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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MONTEREY

LLUVIANA RUIZ, JESUS BARBOZA
RUIZ, and PURESÁ RESENDIS, on behalf
of themselves and all others similarly
situated,

Plaintiffs,

v.

KLEEN HARVEST, INC., a California
corporation; and DOES 1 through 100,
inclusive,

Defendant.

CASE NO.: 21CV002319

[Assigned for all purposes to the Hon.
Thomas W. Wills in Dept. 15]

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

ACTION FILED: July 21, 2021
TRIAL DATE: None set

1 This Joint Stipulation re: Class Action and Representative Action Settlement
2 (“Settlement,” “Agreement” or “Settlement Agreement”) is made by and between Plaintiffs
3 LLUVIANA RUIZ, JESUS BARBOZA RUIZ, and PURESА RESENDIS (collectively,
4 “Plaintiffs”), on behalf of themselves and all others similarly situated and aggrieved, on one
5 hand; and defendant KLEEN HARVEST, INC. (“Defendant”), on the other hand, in the lawsuit
6 entitled *Lluviana Ruiz, et. al. v. Kleen Harvest Inc.*, filed in Monterey County Superior Court,
7 Case No. 21CV002319 (the “Action”). Plaintiffs and Defendant shall be, at times, collectively
8 referred to as the “Parties”. This Agreement is intended by the Parties to fully, finally, and
9 forever resolve the claims as set forth herein, based upon and subject to the terms and
10 conditions of this Agreement.

11 **1. DEFINITIONS**

12 **A. “Action”** means the action entitled *Lluviana Ruiz, et. al. v. Kleen Harvest Inc.*,
13 filed in Monterey County Superior Court, Case No. 21CV002319.

14 **B. “Aggrieved Employees”** means Class Members working for Kleen Harvest Inc.,
15 as non-exempt, hourly-paid employees during the PAGA Period in the State of California.

16 **C. “Class Counsel”** means David D. Bibiyan, Jeffrey D. Klein, and Vedang J. Patel
17 of Bibiyan Law Group, P.C. The term “Class Counsel” shall be used synonymously with the
18 term “Plaintiffs’ Counsel.”

19 **D. “Class Period”** means the period from July 21, 2017 through July 23, 2023,
20 unless shortened pursuant to paragraph 17 of this Agreement.

21 **E. “Class Notice”** means and refers to the notice sent to Class Members after
22 preliminary approval of the Settlement in the manner described in Paragraph 9(A) of this
23 Agreement.

24 **F. “Court”** means the Superior Court of the State of California for the County of
25 Monterey.

26 **G. “Final Approval Date”** means the later of: (1) the date the Court signs an Order
27 granting final approval of this Settlement (“Final Approval”) and Judgment; (2) if there is an
28 objector, 60 days from the date of the Final Approval and Judgment; or (3) to the extent any

appeals have been filed, the date on which they have been resolved or exhausted.

H. “Defendant” means Kleen Harvest Inc.

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

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

K. “Gross Settlement Amount” means a non-reversionary fund in the sum of Three Hundred Seventy-Five Dollars and Zero Cents (\$375,000.00),¹ which shall be paid by Defendant, from which all payments for the Individual Settlement Payments to Participating Class Members, the Court-approved amounts for attorneys’ fees and reimbursement of litigation costs and expenses to Class Counsel, Settlement Administration Costs, the Service Award, the PAGA Payment and the LWDA Payment shall be paid. It expressly excludes Employer Taxes, which shall be paid by Defendant separate, apart and in addition to the Gross Settlement Amount.

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

M. “Individual Settlement Payment” means a payment to a Participating Class Member of his or her net share of the Net Settlement Amount.

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

O. “LWDA Payment” means the payment to the State of California Labor and Workforce Development Agency (“LWDA”) for its seventy-five percent (75%) share of the

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

1 total amount allocated toward penalties under the PAGA, all of which is to be paid from the
2 Gross Settlement Amount. The Parties have agreed that Twenty Thousand Dollars and Zero
3 Cents (\$20,000.00) shall be allocated toward PAGA penalties, of which Fifteen Thousand
4 Dollars and Zero Cents (\$15,000.00) will be paid to the LWDA (*i.e.*, the LWDA Payment) and
5 Five Thousand Dollars and Zero Cents (\$5,000.00) will be paid to Aggrieved Employees on a
6 *pro rata* basis based on the Pay Periods worked for Defendant as a non-exempt, hourly-paid
7 employee in California in the PAGA Period (*i.e.* the PAGA Payment).

8 **P. “Net Settlement Amount”** means the portion of the Gross Settlement Amount
9 that is available for distribution to the Participating Class Members after deductions for the
10 Court-approved allocations for Settlement Administration Costs, a Service Award to Plaintiffs,
11 an award of attorneys’ fees, reimbursement of litigation costs and expenses to Class Counsel,
12 the LWDA Payment and the PAGA Payment.

13 **Q. “Operative Complaint”** or **“Complaint”** means the Second Amended
14 Complaint to be filed in Monterey County Superior Court, Case No. 21CV002319.

15 **R. “PAGA Payment”** is the 25% portion of the Twenty Thousand Dollars and Zero
16 Cents (\$20,000.00) that is allocated toward PAGA penalties (Five Thousand Dollars and Zero
17 Cents (\$5,000.00)) that will be paid to Aggrieved Employees on a *pro rata* basis based on the
18 Pay Periods worked as non-exempt, hourly-paid employees in California in the PAGA Period,
19 which would be in addition to their Individual Settlement Payment if they are Participating
20 Class Members, as well.

21 **S. “PAGA Period”** means the period from July 10, 2020 through the end of the
22 Class Period.

23 **T. “Pay Periods”** means the number of pay periods that a Settlement Class
24 Member was employed by the Defendant in a non-exempt, hourly position during the Class
25 Period in California, based on hire dates, re-hire dates (as applicable), and termination dates (as
26 applicable).

27 **U. “Participating Class Members”** means all Settlement Class Members who do
28 not submit a timely and valid Request for Exclusion.

1 **V. “Participating Individual Settlement Share”** means the gross amount of the
2 Net Settlement Amount that a Participating Class Member is eligible to receive based on the
3 number of Workweeks that he or she worked as a Settlement Class Member during the Class
4 Period once all opt-outs have been factored in, excluding any Individual PAGA Payment to
5 which he or she may be entitled if he or she is also an Aggrieved Employee.

6 **W. “Plaintiffs,” “Named Plaintiffs” or “Class Representative”** shall refer to
7 Plaintiffs Lluviana Ruiz ("Plaintiff Lluviana Ruiz"), Jesus Barboza Ruiz ("Plaintiff Barboza
8 Ruiz"), and Puresa Resendis ("Plaintiff Resendis").

9 **X. “Preliminary Approval Date”** means the date on which the Court enters an
10 Order granting preliminary approval of the Settlement.

11 **Y. “Released Class Claims”** means all claims, rights, demands, liabilities and
12 causes of action that are alleged, or reasonably could have been alleged based on the facts and
13 claims asserted in the Operative Complaint that were and could have been pled in the Operative
14 Complaint based on facts and allegations made therein for violation of Labor Code sections,
15 including but not limited to, 201, 202, 203, 226, 226.2, 226.7, 510, 512, 558, 1174.5, 1194,
16 1197, 2802, the applicable IWC Wage Order, and Business and Professions Code section
17 17200 that accrued during the Class Period.

