

**CLASS AND REPRESENTATIVE ACTION
SETTLEMENT AGREEMENT AND RELEASE**

This Class and Representative Action Agreement and Release (“Agreement”) encompasses the consolidated and amended Class and PAGA action that was filed on May 7, 2024, *Dennis Tony Dutra and Danielle Marcy v. J.R. Simplot Company*, San Joaquin Superior Court, Case No. STK-CV-UOE-2021-4841.

This Agreement is entered into between Plaintiffs Dennis Tony Dutra and Danielle Marcy (“Plaintiffs”) individually and on behalf of all others similarly situated, as well as on behalf of the State of California with respect to the PAGA Members, and Defendant, J.R. Simplot Company (“Simplot” or “Defendant”). The Plaintiffs and Defendant are the “Parties.”

This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge and settle the “Released Class Claims” and “Released PAGA Claims” on a class and representative action basis pertaining to the “Released Parties” upon and subject to the terms and conditions contained herein. This Agreement, which is contingent upon final Court approval, contains the essential terms of the Parties’ agreement. The Plaintiffs and Class Counsel believe, and the Parties have agreed, that the settlement set forth in this Agreement confers substantial benefits upon the Class, PAGA Members, and the State of California.

BACKGROUND

1. On March 17, 2021, Plaintiff Dennis Tony Dutra filed a PAGA letter with the LWDA (the “Dutra PAGA Letter”).
2. On March 18, 2021, Plaintiff Dutra filed a class action complaint in San Joaquin Superior Court, *Dutra v. J. R. Simplot Company*, Case No. STK-CV-UOE-2021-002402 (the “Dutra Class Action Complaint”).
3. On May 25, 2021, Plaintiff Dutra filed a PAGA complaint in San Joaquin County Superior Court, *Dennis Tony Dutra v. J.R. Simplot Company*, San Joaquin Superior Court, Case No. STK-CV-UOE-2021-4841 (the “Dutra PAGA Complaint”).

4. On July 6, 2021, Plaintiff Dutra filed a first amended class action complaint in the Eastern District, *Dennis Tony Dutra v. J.R. Simplot Company*, U.S.D.C. Eastern District of California, Case No. 2:21-cv-01054-TLN-CKD. (the “Dutra FAC”).
5. On February 3, 2023, Plaintiff Dutra filed a second amended class action complaint in the Eastern District, *Dennis Tony Dutra v. J.R. Simplot Company*, U.S.D.C. Eastern District of California, Case No. 2:21-cv-01054-TLN-CKD (the “Dutra SAC”).
6. On February 10, 2022, Plaintiff Danielle Marcy filed a PAGA letter with the LWDA (the “Marcy PAGA Letter”).
7. On February 14, 2022, Plaintiff Marcy filed a class action complaint in San Joaquin County Superior Court, *Danielle Marcy v. J.R. Simplot Company*, Case No. STK-CV-UOE-2022-1105 (the “Marcy Class Complaint”).
8. On August 30, 2022, Plaintiff Marcy filed a PAGA complaint in San Joaquin County Superior Court, *Danielle Marcy v. J.R. Simplot Company*, Case No. STK-CV-UOE-2022-7626 (the “Marcy PAGA Complaint”).
9. On April 21, 2023, Plaintiff Marcy filed a first amended class action complaint in the Eastern District, *Danielle Marcy v. J.R. Simplot Company* U.S.D.C. Eastern District of California, Case No. 2:22-cv-00523-TLN-CKD (the “Marcy FAC”).
10. On May 19, 2023, Plaintiff Marcy filed a second amended class action complaint in the Eastern District, *Danielle Marcy v. J.R. Simplot Company* U.S.D.C. Eastern District of California, Case No. 2:22-cv-00523-TLN-CKD (the “Marcy SAC”).
11. The Dutra PAGA Letter, the Dutra PAGA Complaint, and the Dutra SAC are collectively referred to herein as the “Dutra Actions.”
12. The Marcy PAGA Letter, the Marcy PAGA Complaint, and the Marcy SAC are collectively referred to herein as the “Marcy Actions.”

