreement may be used in any proceeding before
23 the Court that has as its purpose the interpretation, implementation, or enforcement of this
24 Agreement or any orders or judgments of the Court entered in connection with the settlement.

25 **C.** None of the documents produced or created by Plaintiff or his counsel in
26 connection with the approval of this settlement or administration of this settlement constitute,
27 and they are not intended to constitute, an admission by Defendant of any violation of any
28 federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any

1 obligation or duty at law or in equity.

2 **D.** Nothing in this Agreement will be construed as an admission or
3 acknowledgement of any kind that any group should or would be given collective treatment in
4 the Litigation or in any other action or proceeding. Further, neither this Agreement nor the
5 Court's actions with regard to this Agreement will be admissible in any court or other tribunal
6 regarding the propriety of collective treatment. In the event that this Agreement is not approved
7 by the Court or any appellate court, is terminated, or otherwise fails to be enforceable, Plaintiff
8 will not be deemed to have waived, limited or affected in any way any claims, rights or remedies
9 in the Litigation, and Defendant will not be deemed to have waived, limited, or affected in any
10 way any of their rights, objections or defenses in the Litigation.

11 **V. RELEASE, DISMISSAL, AND CONFIDENTIALITY**

12 **A. Scope of Release.**

13 Upon approval of this Settlement Agreement by the Court, Plaintiff, individually and as
14 a representative acting as a proxy or agent of the LWDA in this Litigation, agrees to release
15 Defendant and its parent, subsidiary, affiliated, predecessor and successor companies and
16 entities, and its and their past and present shareholders, investors, officers, directors, employees,
17 attorneys, agents, benefit plans, trustees, fiduciaries and administrators (collectively, the
18 "Released Parties"), of and from any and all claims under the California Labor Code Private
19 Attorneys General Act of 2004 ("PAGA"), Labor Code §§ 2698, *et seq.*, that were or could have
20 been alleged based on the factual allegations and identified Labor Code sections in the Litigation
21 and the LWDA Letter, including, but not limited to, California Labor Code sections §§ 201, 202,
22 203, 204b, 226, 226.3, 510, 511, 1194, 1198, and 1199, during the time period from and
23 including September 8, 2021 through August 12, 2023 (the "Released Claims"). The Parties
24 further agree to release any and all claims for costs, fees, and interest related to the Released
25 Claims. The Parties further agree that this Agreement and judgment to be entered by the Court
26 following approval of this settlement forever bars Plaintiff and the LWDA, directly or through
27 any other proxy or agent, from any future prosecution of any of the Released Claims against any
28 of the Released Parties.

1 **VI. SETTLEMENT ADMINISTRATOR**

2 Plaintiff and Defendant, through their respective counsel, have selected Simpluris Inc.
3 as the Settlement Administrator to administer the settlement, which includes but is not limited
4 to distributing and responding to inquiries about the Notice of Settlement and calculating all
5 amounts to be paid from the Settlement Amount, including the Individual Settlement Payments.
6 The Administrative Costs are estimated to be no more than six thousand and five hundred dollars
7 (\$6,500), will be paid from the Settlement Amount. Any charges and expenses of the Settlement
8 Administrator greater than the allocated six thousand and five hundred dollars (\$6,500) will
9 come from the Settlement Amount. If the actual Administrative Costs are less than the Parties'
10 estimation, the difference between the actual and estimated Administrative Costs will be
11 included in the Net Settlement Amount.

12 **VII. NOTICE**

13 Plaintiff and Defendant, through their respective attorneys, have jointly prepared a Notice
14 of Settlement (the "Notice"), in the form attached hereto as **Exhibit "A"** which in substance will
15 be provided to the members of the PAGA Group as follows:

16 As soon as practicable following approval of this Settlement Agreement, but no later than
17 30 calendar days after the Court approves the settlement, Defendant will provide to the
18 Settlement Administrator the following information about each PAGA Group member: (1)
19 name; (2) last known home address; (3) number of pay periods as a PAGA Group member during
20 the PAGA Release Period; and (4) social security number (collectively referred to as the "PAGA
21 List").