18 **Z. “Released PAGA Claims”** means all claims, rights, demands, liabilities and
19 causes of actions for Private Attorneys General Act (“PAGA”) civil penalties that are alleged,
20 or reasonably could have been alleged based on the facts and claims asserted in the Operative
21 Complaint, including, but are not limited to: violations of California Labor Code sections 96,
22 98.6, 201 to 204, 226, 226.2, 226.3, 226.7, 227.3, 232, 232.5, 246 *et seq.*, 510, 512, 558,
23 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, 2810.5 and the
24 applicable California Industrial Welfare Commission Wage Orders, which may have arisen
25 during the PAGA Period.

26 **AA. “Released Parties”** shall mean Defendant and each of its past, present and
27 future respective parent companies, subsidiaries, affiliates, shareholders, members, agents
28 (including, without limitation, any investment bankers, accountants, insurers, reinsurers,

attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns.

BB. “Response Deadline” means the deadline for Settlement Class Members to mail any Requests for Exclusion, Objections or Workweek Disputes to the Settlement Administrator, which is forty-five (45) calendar days from the date that the Class Notice is first mailed in English and Spanish by the Settlement Administrator, unless a Class Member’s notice is re-mailed. In such an instance, the Response Deadline shall be fifteen (15) calendar days from the re-mailing or forty-five (45) calendar days from the date of the initial mailing, whichever is later, in which to postmark a Request for Exclusion, Workweek Dispute or Objection. The date of the postmark shall be the exclusive means for determining whether a Request for Exclusion, Objection or Workweek Dispute was submitted by the Response Deadline.

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

DD. “Service Award” means monetary amounts to be paid to Plaintiff Lluviana Ruiz of up to Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00), Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff Jesus Barboza Ruiz, Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff Puresa Resendis, for a total of Seventeen Thousand Five Hundred Dollars and Zero Cents (\$17,500.00), which, subject to Court approval, will be paid out of the Gross Settlement Amount.

EE. “Settlement Administration Costs” means all costs incurred by the Settlement Administrator in administration of the Settlement, including, but not limited to, translating the Class Notice to Spanish, distribution of the Class Notice to the Settlement Class in English and Spanish, calculating Individual Settlement Shares, Individual Settlement Payments, Individual PAGA Payments and Participating Individual Settlement Shares, as well as associated taxes and withholdings, providing declarations, generating Individual Settlement Payment checks and related tax reporting forms, doing administrative work related to unclaimed checks, transmitting payment to Class Counsel for the Court-approved amounts for attorneys’ fees and

1 reimbursement of litigation costs and expenses, to Plaintiffs for their Service Award and to the
2 LWDA for the LWDA Payment, providing weekly reports of opt-outs, objections and related
3 information, and any other actions of the Settlement Administrator as set forth in this
4 Agreement, all pursuant to the terms of this Agreement. The Settlement Administration Costs
5 are estimated not to exceed \$11,500.00. If the actual amount of the Settlement Administration
6 Costs is less than \$11,500.00, the difference between \$11,500.00 and the actual Settlement
7 Administration Costs shall be a part of the Net Settlement Amount. If the Settlement
8 Administration Costs exceed \$11,500.00, then such excess will be paid solely from the Gross
9 Settlement Amount and Defendant will not be responsible for paying any additional funds in
10 order to pay these additional costs.

11 **FF. “Settlement Administrator”** means the Third-Party Administrator mutually
12 agreed upon by the Parties that will be responsible for the administration of the Settlement
13 including, without limitation, translating the Class Notice in Spanish, distribution of the
14 Individual Settlement Payments to be made by Defendant from the Gross Settlement Amount
15 and related matters under this Agreement.

16 **GG. “Settlement Class,” “Settlement Class Members” or “Class Members”** means
17 all persons currently or formerly employed by Kleen Harvest Inc., either directly or through
18 any subsidiary, staffing agency, or professional employer organization, as hourly-paid, non-
19 exempt employees at any time during the Class Period in California.

20 **HH. “Workweeks”** means the number of weeks that a Settlement Class Member was
21 employed by Defendant in a non-exempt, hourly position during the Class Period in California,
22 based on hire dates, re-hire dates (as applicable), and termination dates (as applicable).

23 **2. BACKGROUND**

24 **A.** On July 10, 2021, Plaintiff Lluviana Ruiz filed with the LWDA a notice under
25 Labor Code section 2699.3 stating Plaintiff intended to serve as a proxy of the LWDA to
26 recover civil penalties on behalf of Aggrieved Employees for alleged Labor Code violations
27 (“PAGA Notice”).

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1 **B.** On July 21, 2021, Plaintiff Lluviana Ruiz filed a putative wage-and-hour class
2 action in the Monterey County Superior Court, Case No. 21CV002319, alleging Defendant, as
3 it pertains to Class Members: (1) failed to pay overtime wages; (2) failed to pay minimum
4 wages; (3) failed to provide meal periods or compensation in lieu thereof; (4) failed to provide
5 rest periods or compensation in lieu thereof; (5) failed to pay all wages due upon termination;
6 (6) failed to provide accurate wage statements; (7) failed to indemnify employees for business
7 expenses; and (8) engaged in unfair competition (the “Class Action”).

8 **C.** On September 24, 2021, after sixty-five (65) days had passed since Plaintiff
9 Lluviana filed the PAGA Notice, without any action by the LWDA with respect to the alleged
10 Labor Code violations, Plaintiff Lluviana Ruiz filed a separate representative action in the
11 Monterey County Superior Court of California, Case No. 21CV003030 (the PAGA Action”)
12 seeking PAGA civil penalties against Defendant for Labor Code violations alleged in the
13 PAGA Notice in the Monterey County Superior Court of California, Case No. 21CV003030
14 (the “PAGA Action”)

15 **D.** On January 24, 2022, Plaintiffs filed a First Amended Complaint in the Class
16 Action consolidating the wage and hour class action and PAGA Action (“Operative
17 Complaint”).

18 **E.** On February 9, 2022, the PAGA Action was dismissed without prejudice,
19 thereby effectively consolidating the PAGA Action into the Class Action (hereinafter, the
20 “Action”).

21 **F.** Prior to mediation, Defendant agreed to informally produce sample time and
22 payroll records of Class Members during the Class Period through mediation, relevant
23 company policy documents, and documents pertaining to Plaintiffs available to Defendant.

24 **G.** On April 21, 2023, the Parties participated in a full-day mediation before Jeffrey
25 Krivis Esquire, a well-regarded mediator experienced in mediating complex labor and
26 employment matters. With the aid of the mediator’s evaluation, the Parties reached the
27 settlement to resolve the Action.

28 ///

1 **H.** Defendant denies, and continues to deny, each and every claim and contention
2 alleged in the Action, and has always maintained that it has never engaged in any unlawful acts
3 regarding any of the matters alleged in the Action.

4 **I.** Class Counsel has conducted significant investigation of the law and facts
5 relating to the claims asserted in the Action and in the PAGA Notice, and have concluded that
6 the Settlement set forth herein is fair, reasonable, adequate and in the best interests of the
7 Settlement Class, taking into account the sharply contested issues involved, the expense and
8 time necessary to litigate the Action through trial and any appeals, the risks and costs of further
9 litigation of the Action, the risk of an adverse outcome, the uncertainties of complex litigation,
10 the information learned through informal discovery regarding Plaintiffs' allegations, and the
11 substantial benefits to be received by Settlement Class Members.