13. The Dutra Actions and the Marcy Actions are collectively referred to herein as the “Combined Actions.”
14. The Parties agree that the consolidated and amended Class and PAGA action complaint that was filed on May 7, 2024, *Dennis Tony Dutra and Danielle Marcy v. J.R. Simplot Company*, San Joaquin Superior Court, Case No. STK-CV-UOE-2021-4841, includes all claims and causes of action asserted in the Combined Actions.
15. Prior Settlement. The Parties acknowledge that Simplot entered into a prior class action settlement (*Juan Contreras v. J.R. Simplot Company*, Case No. 342017-00205711-CU-OE-GDS, Sacramento County Superior Court) that covered the same claims alleged in the Actions and covered the period from January 3, 2013 to January 23, 2019.

DEFINITIONS

1. Action

“Action” means the consolidated and amended Class and PAGA action complaint that was filed on May 7, 2024, *Dennis Tony Dutra and Danielle Marcy v. J.R. Simplot Company*, San Joaquin Superior Court, Case No. STK-CV-UOE-2021-4841.

2. Class Counsel

“Class Counsel” collectively means James R. Hawkins, APLC and Kingsley & Kingsley, APC.

3. Class Counsel Award

“Class Counsel Award” means the attorney fees for Class Counsel’s litigation and resolution of the Action, and Class Counsel’s actual expenses and costs incurred and to be incurred in connection with the Action.

4. Class Information

“Class Information” or “Class Data” means information on the Class Members compiled from Defendant’s records and provided to the Settlement Administrator in a Microsoft Excel spreadsheet, including each Class Member’s full name; last known address; social security number; dates of employment; and additional information sufficient for the Settlement Administrator to determine the Workweeks and Pay Periods for each Class Member and each PAGA Member.

5. Class Members or Settlement Class Members

- a. “Dutra Class Action Subclass”: All current and former hourly, non-exempt drivers employed by Simplot in California during the Class Settlement Period.
- b. “Marcy Class Action Subclass”: All current and former non-exempt employees of Simplot in California, excluding drivers, who were paid at least one meal break premium during the Class Settlement Period.

6. Class Settlement

“Class Settlement” means the settlement and resolution of the Released Class Claims.

7. Class Settlement Period.

“Class Settlement Period” means the period from January 24, 2019 to January 24, 2024.

8. Class Representatives

The “Class Representatives” are the Plaintiffs Dennis Tony Dutra and Danielle Marcy.

9. Class Representative Enhancement Award

“Class Representative Enhancement Award” means the amount that the Court authorizes to be paid to the Class Representatives, in addition to their Individual Settlement Payments and/or Individual PAGA Payments, and in recognition of each of their efforts and the risks attendant to assisting with the prosecution of the Action, and for executing a general release of claims with Defendant.

10. Court

“Court” means the Superior Court of the State of California for the County of San Joaquin.

11. Defendant

“Defendant” means J.R. Simplot Company (“Simplot” or “Defendant”).

12. Effective Date

“Effective Date” means the date when both of the following have occurred: (a) the Court enters a Judgment on its Order Granting Final Approval of the Settlement; and (b) the Judgment is final. The Judgment is final as of the latest of the following occurrences: (i) if no Participating Class Member objects to the Settlement, the day the Court enters Judgment; (ii) if one or more Participating Class Members objects to the Settlement and no appeal was filed, the day after the deadline for filing a notice of appeal from the Judgment has expired; or (iii) if a timely appeal from the Judgment is filed, the day after the appellate court affirms the Judgment and issues a remittitur.

13. Final Approval Hearing

“Final Approval Hearing” means the final hearing at which the Court reviews the fairness, reasonableness, and adequacy of the Settlement, and decides whether the Settlement meets all requirements for final approval.

14. Final Judgment

“Final Judgment” means a judgment issued by the Court approving this Agreement as binding upon the Parties following the Final Approval Hearing.

15. Gross Settlement Amount

“Gross Settlement Amount” or “GSA” means the total maximum amount payable under the terms of this Agreement by Defendant, which is the gross sum of \$900,000.00 (Nine-Hundred Thousand Dollars and Zero Cents), subject to the “Modification Provision” below. The GSA includes all of the following: (a) the Individual Settlement Payments to Participating Class Members; (b) payment of

the Settlement Administration Costs as approved by the Court; (c) the Class Representative Enhancement Awards to the Plaintiffs as approved by the Court; (d) a payment to Class Counsel of attorneys' fees and reasonable litigation costs as approved by the Court; and (e) the PAGA Payment.