22 The Settlement Administrator shall run all the addresses provided by Defendant through
23 the United States Postal Service NCOA database (which provides updated addresses for any
24 individual who has moved in the previous four years who has notified the U.S. Postal Service of
25 a forwarding address) to obtain current address information. Within 30 calendar days after the
26 Settlement Administrator's receipt of the PAGA List, the Settlement Administrator will mail the
27 Notice together with the Individual Settlement Payments to all PAGA Group members by first-
28 class United States mail, postage prepaid, with directions to the Postmaster to forward the Notice

1 and return all undeliverable Notices to the Settlement Administrator. For each Notice and
2 Individual Settlement Payment that is returned as undeliverable, the Settlement Administrator
3 shall promptly attempt to locate the PAGA Group member by performing an additional skip
4 trace and shall re-mail the Notice and Individual Settlement Payment no later than 10 calendar
5 days following receipt of the undeliverable Notice. The Notice will be provided in English and
6 Spanish.

7 **VIII. COMPUTATION AND DISTRIBUTION OF PAYMENTS**

8 **A. Distribution Formula.**

9 The portion of the Net Settlement Amount to be distributed to the PAGA Group shall be
10 divided by the total number of full pay periods, with partial pay periods rounded up to the next
11 whole number, as determined by Defendant's records, for all times during the PAGA Release
12 Period which the PAGA Group worked for Defendant. This amount shall be known as the "Pay
13 Period Value." Each member of the PAGA Group shall be paid an amount equal to the number
14 of individual pay periods he or she worked for Defendant during the PAGA Release Period
15 multiplied by the Pay Period Value.

16 **B. Funding of the Settlement Amount.**

17 The funding of the Settlement Amount by Defendant will be completed at one time with
18 funds provided to and escrowed by the Settlement Administrator. The Settlement Amount shall
19 be paid to the Settlement Administrator by Defendant within 30 calendar days of its receipt of a
20 notice of entry of the Court's approval order regarding this Settlement Agreement.

21 If a PAGA Group member is deceased at the time of distribution, the Settlement
22 Administrator shall distribute the deceased PAGA Group member's Individual Settlement
23 Payment to the deceased PAGA Group member's legal heir(s). In the event of a dispute as to
24 the legal heir(s), the Settlement Administrator shall notify the executor of the deceased PAGA
25 Group member's estate and attempt to place the deceased PAGA Group member's payment in
26 escrow or similar disposition such that any competing heirs may take whatever action they wish
27 to resolve ultimate disposition of such money and the Settlement Administrator and the Parties
28 hereto may disclaim any further interest in or obligation in relation to such money.

1 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
2 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace
3 search and, if another address is identified, shall mail the check to the newly identified address.
4 If the Settlement Administrator is unable to obtain a valid mailing address through this process,
5 after the check void date, the monies represented by the check shall be turned over according to
6 the California State Controller for deposit in the Unclaimed Property Fund in the name of the
7 PAGA Group member to whom the uncashed Individual Settlement Payment was drafted.

8 Settlement checks will specifically indicate that they are void if not negotiated within
9 180 days of their issuance. After 90 days, the Settlement Administrator will send a reminder
10 postcard to each PAGA Group member with an uncashed check. Any settlement checks that
11 remain uncashed 180 or more calendar days after issuance by the Settlement Administrator shall
12 be voided and the Settlement Administrator will remit the entire amount of each PAGA Group
13 member's uncashed Individual Settlement Payment to the California State Controller for deposit
14 in the Unclaimed Property Fund in the name of the PAGA Group member to whom the uncashed
15 Individual Settlement Payment was drafted.

16 **C. Time for Distribution of the Enhancements to Plaintiff, Attorneys' Fees and**
17 **Litigation Costs to Plaintiff's Counsel, the LWDA Payment and**
18 **Administrative Costs.**

19 The Settlement Administrator shall cause the Court approved enhancement to Plaintiff,
20 attorneys' fees and litigation costs awarded to Plaintiff's Counsel, and the LWDA Payment to
21 be paid within 30 days of the funding of the Settlement Amount. The Settlement Administrator
22 may pay itself the Court-approved administrative costs once the Individual Settlement Payments
23 have been mailed out.