12 **J.** Defendant desires to settle the Action for the purpose of avoiding the burden,
13 expense and uncertainty of continuing litigation, and for the purpose of putting to rest the
14 controversies engendered by the Action.

15 **K.** This Agreement is intended to and does effectuate the full, final and complete
16 resolution of all Class Released Claims of Plaintiffs and Participating Class Members, and all
17 PAGA Released Claims of Plaintiffs and, to the extent permitted by law, of the State of
18 California and Aggrieved Employees.

19 **3. JURISDICTION**

20 The Court has jurisdiction over the Parties and the subject matter of the Action. The
21 Action includes claims that, if proven, would authorize the Court to grant relief pursuant to the
22 applicable statutes. After the Court has granted Final Approval of the Settlement and entered
23 judgment, the Court shall retain jurisdiction over the Parties to enforce the terms of the
24 judgment pursuant to California Rules of Court, rule 3.769, subdivision (h).

25 **4. STIPULATION OF CLASS CERTIFICATION**

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

28 ///

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

2 After full execution of this Agreement, Plaintiffs will move for an order granting
3 preliminary approval of the Settlement, approving and directing the mailing of the proposed
4 Notice of Class Action Settlement (“Class Notice”) attached hereto as **Exhibit “A,”**
5 conditionally certifying the Settlement Class for settlement purposes only, and approving the
6 deadlines proposed by the Parties for the submission of Requests for Exclusion, Workweek
7 Disputes and Objections. If and when the Court preliminarily approves the Settlement, and
8 after administration of the Class Notice in a manner consistent with the Court’s Preliminary
9 Approval Order, Plaintiffs will move for an order finally approving the Settlement and seek
10 entry of a Judgment in line with this Settlement. The Parties may both respond to any
11 Objections lodged to final approval of the Settlement up to five (5) court days before the Final
12 Approval Hearing.

13 **6. STATEMENT OF NO ADMISSION**

14 Defendant denies any wrongdoing of any sort and further denies any liability to
15 Plaintiffs and the Settlement Class with respect to any claims or allegations asserted in the
16 Action and the PAGA Notice. This Agreement shall not be deemed an admission by Defendant
17 of any claims or allegations asserted in the Action or in the PAGA Notice. Except as set forth
18 elsewhere herein, in the event that this Agreement is not approved by the Court or any appellate
19 court, is terminated, or otherwise fails to be enforceable, Plaintiffs will not be deemed to have
20 waived, limited or affected in any way any claims, rights or remedies, or defenses in the Action
21 or in the PAGA Notice, and Defendant will not be deemed to have waived, limited or affected
22 in any way any of their objections or defenses in the Action and in the PAGA Notice. The
23 Parties shall be restored to their respective positions in the Action prior to the entry of this
24 Settlement.

25 **7. RELEASE OF CLAIMS**

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

27 Effective only upon the entry of an Order granting Final Approval of the Settlement,
28 entry of Judgment and payment by Defendant to the Settlement Administrator of the full Gross

1 Settlement Amount and Employers Taxes necessary to effectuate the Settlement, Plaintiffs and
2 all Participating Class Members fully release and forever discharge all Released Class Claims
3 against the Released Parties.

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

5 Upon the date of entry of an order by the Court in this Action approving this Settlement,
6 entry of Judgment, and payment by Defendant to the Settlement Administrator of the full Gross
7 Settlement Amount, the LWDA and the Aggrieved Employees, including Plaintiffs, fully
8 release and forever discharge the Released Parties from any and all Released PAGA Claims.
9 As a result of this release, the Aggrieved Employees will be unable to bring a claim under, or
10 recover in any other claim brought under PAGA for any violations of the Released PAGA
11 Claims that took place during the PAGA period.

12 **C. Claims Not Released**

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

19 **D. General Release**

20 Effective only upon the entry of an Order granting Final Approval of the Settlement,
21 entry of Judgment and payment by Defendant to the Settlement Administrator selected of the
22 full Gross Settlement Amount and Employers' Taxes necessary to effectuate the Settlement, in
23 addition to the Released Claims, Plaintiffs make the additional following General Release:
24 Plaintiffs release the Released Parties from all claims, demands, rights, liabilities and causes of
25 action of every nature and description whatsoever, known or unknown, asserted or that might
26 have been asserted, whether in tort, contract, or for violation of any state or federal statute, rule,
27 law or regulation arising out of, relating to, or in connection with any act or omission of the
28 Released Parties through the date of full execution of this Agreement in connection with

1 Plaintiffs' employment with Defendant or termination thereof, except for any and all other
2 claims that may not be released as a matter of law through this Agreement. To the extent of the
3 General Release provided herein, Plaintiffs stipulate and agree that, upon entry of an Order
4 granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the
5 Settlement Administrator selected of the full Gross Settlement Amount and Employers' Taxes
6 necessary to effectuate the Settlement, they shall have expressly waived and relinquished, to
7 the fullest extent permitted by law, the provisions, rights and benefits of Section 1542 of the
8 California Civil Code, or any other similar provision under federal or state law, which provides:

9 A general release does not extend to claims that the creditor or
10 releasing party does not know or suspect to exist in his or her
11 favor at the time of executing the release and that, if known by
him or her, would have materially affected his or her settlement
with the debtor or released party.

12 **8. SETTLEMENT ADMINISTRATOR**

13 Plaintiffs and Defendant, through their respective counsel, have selected ILYM Group,
14 Inc., to administer the Settlement, which includes, but is not limited to, translating the Class
15 Notice to Spanish, distributing and responding to inquiries about the Class Notice, and
16 calculating all amounts to be paid from the Gross Settlement Amount. Charges and expenses
17 of the Settlement Administrator, currently estimated to be \$11,500.00, will be paid from the
18 Gross Settlement Amount. If the actual amount of the Settlement Administration Costs is less
19 than \$11,500.00, the difference between \$11,500.00 and the actual Settlement Administration
20 Costs shall be a part of the Net Settlement Amount. If the Settlement Administration Costs
21 exceed \$11,500.00, then such excess will be paid solely from the Gross Settlement Amount and
22 Defendant will not be responsible for paying any additional funds in order to pay these
23 additional costs.

24 **9. NOTICE, WORKWEEK DISPUTE, OBJECTION AND EXCLUSION**
25 **PROCESS**

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

27 (1) Within seven (7) calendar days after the Preliminary Approval Date, Defendant
28 shall provide the Settlement Administrator with information with respect to each Settlement

1 Class Member, including his or her: (1) name; (2) last known address(es) currently in
2 Defendant's possession, custody or control; (3) last known telephone number(s) currently in
3 Defendant's possession, custody or control; (4) last known Social Security Number(s) in
4 Defendant's possession, custody or control; (5) pay records of weeks worked for each
5 Settlement Class Member ("Class List"). The Settlement Administrator shall perform an
6 address search using the United States Postal Service National Change of Address ("NCOA")
7 database and update the addresses contained on the Class List with the newly-found addresses,
8 if any. Within seven (7) calendar days or soon thereafter of receiving the Class List from
9 Defendant, the Settlement Administrator shall mail the Class Notice in English and Spanish to
10 the Settlement Class Members via first-class regular U.S. Mail using the most current mailing
11 address information available. The Settlement Administrator shall maintain the Class List and
12 digital copies of all the Settlement Administrator's records evidencing the giving of notice to
13 any Settlement Class Member for at least four (4) years from the Final Approval Date.