Payment of the amount necessary to cover the employer's portion of payroll taxes associated with the portion of the settlement allocated to wages shall be made by Defendant, separate and apart from the Gross Settlement Amount.

The Settlement Administrator will make all required tax deductions and payments using a Qualified Settlement Fund. As set forth herein, the Settlement Administrator will issue all of the above-referenced payments from the Qualified Settlement Fund in accordance with the applicable provisions of this Agreement.

a. Modification Provision:

At the mediation, Defendant represented that an extrapolation of the workweeks for the Dutra Class Action was 61,045 from January 24, 2019 to October 26, 2023 (the "Mediation Period"). The Parties agree that if, once the data covering the Mediation Period is reviewed by the Settlement Administrator, and the actual number of workweeks during the Mediation Period is more than ten percent (10%) greater than 61,045 (or greater than 67,149 workweeks), then the GSA shall increase by \$14.74 for each additional workweek more than 67,149. For example, if the actual number of workweeks during the Mediation Period is 67,159, then the GSA will increase in the amount of \$147.43

16. Individual PAGA Payment

"Individual PAGA Payment" means the amounts paid from the PAGA Payment to PAGA Members that shall in the aggregate comprise 25% of the PAGA Payment, in the amount of Twenty-Thousand Dollars and Zero Cents (\$20,000.00) as consideration for Settlement of claims for civil penalties under the PAGA allocated 75% (\$15,000.00) to Dutra PAGA Members and 25% (\$5,000.00) to Marcy PAGA Members.

17. Individual Settlement Payment

"Individual Settlement Payment" means the amount paid from the Net Settlement Amount to a Participating Class Member.

18. LWDA

“LWDA” means the California Labor and Workforce Development Agency.

19. LWDA PAGA Payment

“LWDA PAGA Payment” means the amount of Sixty Thousand Dollars and Zero Cents (\$60,000.00) to be paid to the LWDA as its 75% share of the PAGA Payment, as consideration for Settlement of claims for civil penalties under PAGA.

20. Net Settlement Amount

“Net Settlement Amount” or “NSA” means the Gross Settlement Amount less the Court-approved Class Counsel Award, the Class Representative Enhancement Award, the PAGA Payment, and the Settlement Administration Costs. The Net Settlement Amount is the total amount that will be paid to Participating Class Members in the form of Individual Settlement Payments.

The NSA shall be allocated as follows: The NSA shall be allocated to the Participating Class Members of the Dutra Class Action Subclass and the Marcy Class Action Subclass on a pro rata basis, which is based on each of their total number of Workweeks and/or Pay Periods in their respective Settlement Class Period and this amount shall be designated as twenty percent (20%) for wages and eighty percent (80%) for penalties and interest. The Settlement Administrator will be responsible for issuing a form W-2 to each Class Member for the amount each receives for unpaid “wages” and any IRS Form 1099s required by law.

21. Notice of Class Action Settlement

“Notice of Class Action Settlement” or “Notice” means the notice approved by the Parties and subject to Court approval, substantially in the form of **Exhibit A** hereto, explaining the terms of this Agreement and the settlement process, which the Settlement Administrator will mail to each Settlement Class Member.

22. PAGA

“PAGA” refers to the California Labor Code Private Attorneys General Act of 2004, California Labor Code § 2698 et seq.

23. PAGA Members

- a. “Dutra PAGA Members”: All current and former non-exempt employees of Simplot in California during the Dutra PAGA Settlement Period.
- b. “Marcy PAGA Members”: All current and former non-exempt employees of Simplot in California, excluding drivers, who were paid at least one meal break premium during the Marcy PAGA Settlement Period.

24. PAGA Notice Letters

- a. On March 17, 2021, Plaintiff Dennis Tony Dutra filed a PAGA letter with the LWDA (the “Dutra PAGA Letter”).
- b. On February 10, 2022, Plaintiff Danielle Marcy filed a PAGA letter with the LWDA (the “Marcy PAGA Letter”).

25. PAGA Payment

“PAGA Payment” means the portion of the Gross Settlement Amount that shall be allocated to claims under the PAGA. The Parties have agreed to allocate Eighty-Thousand Dollars and Zero Cents (\$80,000.00). Seventy-five percent (75%) of which shall be payable to the LWDA (i.e., the LWDA PAGA Payment) and the remaining twenty-five percent (25%) shall be used to pay the Individual PAGA Payments to PAGA Members in settlement of all claims for PAGA penalties as defined in this Agreement.