24 **IX. NO CONTRIBUTIONS TO EMPLOYEE BENEFIT PLAN**

25 The amounts paid under this Agreement do not represent a modification of any
26 previously credited hours of service under any employee benefit plan, policy or bonus program
27 sponsored by Defendant. Such amounts will not form the basis for additional contributions to,
28 benefits under, or any other monetary entitlement under, benefit plans (self-insured or not)

1 sponsored by Defendant, policies or bonus programs. Any payments made under the terms of
2 this Agreement shall not be applied retroactively, currently or on a going forward basis as salary,
3 earnings, wages, or any other form of compensation for the purposes of Defendant's benefit plan,
4 policy or bonus program. Defendant retains the right to modify the language of its benefit plans,
5 policies and bonus programs to effect this intent and to make clear that any amounts paid
6 pursuant to this Agreement are not for "hours worked," "hours paid," "hours of service," or any
7 similar measuring term as defined by applicable plans, policies and bonus programs for purpose
8 of eligibility, vesting, benefit accrual or any other purpose, and that additional contributions or
9 benefits are not required by this Agreement.

10 **X. PLAINTIFF'S COUNSEL ATTORNEYS' FEES AND LITIGATION COSTS**

11 Defendant shall not oppose an application by Plaintiff's Counsel for, and Plaintiff's
12 Counsel shall not seek or receive an amount in excess of One Hundred and Thirty-Three
13 Thousand, Three Hundred and Thirty-Three Dollars and Thirty-Three Cents (\$133,333.33),
14 which represents one-third of the Settlement Amount, for all past and future attorneys' fees
15 necessary to prosecute, settle and administer the Litigation and this Agreement. Additionally,
16 Defendant shall not oppose an application by Plaintiff's Counsel for reimbursement of all past
17 and future litigation costs and expenses necessary to prosecute, settle and administer the
18 Litigation and this Agreement, which Plaintiff's Counsel estimates shall not exceed Fifteen
19 Thousand dollars (\$15,000.00). Any attorneys' fees or litigation costs awarded to Plaintiff's
20 Counsel by the Court shall be deducted from the Settlement Amount for the purpose of
21 determining the Net Settlement Amount. This amount shall include all attorneys' fees, litigation
22 costs and expenses for which Plaintiff and Plaintiff's Counsel could claim under any legal theory
23 whatsoever. Should the Court approve a lesser percentage or amount of fees and/or litigation
24 costs than the amount that Plaintiff's Counsel ultimately seeks, then the unapproved portion or
25 portions shall revert to the Net Settlement Amount.

26 **XI. ENHANCEMENT TO PLAINTIFF**

27 Defendant shall not oppose an application by Plaintiff to seek or receive an amount equal
28 to Five Thousand dollars (\$5,000) for his participation in and assistance with the Litigation. Any

enhancement awarded to Plaintiff by the Court shall be deducted from the Settlement Amount for the purpose of determining the Net Settlement Amount, and shall be reported on IRS Form 1099. If the Court approves an enhancement of less than Five Thousand dollars (\$5,000) to Plaintiff, then the unapproved portion or portions shall revert into the Net Settlement Amount.

XII. TAXATION AND ALLOCATION

For withholding tax characterization purposes and payment of taxes, the Net Settlement Amount shall be deemed and is allocated by the Parties as follows (“Net Settlement Allocation”): 100% as penalties.

PAGA Group members may receive an IRS Form 1099 for their portion of the settlement, if deemed required by the Settlement Administrator (in compliance with IRS guidelines).

XIII. COURT APPROVAL

This Agreement is contingent upon approval by the Court. Plaintiff and Defendant agree to take all steps as may be reasonably necessary to secure approval of this Agreement, to the extent not inconsistent with the terms of this Agreement, and will not take any action adverse to each other in obtaining Court approval of this Agreement in all respects.

XIV. APPRISAL AND CERTIFICATION BY THE SETTLEMENT ADMINISTRATOR.

The Settlement Administrator shall keep Plaintiff’s Counsel and Defendant’s Counsel apprised of all distributions from the Settlement Amount. Upon completion of administration of the Settlement, the Settlement Administrator shall provide written certification of such completion to Plaintiff’s Counsel and Defendant’s Counsel. The Settlement Administrator shall also provide a final accounting, including the names of payees and the amounts of the Individual Settlement Payments.