14 (2) The Class Notice will set forth:

- 15 (a) the Settlement Class Member's estimated Individual
16 Settlement Payment and Individual PAGA Payment,
17 and the basis for each;
- 18 (b) the information required by California Rule of Court,
19 rule 3.766, subdivision (d);
- 20 (c) the material terms of the Settlement;
- 21 (d) the proposed Settlement Administration Costs;
- 22 (e) the definition of the Settlement Class;
- 23 (f) a statement that the Court has preliminarily approved
24 the Settlement;
- 25 (g) how the Settlement Class Member can obtain
26 additional information, including contact information
27 for Class Counsel;
- 28

- 1 (h) information regarding opt-out and objection
2 procedures;
- 3 (i) the date and location of the Final Approval Hearing;
4 and
- 5 (j) that the Settlement Class Member must notify the
6 Settlement Administrator no later than the Response
7 Deadline if the Settlement Class Member disputes the
8 accuracy of the number of Workweeks worked as set
9 forth on his or her Class Notice (“Workweek
10 Dispute”). If a Settlement Class Member fails to
11 timely dispute the number of Workweeks attributed to
12 him or her in conformity with the instructions in the
13 Class Notice, then he or she shall be deemed to have
14 waived any objection to its accuracy and any claim to
15 any additional settlement payment based on different
16 data.

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

26 (4) No later than seven (7) calendar days from the Response Deadline, the
27 Settlement Administrator shall provide counsel for the Parties with a declaration attesting to the
28 completion of the notice process, including the number of attempts to obtain valid mailing

addresses for and re-sending of any returned Class Notices, as well as the identities, number of, and copies of all Requests for Exclusion and Objections received by the Settlement Administrator.

B. Objections

Only Participating Class Members may object to the Settlement. In order for any Settlement Class Member to object to this Settlement in writing, or any term of it, he or she must do so by mailing a written objection to the Settlement Administrator at the address or phone number provided on the Class Notice no later than the Response Deadline. The Settlement Administrator shall email a copy of the Objection forthwith to Class Counsel and Defendant's counsel and attach copies of all Objections to the Declaration it provides Class Counsel, which Class Counsel shall file in support of Plaintiffs' Motion for Final Approval. The Objection should set forth in writing: (1) the Objector's name; (2) the Objector's address; (3) the last four digits of the Objector's Social Security Number; (4) the Objector's signature; (5) a statement of whether the Objector plans to appear at the Final Approval Hearing; and (6) the reason(s) for the Objection, along with whatever legal authority, if any, the Objector asserts in support of the Objection. If a Settlement Class Member objects to the Settlement, the Settlement Class Member will remain a member of the Settlement Class and if the Court approves this Agreement, the Settlement Class Member will be bound by the terms of the Settlement in the same way and to the same extent as a Settlement Class Member who does not object. The date of mailing of the Class Notice to the objecting Settlement Class Member shall be conclusively determined according to the records of the Settlement Administrator. Settlement Class Members need not object in writing to be heard at the Final Approval Hearing; they may object or comment in person at the hearing at their own expense. Class Counsel and Defendant' Counsel may respond to any objection lodged with the Court up to five (5) court days before the Final Approval Hearing.

C. Requesting Exclusion

Any Settlement Class Member may request exclusion from (*i.e.*, "opt out" of) the Settlement by mailing a written request to be excluded from the Settlement ("Request for

Exclusion”) to the Settlement Administrator, postmarked on or before the Response Deadline. To be valid, a Request for Exclusion must include: (1) the Class Member’s name; (2) the last four (4) digits of the Class Member’s Social Security Number; (3) the Class Member’s signature; and (4) the following statement: “Please exclude me from the Settlement Class in the *Lluviana Ruiz, et. al. v. Kleen Harvest Inc.* matter” or any statement of similar meaning standing for the proposition that the Class Member does not wish to participate in the Settlement. The Settlement Administrator shall immediately provide copies of all Requests for Exclusion to Class Counsel and Defendant’ Counsel and shall report the Requests for Exclusions that it receives, to the Court, in its declaration to be provided in advance of the Final Approval Hearing. Any Settlement Class Member who requests exclusion using this procedure will not be entitled to receive any payment from the Settlement and will not be bound by the Settlement Agreement or have any right to object to, appeal, or comment on the Settlement. Any Settlement Class Member who does not opt out of the Settlement by submitting a timely and valid Request for Exclusion will be bound by all terms of the Settlement, including those pertaining to the Released Claims, as well as any Judgment that may be entered by the Court if Final Approval of the Settlement is granted. A Settlement Class Member cannot submit both a Request for Exclusion and an objection. If a Settlement Class Member submits an Objection and a Request for Exclusion, the Request for Exclusion will control and the Objection will be overruled. Settlement Class Members who worked during the PAGA Period as Aggrieved Employees that submit a valid Request for Exclusion will still be deemed Aggrieved Employees, will still receive their Individual PAGA Payments, and will be bound by the release of the PAGA Released Claims.

D. Disputes Regarding Settlement Class Members’ Workweek Data.

Each Settlement Class Member may dispute the number of Workweeks attributed to him or her on his or her Class Notice (“Workweek Dispute”). Any such disputes must be mailed to the Settlement Administrator by the Settlement Class Member, postmarked on or before the Response Deadline. The Settlement Administrator shall immediately provide copies of all disputes to Class Counsel and counsel for Defendant and shall immediately attempt to

1 resolve all such disputes directly with relevant Settlement Class Member(s) with the assistance
2 of Defendant and Class Counsel. If the dispute cannot be resolved in this manner, the Court shall
3 adjudicate the dispute.

4 **10. INDIVIDUAL SETTLEMENT PAYMENTS AND INDIVIDUAL**
5 **PAGA PAYMENTS**

6 Individual Settlement Payments will be calculated and distributed to Participating
7 Class Members from the Net Settlement Amount on a *pro rata* basis, based on the
8 Participating Class Members' respective number of Workweeks worked during the Class
9 Period. Individual PAGA Payments to Aggrieved Employees will be calculated and
10 distributed to Aggrieved Employees from the PAGA Payment on a *pro rata* basis based on
11 Aggrieved Employees' respective number of Pay Periods worked during the PAGA Period.
12 Specific calculations of the Individual Settlement Shares and Individual PAGA Payments to
13 Aggrieved Employees will be made as follows:

14 **A.** The Settlement Administrator will determine the total number of Workweeks
15 worked by each Settlement Class Member during the Class Period ("Class Member's
16 Workweeks"), as well as the aggregate number of Workweeks worked by all Settlement Class
17 Members during the Class Period ("Class Workweeks"). Additionally, the Settlement
18 Administrator will determine the total number of Pay Periods worked by each Aggrieved
19 Employee during the PAGA Period ("Aggrieved Employee's Pay Periods"), as well as the
20 aggregate number of Pay Periods worked by all Aggrieved Employees during the PAGA
21 Period ("PAGA Pay Periods").