26. PAGA Settlement Period

“PAGA Settlement Period” means the applicable settlement period for the Dutra PAGA Members and the Marcy PAGA Members as follows:

- a. Dutra PAGA Period: March 20, 2020 to January 24, 2024.
- b. Marcy PAGA Period: June 25, 2021 to January 24, 2024.

27. Participating Class Members

“Participating Class Members” means those Class Members who do not file a valid and timely Request for Exclusion.

28. Parties

“Parties” means Plaintiffs and Defendant, collectively.

29. Pay Period

“Pay Period” means any pay period in which a PAGA Member worked for any amount of time for Defendant during the PAGA Settlement Period according to Defendant’s records.

30. Plaintiffs

“Plaintiffs” means Plaintiffs Dennis Tony Dutra and Danielle Marcy.

31. Plaintiffs’ Released Claims

“Plaintiffs’ Released Claims” which means all known and unknown claims against the Released Parties, including the Released Class Claims as well as other wage and hour claims, claims under California Business & Professions Code section 17200, claims under the Labor Code, including, but not limited to, claims under the Private Attorneys General Act (“PAGA”), claims under the Fair Labor Standards Act (“FLSA”), claims under the California Code of Regulations, and all claims for indemnity or reimbursement of business expenses, overtime compensation, minimum and overtime wages, penalties, liquidated damages, and interest, and all other claims under state, federal, and local laws, including, without limitation, Title VII of the Civil Rights Act of 1964, the Family and Medical Leave Act, the Americans with Disabilities Act, the Fair Credit Reporting Act, the Employee Retirement Income Security Act of 1974, and all of their implementing regulations and interpretive guidelines, as well as in common law, including laws related to discrimination, harassment, or retaliation, whether known or unknown, and whether anticipated or unanticipated, arising from or relating to the Plaintiffs’ relationship, or the termination of the relationship, with any Released Party through the date of Final Approval for any type of relief. Plaintiffs further

covenant that they will not become a member of any other legal actions against the Released Parties asserting any of Plaintiffs' Released Claims, and will opt out of any such actions if necessary. For the avoidance of doubt, this is a complete and general release of all claims to the maximum extent permitted by law.

The scope of this release does not include claims for unemployment insurance, disability, social security, and workers' compensation (except for claims pursuant to Labor Code Sections 132a and 4553).

As of the Effective Date and full funding of the Gross Settlement Amount, Plaintiffs release the Released Parties from all of the Plaintiffs' Released Claims as well as the Released Class and PAGA Claims. Plaintiffs' releases set forth herein include a waiver of all rights under California Civil Code §1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER 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.

Plaintiffs may hereafter discover claims or facts in addition to, or different from, those which they know or believe to exist, but Plaintiffs expressly agree to fully, finally and forever settle and release any and all claims against the Released Parties, known or unknown, suspected or unsuspected, which exist or may exist against the Released Parties at the time prior to the execution of this Agreement, including, but not limited to, any and all claims relating to or arising from Plaintiffs' employment with Defendant.

32. Preliminary Approval Date

"Preliminary Approval Date" means the date on which the Court issues an order granting preliminary approval of the proposed Settlement.

33. Qualified Settlement Fund

"Qualified Settlement Fund" or "QSF" means the account established by the Settlement Administrator which the Parties agree shall at all times be treated as a "qualified settlement fund" within the meaning of Treas. Reg. §1.468B-1, *et seq.*