XV. MISCELLANEOUS PROVISIONS

A. Stay of Litigation.

Plaintiff and Defendant agree to the stay of all discovery in the Litigation, pending approval of this Agreement by the Court.

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1 **B. Interpretation of the Agreement.**

2 This Agreement constitutes the entire agreement between Plaintiff and Defendant.
3 Except as expressly provided herein, this Agreement has not been executed in reliance upon any
4 other written or oral representations or terms, and no such extrinsic oral or written
5 representations or terms shall modify, vary or contradict its terms. In entering into this
6 Agreement, the Parties agree that this Agreement is to be construed according to its terms and
7 may not be varied or contradicted by extrinsic evidence. This Agreement will be interpreted and
8 enforced under the laws of the State of California, both in its procedural and substantive aspects,
9 without regard to its conflict of law's provisions. Any claim arising out of or relating to this
10 Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior
11 Court of the State of California for the County of Monterey, and Plaintiff and Defendant hereby
12 consent to the personal jurisdiction of the Court over them solely in connection therewith.
13 Plaintiff, on his own behalf and on behalf of the PAGA Group and the State of California, and
14 Defendant participated in the negotiation and drafting of this Agreement and had available to
15 them the advice and assistance of independent counsel. As such, neither Plaintiff nor Defendant
16 may claim that any ambiguity in this Agreement should be construed against the other.

17 The terms and conditions of this Agreement constitute the exclusive and final
18 understanding and expression of all agreements between Plaintiff and Defendant with respect to
19 the resolution of the Litigation. This Agreement may be modified only by a writing signed by
20 counsel for all Parties or their successors-in-interest.

21 **C. Further Cooperation.**

22 Plaintiff and Defendant and their respective attorneys shall proceed diligently to prepare
23 and execute all documents, to seek approval of this Agreement from the Court, and to do all
24 things reasonably necessary or convenient to consummate this Agreement as expeditiously as
25 possible. Specifically, following the Parties' execution of this Agreement, Defendant agrees that
26 Plaintiff may notice a hearing with the Court seeking approval of this Settlement Agreement for
27 the earliest possible date permitted by California Code of Civil Procedure section 1005.

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1 **D. Counterparts.**

2 This Agreement may be executed in one or more actual or non-original counterparts, all
3 of which will be considered one and the same instrument and all of which will be considered
4 duplicate originals.

5 **F. Authority.**

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

8 **G. No Third-Party Beneficiaries.**

9 Plaintiff, members of the PAGA Group, the State of California, Defendant and Released
10 Parties are direct beneficiaries of this Agreement. The Parties are not aware of any third-party
11 beneficiaries.

12 **H. Deadlines Falling on Weekends or Holidays.**

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

15 **J. Severability.**

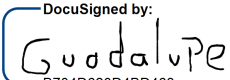
16 In the event that any one or more of the provisions contained in this Agreement shall for
17 any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or
18 unenforceability shall in no way effect any other provision if Defense Counsel and Plaintiff's
19 Counsel,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

21 **K. Defendant's Fees and Costs**

22 All of Defendant's own legal fees, costs and expenses incurred in this Litigation shall be
23 borne by Defendant.

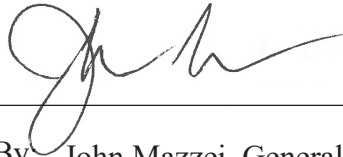
24 **APPROVED AS TO CONTENT:**

25 8/16/2023
26 DATED: August __, 2023

DocuSigned by:

6704D020B4BD403...
Guadalupe Hernandez

1
2 DATED: August 11, 2023

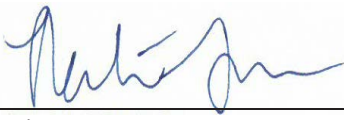
AUTOMATED HARVESTING, LLC

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4 
5 By: John Mazzei, General Counsel

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7
8 **APPROVED AS TO FORM:**

9
10 DATED: August 16, 2023

KELLER GROVER LLP

11
12 By: 
13 Eric A. Grover
14 Robert W. Spencer
15 Attorney for Plaintiff

16
17 DATE: August 10, 2023

**OGLETREE, DEAKINS, NASH, SMOAK
& STEWART, P.C.**

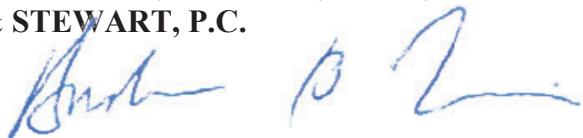
18
19 By: 
20 Michael D. Wilson, Jr.
21 Andrew B. Levin
22 Attorneys for Defendant
23
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25
26
27
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EXHIBIT A

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

GUADALUPE HERNANDEZ, on behalf
of all aggrieved employees,

Plaintiffs,

v.