22 **B.** To determine each Settlement Class Member's Individual Settlement Share,
23 the Settlement Administrator will use the following formula: Individual Settlement Share =
24 (Settlement Class Member's Workweeks worked ÷ Class Workweeks) × Net Settlement
25 Amount.

26 **C.** To determine each Participating Class Member's Participating Individual
27 Settlement Share, the Settlement Administrator will determine the aggregate number of
28 Workweeks worked by all Participating Class Members during the Class Period

1 (“Participating Class Workweeks”) and use the following formula: Individual Settlement
2 Share = (Participating Class Member’s Workweeks worked ÷ Participating Class
3 Workweeks) × Net Settlement Amount.

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

7 **E.** To determine each Aggrieved Employee’s Individual PAGA Payment, the
8 Settlement Administrator will use the following formula: Aggrieved Employee’s Individual
9 PAGA Payment = (Aggrieved Employee’s Pay Periods worked ÷ PAGA Pay Periods) x
10 \$5,000.00 (the PAGA Payment).

11 **F.** Individual Settlement Payments and Individual PAGA Payments shall be paid
12 to Participating Class Members and/or Aggrieved Employees by way of check. When a
13 Participating Class Member is also an Aggrieved Employee, one check may be issued that
14 aggregates both the Individual Settlement Payment and the Individual PAGA Payment.

15 **11. DISTRIBUTION OF PAYMENTS**

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

17 Participating Class Members will receive an Individual Settlement Payment and
18 Aggrieved Employees will receive an Individual PAGA Payment. Individual Settlement
19 Payment and Individual PAGA Payment checks shall remain valid and negotiable for one
20 hundred and eighty (180) calendar days after the date of their issuance. Subject to the
21 requirements of California Civil Procedure section 384, within seven (7) calendar days after
22 expiration of the 180-day period, checks for such payments shall be canceled and funds
23 associated with such checks shall be transmitted to the Food Bank for Monterey County, the
24 *cy pres* recipient, for use in Monterey County.

25 **B. Settlement Administrator’s Report Following Settlement Distribution**

26 After settlement fund distribution, and at the Parties’ and Parties’ Counsel’s joint or
27 independent requests, the Settlement Administrator shall provide written reports or declarations
28 to the Parties and Parties’ Counsel describing, among other things, the results of the settlement

1 fund distribution process, including an accounting of: (1) Individual Settlement Payments; (2)
2 Settlement Administration Costs; (3) the LWDA Payment; (4) Individual PAGA Payments; (5)
3 the Service Award payments; and (6) the Attorneys' Fees and Cost Award payable under this
4 Settlement as well as the transfer of all amounts associated with any voided checks, which
5 report or declarations Plaintiffs will file with the Court if required by the Court.

6 **C. Funding of Settlement**

7 Defendant shall pay the Gross Settlement Amount no later than twenty-one (21) days of
8 the Final Approval Date (as the same may be escalated pursuant to Paragraph 17 of this
9 Agreement) including Employer Taxes to the Settlement Administrator pursuant to Internal
10 Revenue Code section 1.468B-1 for deposit in an interest-bearing qualified settlement account
11 ("QSA") with an FDIC insured banking institution, for distribution in accordance with this
12 Agreement and the Court's Orders and subject to the conditions described herein.

13 **D. Time for Distribution**

14 Within 14 calendar days after payment of the full Gross Settlement Amount and
15 Employer Taxes by Defendant, or as soon thereafter as practicable, the Settlement
16 Administrator shall distribute all payments due from the QSA for: (1) the Service Award to
17 Plaintiffs, as specified in this Agreement and approved by the Court; (2) the Attorneys' Fees
18 and Cost Award to be paid to Class Counsel, as specified in this Agreement and approved by
19 the Court; (3) the Settlement Administrator Costs, as specified in this Agreement and approved
20 the Court; (4) the LWDA Payment, as specified in this Agreement and approved by the Court;
21 (5) Individual PAGA Payments to Aggrieved Employees, as specified in this Agreement and
22 approved by the Court; and (6) Individual Settlement Payments to Participating Class
23 Members, less applicable taxes and withholdings, as specified in this Agreement and approved
24 by the Court. All interest accrued shall be for the benefit of the Class Members and distributed
25 on a *pro rata* basis to Participating Class Members based on the number of Workweeks worked
26 by them in the Class Period.

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

2 Class Counsel shall apply for, and Defendant shall not oppose, an award of attorneys'
3 fees of up to thirty five percent (35%) of the Gross Settlement Amount, which, unless escalated
4 pursuant to Paragraph 17 of this Agreement, amounts to Five Hundred and Eleven Thousand
5 Dollars and Zero Cents (\$131,250.00). Class Counsel shall further apply for, and Defendant
6 shall not oppose, an application or motion by Class Counsel for reimbursement of actual costs
7 associated with Class Counsel's prosecution of this matter as set forth by declaration testimony
8 in an amount up to Thirty Thousand Dollars and Zero Cents (\$30,000.00). Awards of
9 attorneys' fees and costs shall be paid out of the Gross Settlement Amount, for all past and
10 future attorneys' fees and costs necessary to prosecute, settle and obtain Final Approval of the
11 settlement in Action. The "future" aspect of the amounts stated herein includes, without
12 limitation, all time and expenses expended by Class Counsel (including any appeals therein).
13 There will be no additional charge of any kind to either the Settlement Class Members or
14 request for additional consideration from Defendant for such work unless, Defendant materially
15 breaches this Agreement, including any term regarding funding, and Class Counsel has to move
16 the Court to Enforce the Agreement in order to remedy said breach. Should the Court approve
17 attorneys' fees and/or litigation costs and expenses in amounts that are less than the amounts
18 provided for herein, then the unapproved portion(s) shall be a part of the Net Settlement
19 Amount.

20 **13. SERVICE AWARD TO PLAINTIFFS**

21 Named Plaintiffs shall seek, and Defendant shall not oppose, a Service Award in an
22 amount not to exceed Seven Thousand Five Hundred Dollars and Zero Cents (\$7,500.00) to
23 Plaintiff Lluviana Ruiz, Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff Jesus
24 Barboza Ruiz, Five Thousand Dollars and Zero Cents (\$5,000.00) to Plaintiff Puresa Resendis,
25 for a total of Seventeen Thousand Five Hundred Dollars and Zero Cents (\$17,500.00), for
26 participation in and assistance with the Action. Any Service Award and additional
27 consideration awarded and/or paid to Plaintiffs shall be paid from the Gross Settlement Amount
28 and shall be reported on an IRS Form 1099. If the Court approves the Service Award in less

1 than the amounts sought herein, then the unapproved portion(s) shall be a part of the Net
2 Settlement Amount.

3 **14. TAXATION AND ALLOCATION**

4 a. Each Individual Settlement Share shall be allocated as follows: 20% as wages
5 (to be reported on an IRS Form W2); and 80% as interest and penalties (to be reported on an
6 IRS Form 1099). Each Individual PAGA Payment shall be allocated entirely as penalties. The
7 Parties agree that the employees' share of taxes and withholdings with respect to the wage
8 portion of the Individual Settlement Share will be withheld from the Individual Settlement
9 Share in order to yield the Individual Settlement Payment. If applicable, the amount of federal
10 income tax withholding will be based upon a flat withholding rate for supplemental wage
11 payments in accordance with Treasury Regulation § 31.3402(g)-1(a)(2) as amended or
12 supplemented. Income tax withholding will also be made pursuant to applicable state and/or
13 local withholding codes or regulations.

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

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

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

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

2 The Parties agree to allocate Twenty Thousand Dollars and Zero Cents (\$20,000.00) of
3 the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five
4 percent (75%) of the amount allocated toward PAGA (\$15,000.00) will be paid to the LWDA
5 and twenty-five percent (25%) (\$5,000.00) will be distributed to Aggrieved Employees on a
6 *pro rata* basis based upon their respective Pay Periods worked as Aggrieved Employees during
7 the PAGA Period.

8 **16. COURT APPROVAL**

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

19 **17. INCREASE IN WORKWEEKS**

20 Defendant represents that there are no more than 10,548 Workweeks worked by Class
21 Members during the Class Period. In the event the number of Workweeks worked increases by
22 more than 10% or more than 1,548 Workweeks worked, then the Gross Settlement Amount
23 shall be increased proportionally by the Workweeks worked in the Class Period in excess of
24 12,096 multiplied by the Workweek Value. The Workweek Value shall be calculated by
25 dividing the Gross Settlement Amount by 10,548 Workweeks. The Parties agree that the
26 Workweek Value amounts to and the settlement amounts to \$35.55 per Workweek
27 (\$375,000.00 / 10,548 Workweeks).

28 ///

Alternatively, should the number of workweeks increase by more than 10% more than 10,548 during the Class Period (*i.e* 12,096 Workweeks), Defendant will have the choice to either: (a) increase the Gross Settlement Amount proportionally by the Workweeks greater than 12,096 multiplied by the Workweek Value; or (b) to shorten the Class Period to the day the number of Workweeks reaches 12,096. Thus, for example, should the number of Workweeks during the Class Period be 12,500 Workweeks, and Defendant elects option (a) above, then the Gross Settlement Amount shall be increased by \$69,393.60 [(12,500 Workweeks – 10,548 Workweeks) x \$35.55]. However, should Defendant elect option (b) above, then Defendant shall notify Class Counsel of its election no later than ten (10) calendar days after Defendant has received sufficient information to determine the number of Workweeks has exceeded 12,096 Workweeks but no later than the deadline for Defendant to provide the class data to the Settlement Administrator.

18. NOTICE OF JUDGMENT

In addition to any duties set out herein, the Settlement Administrator shall provide notice of the Final Judgment entered in the Action by posting the same on its website for a period of no less than one (1) year.

19. MISCELLANEOUS PROVISIONS

A. Interpretation of the Agreement

This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. Except as expressly provided herein, this Agreement has not been executed in reliance upon any other written or oral representations or terms, and no such extrinsic oral or written representations or terms shall modify, vary or contradict its terms. In entering into this Agreement, the Parties agree that this Agreement is to be construed according to its terms and may not be varied or contradicted by extrinsic evidence. The Agreement will be interpreted and enforced under the laws of the State of California, both in its procedural and substantive aspects, without regard to its conflict of law provisions. Any claim arising out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and exclusively in the Superior Court of the State of California for the County of Monterey, and Plaintiffs and

1 Defendant hereby consents to the personal jurisdiction of the Court in the Action over it solely
2 in connection therewith. The foregoing is only limited to disputes concerning this Agreement.
3 The Parties, and each of them, participated in the negotiation and drafting of this Agreement
4 and had available to them the advice and assistance of independent counsel. As such, neither
5 Plaintiffs nor Defendant may claim that any ambiguity in this Agreement should be construed
6 against the other. The Agreement may be modified only by a writing signed by counsel for the
7 Parties and approved by the Court.

8 **B. Further Cooperation**

9 The Parties and their respective attorneys shall proceed diligently to prepare and
10 execute all documents, to seek the necessary approvals from the Court, and to do all things
11 reasonably necessary to consummate the Settlement as expeditiously as possible. The Parties
12 agree that they will not take any action inconsistent with this Agreement, including, without
13 limitation, encouraging Class Members to opt out of the Settlement. In the event the Court
14 finds that any Party has taken actions inconsistent with the Settlement, including, without
15 limitation, encouraging Class Members to opt out of the Settlement, the Court may take any
16 corrective actions, including enjoining any Party from communicating regarding the Settlement
17 on an *ex parte* basis, issuing (a) corrective notice(s), awarding monetary, issue, evidentiary
18 and/or terminating sanctions against that Party, and/or enforcing this Agreement despite the
19 presence of opt-outs and/or objections.

20 **C. Counterparts**

21 The Agreement may be executed in one or more actual or non-original counterparts,
22 including electronic signatures (i.e. DocuSign), all of which will be considered one and the
23 same instrument and all of which will be considered duplicate originals.

24 **D. Authority**

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

27 ///

28 ///

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

2 Plaintiffs, Participating Class Members, Aggrieved Employees, the State of California,
3 Class Counsel, and Defendant are direct beneficiaries of this Agreement, but there are no third-
4 party beneficiaries.

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

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

8 **G. Jurisdiction of the Court**

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

15 **H. Severability**

16 In the event that one or more of the provisions contained in this Agreement shall for any
17 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 Defendant's Counsel and Class
19 Counsel, on behalf of the Parties and the Settlement Class, mutually elect in writing to proceed
20 as if such invalid, illegal, or unenforceable provision had never been included in this
21 Agreement.

22
23 **IT IS SO AGREED:**

24
25 Dated: 12/18/2023, 2023


Lluviana Ruiz (Dec 18, 2023 16:34 PST)

26 LLUVIANA RUIZ
27 Plaintiff and Class Representative
28

1 Dated: 12/19/2023, 2023

~~Jesus Barboza~~
Jesus Barboza Ruiz (Dec 19, 2023 16:44 PST)

JESUS BARBOZA
Plaintiff and Class Representative

2
3
4
5 Dated: 12/19/2023, 2023

~~Puresa Resendis~~
Puresa Resendis (Dec 19, 2023 16:06 PST)

PURESA RESENDIS
Plaintiff and Class Representative

6
7
8
9 Dated: _____, 2023

KLEEN HARVEST, INC
Defendant
By: Bardin Bengard
Its: President

10
11
12
13
14 **APPROVED AS TO FORM:**

15
16 Dated: December 19, 2023

Vedang J. Patel
DAVID D. BIBIYAN
VEDANG J. PATEL
Counsel for Plaintiffs LLUVIANA RUIZ,
JESUS BARBOZA, and PURESA
RESENDIS

17
18
19
20
21 Dated: _____, 2023

ANA C. TOLEDO
Counsel for Defendant KLEEN HARVEST,
INC.

1 Dated: _____, 2023

2 JESUS BARBOZA
3 Plaintiff and Class Representative
4

5 Dated: _____, 2023

6 PURESA RESENDIS
7 Plaintiff and Class Representative
8

9 Dated: _____, 2023
10 January 4, 2024

11 
12 KLEEN HARVEST, INC
13 Defendant
14 By: Bardin Bengard
15 Its: President
16

17 **APPROVED AS TO FORM:**

18 Dated: _____, 2023

19 DAVID D. BIBIYAN
20 VEDANG J. PATEL
21 Counsel for Plaintiffs LLUVIANA RUIZ,
22 JESUS BARBOZA, and PURESA
23 RESENDIS
24

25 Dated: _____, 2023
26 January 4, 2024


27 
28 ANA C. TOLEDO
Counsel for Defendant KLEEN HARVEST,
INC.