AUTOMATED HARVESTING, LLC; and
DOES 1 through 50, inclusive,

Defendants.

Case No. 22CV002717

**NOTICE OF SETTLEMENT OF PRIVATE
ATTORNEYS GENERAL ACT CLAIMS
(CAL. LABOR CODE §§ 2698, *ET SEQ.*)**

You have been identified as an hourly, non-exempt employee who worked for Automated Harvesting, LLC (“Automated Harvesting” or “Defendant”) in California between September 8, 2021 and August 12, 2023, inclusive (“Covered Employee”).

On December 20, 2022, Guadalupe Hernandez (“Plaintiff”) filed a complaint in Monterey County Superior Court (the “Court”) to recover civil penalties pursuant to the California Labor Code Private Attorneys General Act of 2004, codified at Labor Code §§ 2698, *et seq.* (“PAGA”). The lawsuit alleges that Covered Employees were, among other things, not paid overtime for all applicable hours worked and did not receive accurate, itemized wage statements.

Automated Harvesting denies all of Plaintiff’s allegations and disputes all of Plaintiff’s claims.

Plaintiff and Defendant reached a settlement of the claims for PAGA civil penalties alleged in the lawsuit. The Court approved the settlement on _____. The settlement is for \$ _____. However, by law, \$ _____ has been paid to the State of California’s Labor and Workforce Development Agency (“LWDA”) for the enforcement of the state’s labor laws. An additional \$ _____ has been paid to Plaintiff’s Counsel’s for its attorneys’ fees and costs, Plaintiff has been paid \$ _____ as a service payment, and \$ _____ has been paid to the Settlement Administrator. The remaining settlement funds of \$ _____ are being distributed to the Covered Employees as described below.

Pursuant to the settlement agreement, the amount to be distributed to the Covered Employees shall be divided by the total number of full pay periods, with partial pay periods rounded up to the next whole number, as determined by Defendant’s records, worked by all Covered Employees between September 8, 2021 and August 12, 2023, inclusive. This amount shall be known as the “Pay Period Value.” Each Covered Employee shall be paid an amount equal to the number of individual pay periods he or she worked for Defendant between September 8,

2021 and August 12, 2023, inclusive. Your Individual Settlement Payment is provided with this Notice.

The Court-approved settlement contains the following release of claims, which is meant to bar any future litigation by Plaintiff and the California Labor & Workforce Development Agency (“LWDA”), either directly or through any other proxy or agent:

Upon approval of this Settlement Agreement by the Court, Plaintiff, individually and as a representative acting as a proxy or agent of the LWDA in this Litigation, agrees to release Defendant and its parent, subsidiary, affiliated, predecessor and successor companies and entities, and its and their past and present shareholders, investors, officers, directors, employees, attorneys, agents, benefit plans, trustees, fiduciaries and administrators (collectively, the “Released Parties”), of and from any and all claims under the California Labor Code Private Attorneys General Act of 2004 (“PAGA”), Labor Code §§ 2698, *et seq.*, that were or could have been alleged based on the factual allegations and identified Labor Code sections in the Litigation and the LWDA Letter, including, but not limited to, California Labor Code sections §§ 201, 202, 203, 204b, 226, 226.3, 510, 511, 1194, 1198, and 1199, during the time period from and including September 8, 2021 through August 12, 2023 (the “Released Claims”). The Parties further agree to release any and all claims for costs, fees, and interest related to the Released Claims. The Parties further agree that this Agreement and judgment to be entered by the Court following approval of this settlement forever bars Plaintiff and the LWDA, directly or through any other proxy or agent, from any future prosecution of any of the Released Claims against any of the Released Parties.

If you have any questions or would like a copy of the settlement agreement approved by the Court, please contact the Settlement Administrator at _____.