EXHIBIT A

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND DATE
FOR FINAL APPROVAL HEARING
Ruiz et al. v. Kleen Harvest, Inc.
(County of Monterey, Superior Court Case No. 21CV002319)**

As a current or former hourly-paid, non-exempt employee of Kleen Harvest, Inc., you are entitled to receive money from a class action settlement.

Please read this Notice carefully. This Notice relates to a proposed settlement of class action litigation. If you are a Class Member, it contains important information about your right to receive a payment from the Settlement fund.

You have received this Notice of Class Action Settlement because the records of Kleen Harvest, Inc. ("Defendant"), show that you are a "Class Member" and, therefore, entitled to a payment from this class action settlement. Class Members are all persons currently or formerly employed by Kleen Harvest Inc., either directly or through any subsidiary, staffing agency, or professional employer organization, as hourly-paid, non-exempt employees any time between July 21, 2017 through July 23, 2023.

- The settlement is to resolve a class action lawsuit, *Ruiz et al. v. Kleen Harvest, Inc.*, pending in the Superior Court of California for the County of Monterey, Case Number 21CV002319 (the "Lawsuit"), alleging Defendant, as it pertains to Class Members: (1) failed to pay overtime wages; (2) failed to pay minimum wages; (3) failed to provide meal periods or compensation in lieu thereof; (4) failed to provide rest periods or compensation in lieu thereof; (5) failed to pay all wages due upon termination; (6) failed to provide accurate wage statements; (7) failed to indemnify for business expenses; and (8) engaged in unfair competition. Based on the alleged Labor Code violations above-mentioned and other alleged Labor Code violations, Plaintiffs also seek penalties under California Labor Code Private Attorneys' General Act ("PAGA").
- On [REDACTED], the Monterey County Superior Court granted preliminary approval of this class action settlement and ordered that all Class Members be notified of the Settlement. The Court has not made any determination of the validity of the claims in the Lawsuit. Defendant vigorously denies the claims in the Lawsuit and contend that they fully complied with all applicable laws.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT	
DO NOTHING AND RECEIVE PAYMENT	Get a payment and give up your legal rights to pursue claims released by the settlement of the Lawsuit.
OPT OUT OF THE SETTLEMENT	Exclude yourself from the Settlement, get no payment for settlement of the class claims, and retain your legal rights to individually pursue the class claims that would otherwise be released by the settlement of the Lawsuit. If you worked at any time from July 10, 2020 through the end of the Class Period, ("PAGA Period") as a non-exempt, hourly-paid employee of Defendant, as well, then you will be deemed an "Aggrieved Employee" and you will still receive your share of the proceeds available from the settlement of the PAGA Released Claims,

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

	defined below, (your “Individual PAGA Payment”) even if you opt out of the class settlement.
OBJECT TO THE SETTLEMENT	If you do not opt out, you may write to the Settlement Administrator, ILYM Group, Inc., about why you object to the settlement, and they will forward your concerns to counsel which will then be provided to the Court. If the Court approves the Settlement despite your objection, you will still be bound by the Settlement. You or your attorney may also address the Court during the Final Approval Hearing scheduled for [DATE AND TIME] in Department 15 of the Monterey County Superior Court, located at 1200 Aguajito Road, Monterey, CA 93940.

The Final Approval Hearing on the adequacy, reasonableness and fairness of the Settlement will be held at [REDACTED] : [REDACTED] .m. on [REDACTED], in the Monterey Courthouse of the Monterey County Superior Court, located at 1200 Aguajito Road, Monterey, CA 93940, in Department 15. You are not required to attend the Hearing, but you are welcome to do so.

Why Am I Receiving This Notice?

Defendant’s records show that you currently work, or previously worked, for Defendant as a non-exempt hourly-paid employee in the State of California at some point during the Class Period. You were sent this Class Notice because you have a right to know about a proposed settlement of a class action lawsuit, and about all your options before the Court decides whether to finally approve the settlement. If the Court approves the settlement and then any objections and appeals are resolved, a “Settlement Administrator” appointed by the Court will make the payments described in this Notice. This Notice explains the Lawsuit, the settlement, your legal rights, what benefits are available, who is eligible for them and how to get them.

What is This Case About?

Plaintiffs Lluviana Ruiz, Jesus Barboza Ruiz, and Puresa Resendis were hourly-paid, non-exempt employees of Defendant. They are “Plaintiffs” in this case and are suing on behalf of themselves and Class Members for Defendant’s alleged violation of failure to pay overtime wages, failure to pay minimum wages, failure to provide meal periods, failure to provide rest periods, waiting time penalties, wage statement violations, failure to indemnify for business expenses, and unfair competition.

Based on the alleged Labor Code violations above-mentioned and other alleged Labor Code violations, Plaintiffs also seek penalties under California Labor Code Private Attorneys’ General Act (“PAGA”).

Defendant denies all the allegations made by Plaintiffs and denies that it violated any law. The Court has made no ruling on the merits of Plaintiffs’ claims. The Court has only preliminarily approved this class action settlement. The Court will decide whether to give final approval to this settlement at the Final Approval Hearing.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Summary of the Settlement Terms

Plaintiffs and Defendant have agreed to settle this case on behalf of themselves and Class Members and PAGA Aggrieved Employees for the Gross Settlement Amount of \$375,000.00, unless increased pursuant to the Settlement Agreement. The Gross Settlement includes: (1) Administration Costs up to \$11,500.00 (2) a service award of up to \$7,500.00 to Plaintiff Lluviana Ruiz Five, \$5,000.00 to Plaintiff Jesus Barboza Ruiz, \$5,000.00 to Plaintiff Puresa Resendis, for a total of \$17,500.00 for their time and effort in pursuing this case; (3) up to 35% of the Gross Settlement Amount in attorneys' fees which, unless escalated pursuant to the Settlement Agreement, amounts to \$131,250.00; (4) up to \$30,000.00 in litigation costs to Class Counsel, according to proof; and (5) payment allocated to PAGA penalties in the amount of \$20,000.00 of the Gross Settlement Amount toward PAGA penalties. Pursuant to the PAGA, seventy-five percent (75%) of the amount allocated toward PAGA, or \$15,000.00, will be paid to the LWDA and twenty-five percent (25%), or \$5,000.00, will be distributed to Aggrieved Employees. After deducting these sums, a total of approximately not less than \$164,750.00 will be available for distribution to Class Members ("Net Settlement Amount").

Distribution to Class Members

Class Members who do not opt out will receive a *pro rata* payment of the Net Settlement Amount based on the number of weeks worked by Class Members in non-exempt, hourly-paid positions for Defendant in California during the Class Period ("Eligible Workweeks"). Specifically, Class Members' payments will be calculated by dividing the number of Eligible Workweeks attributed to the Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (Individual's Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) x Net Settlement Amount. In addition, individuals who were employed by Defendant between June 10, 2020, through the end of the Class Period (*i.e.*, Aggrieved Employees) will receive a *pro rata* share of the \$5,000.00 allocated as PAGA penalties, whether or not they opt out, based on the number of workweeks worked by each Aggrieved Employee during the PAGA Period.

Defendant's records indicate that you worked [Eligible Workweeks] Workweeks as a non-exempt, hourly-paid employee in California during the Class Period and [Eligible Workweeks] Workweeks during the PAGA Period. Based on these records, your estimated payment as a Class Member would be [\$Estimated Award] and your estimated payment as an Aggrieved Employee would be [\$Estimated Award]. If you believe this information is incorrect and wish to dispute it, you must mail a dispute to the Settlement Administrator no later than [RESPONSE DEADLINE]. Please include any documentation you have that you contend supports your dispute.

Tax Reporting

100% of the payments for PAGA penalties to Aggrieved Employees will be allocated as penalties reported on IRS Form 1099. 20% of each Settlement Payment to Class Members who do not opt out will be allocated as wages and reported on an IRS Form W-2, and 80% will be allocated as penalties and interest reported on IRS Form 1099. This notice is not intended to provide legal or tax advice on your Settlement Share.

Your check will be valid for 180 days after issuance. After 180 days, uncashed checks will be cancelled and the funds associated will be transmitted to [REDACTED], the cy pres recipient, for use in Monterey County.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

Your Options Under the Settlement

Option 1 – Do Nothing and Receive Your Payment

If you do not opt out, you are automatically entitled to your Individual Settlement Payment (*i.e.*, your share of the Net Settlement Amount) because you are a Class Member. If you do not dispute your settlement share calculation and do not opt out of the settlement, you will be bound by the entire release in the settlement and receive your Individual Settlement Payment, as well as your Individual PAGA Payment if you are also an Aggrieved Employee. **In other words, if you are a Class Member, you do not need to take any action to receive the settlement payment(s) set forth above.**

Class Members who do not submit a valid and timely opt out (pursuant to Option 2 below), will be deemed to have fully, finally, and forever released, settled, compromised, relinquished, and discharged the Released Parties of all “Released Claims” he or she may have or had upon final approval of this Settlement and payment by Defendant to the Settlement Administrator.

Effective only upon the entry of an Order granting Final Approval of the Settlement, entry of Judgment and payment by Defendant to the Settlement Administrator of the full Gross Settlement Amount and Employers Taxes necessary to effectuate the Settlement, Plaintiffs and all Participating Class Members release 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 Action that were and could have been pled in the Operative Complaint based on facts and allegations made therein for violation of Labor Code sections, including but not limited to, 201, 202, 203, 226, 226.2, 226.7, 510, 512, 558, 1174.5, 1194, 1197, 2802, the applicable IWC Wage Order, and Business and Professions Code section 17200 that accrued during the Class Period. (the “Class Released Claims”).

For Aggrieved Employees and, to the extent permitted by law, the State of California, the release includes all claims, rights, demands, liabilities and causes of actions that are alleged, or reasonably could have been alleged based on the facts and claims asserted in the Action, including any and all claims under the California Private Attorneys General Act of 2004, which include, but are not limited to: violations of California Labor Code sections 96, 98.6, 201 to 204, 226, 226.2, 226.3, 226.7, 227.3, 232, 232.5, 246 *et seq.*, 510, 512, 558, 1102.5, 1174, 1174.5, 1194, 1197, 1197.1, 1197.5, 1198.5, 2699, 2802, 2810.5 and the California Industrial Welfare Commission Wage Order, which may have arisen during the PAGA Period (the “PAGA Released Claims”).

“Released Parties” means Defendant and each of its past, present and future respective parent companies, subsidiaries, affiliates, shareholders, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns.

Option 2 – Opt Out of the Settlement

If you do not wish to receive your Individual Settlement Payment or release the Class Released Claims, you may exclude yourself by submitting a written request to be excluded from the Class. Your written request must include your name, last four (4) digits of your Social Security Number, and any statement standing for the proposition that you do not wish to participate in the settlement, or the following statement: “ Please exclude me from the Settlement Class in the *Lluviana Ruiz, et. al. v. Kleen Harvest Inc.* matter.” Sign, date and fax, email or mail your written request for exclusion to the address below.

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

[Settlement Administrator]
[Mailing Address]

Your written request for exclusion must be mailed to the Administrator not later than [RESPONSE DEADLINE].

The proposed settlement includes the settlement of the PAGA Released Claims. An employee may not request exclusion from the settlement of a PAGA claim. Thus, if the court approves the settlement, then even if you request exclusion from the settlement, if you are an Aggrieved Employee, you will still receive your Individual PAGA Payment and will be deemed to have released the PAGA Released Claims. A request for exclusion will preserve your right, if any, to individually pursue only the Class Released Claims.

Option 3 – *Submit an Objection to the Settlement*

If you wish to object to the Settlement, you may submit an objection in writing by mail, stating why you object to the Settlement. Your written objection must provide your name, address, the last four digits of your Social Security Number, your signature, a statement of whether you plan to appear at the Final Approval Hearing, and a statement of the reason(s), along with whatever legal authority, if any, why you believe that the Court should not approve the Settlement. Your written objection must be mailed to the Administrator no later than [RESPONSE DEADLINE]. Please note that you cannot both object to the Settlement and opt out of the Settlement. If you exclude yourself, then your objection will be overruled. If the Court overrules your objection, you will be bound by the Settlement and will receive your Settlement Share.

Even if you don't submit a written objection, you may appear at the Final Approval Hearing and provide a verbal objection before the Court.

Final Approval Hearing

You may, if you wish, appear at the Final Approval Hearing set for [REDACTED] at [REDACTED]:[REDACTED] .m. in the Department 15 of the Monterey County Superior Court, located at 1200 Aguajito Road, Monterey, CA 93940, and orally object to the Settlement, discuss your written objections with the Court and the Parties, or otherwise comment on the Settlement at your own expense. You may attend this hearing virtually by audio or video at <https://www.monterey.courts.ca.gov/online-services/remote-appearance>. You may also retain an attorney to represent you at the Hearing at your own expense.

Additional Information

This Notice of Class Action Settlement is only a summary of this case and the Settlement. For a more detailed statement of the matters involved in this case and the Settlement, you may call the Settlement Administrator at [PHONE NUMBER] or Class Counsel, whose information appears below:

BIBIYAN LAW GROUP, P.C.

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Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]

8484 Wilshire Boulevard, Suite 500
Beverly Hills, California 90211
Tel: (310) 438-5555; Fax: (310) 300-1705

You may also visit the Settlement Administrator's website at [WEBSITE] to gain access to key documents in this case, including the Settlement Agreement, the Order Granting Preliminary Approval of this Settlement, the Order Granting Final Approval of this Settlement, and the Final Judgment.

You may also refer to the pleadings, the Settlement Agreement, and other papers filed in this case, which may be inspected at the Department 15 of the Monterey County Superior Court, located 1200 Aguajito Road, Monterey, CA 93940, during regular business hours of each court day. You may also obtain these documents through the Court's website at <https://portal.monterey.courts.ca.gov/traffic>.

All inquiries by Class Members regarding this Notice of Class Action Settlement and/or the Settlement should be directed to the Settlement Administrator.

**PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE,
DEFENDANT, OR DEFENDANT'S ATTORNEYS WITH INQUIRIES.**

Questions? Contact the Settlement Administrator toll free at [PHONE NUMBER]