34. Released Class Claims

- a. **For the Dutra Class Action Subclass**, the “Released Dutra Class Claims” shall mean all claims and/or causes of action under any state, local, or federal law or administrative regulation brought by Plaintiffs against the Released Parties, and that were or could have been alleged based on the allegations in the Action, including all class claims stated in the Action alleging violations of Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 218.6, 221-224, 226, 226(a), 226.3, 226.7, 245-249, 510, 512, 558, 1174, 1175, 1182.2, 1194, 1194.2, 1195, 1197, 1197.1, 1198, the applicable IWC Wage Order, section 17200 *et seq* of the California Business and Professions Code, and the California Code of Regulations, Title 8, § 11090, and:
- i. All claims for unpaid wages, including claims for minimum, regular, overtime, and double-time wages, claims for any improper deductions from wages, claims for failing to pay for all time worked, all claims for interest due on unpaid wages, and all claims for penalties related to unpaid wages.
 - ii. All claims for unpaid regular rates, including regular rates for overtime and double-time wages, meal and rest break premium wages, and paid sick leave.
 - iii. All claims for meal period violations, including claims for (1) first and second meal periods, (2) short, late, missed, interrupted, on-duty, and/or otherwise improperly controlled meal periods, (3) the failure to pay premium wages, (4) the failure to pay premium wages at the correct regular rates, and (5) the failure to properly record meal periods;
 - iv. All claims for rest break violations, including claims for (1) first, second, third, and fourth rest breaks, (2) short, late, missed, interrupted, on-duty and/or otherwise improperly controlled rest breaks, (3) the failure to pay premium wages, and (4) the failure to pay premium wages at the correct regular rates;

- v. All claims for the untimely payment of wages and associated penalties under sections 204 and 210 the Labor Code;
- vi. All claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code;
- vii. All claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the allegations in the Action, including the allegations that wage statements lacked the gross wages earned, the total number of hours worked and corresponding rates, including regular rates, and including claims for injuries suffered therefrom;
- viii. All claims for unpaid sick leave, including the failure to accrue, report, and record paid sick leave, and all related penalties for unpaid or unreported or unrecorded paid sick leave;
- ix. All claims for the alleged failure to keep accurate records in violation of Sections 1174 and 1175 of the Labor Code;
- x. All claims under the Business & Professions Code (including Section 17200 et seq.) premised on the facts, claims, and causes of action alleged in the Action;
- xi. All claims under the California Code of Regulations, Title 8, § 11090, premised on the facts, claims, and causes of action alleged in the Action;
- xii. All claims under the applicable Wage Order premised on the facts, claims, and causes of action alleged in the Action; and
- xiii. All claims for statutory penalties, liquidated damages, punitive damages, interest, attorney fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief based on the allegations in the Action.

The period of the Released Dutra Class Claims will extend for the Settlement Class Period for the Dutra Class Action Subclass.

- b. **For the Marcy Class Action Subclass**, the “Released Marcy Class Claims” shall mean all claims and/or causes of action under any state, local, or federal law or administrative regulation brought by Participating Class Members against the Released Parties, and that were or could have been alleged based on the allegations in the Action, including all class claims stated in the Action alleging violations of Labor Code sections 201, 202, 203, 226, 226(a), 226.7, 512, the applicable IWC Wage Order, section 17200 *et seq* of the California Business and Professions Code, and the California Code of Regulations, Title 8, § 11040, and:
- i. All claims for unpaid premium wages for meal break violations, including all claims for unpaid regular rates.
 - ii. All claims for meal period violations, including claims for (1) first and second meal periods, (2) short, late, missed, interrupted, on-duty, and/or otherwise improperly controlled meal periods, (3) the failure to pay premium wages, (4) the failure to pay premium wages at the correct regular rates, and (5) the failure to properly record meal periods;
 - iii. All claims for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code;
 - iv. All claims for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the allegations in the Action, including the allegations that wage statements lacked the gross wages earned, the total number of hours worked and corresponding rates, including regular rates, and including claims for injuries suffered therefrom;
 - v. All claims under the Business & Professions Code (including Section 17200 *et seq*.) premised on the facts, claims, and causes of action alleged in the Action;

- vi. All claims under the California Code of Regulations, Title 8, § 11040, premised on the facts, claims, and causes of action alleged in the Action;
- vii. All claims under the applicable Wage Order premised on the facts, claims, and causes of action alleged in the Action;
- viii. All claims for statutory penalties, liquidated damages, punitive damages, interest, attorney fees, litigation and other costs, expenses, restitution, and equitable and declaratory relief based on the allegations in the Action.

The period of the Released Marcy Class Claims will extend for the Settlement Class Period for the Marcy Class Action Subclass.

35. Released PAGA Claims

- a. **For the Dutra PAGA Members**, the “Released Dutra PAGA Claims” shall mean all claims and/or causes of action for PAGA penalties against the Released Parties that were or could have been alleged based on the allegations in the Action, including all claims for PAGA penalties based on alleged violations of Labor Code Sections 201, 202, 203, 204, 210, 216, 221-224, 225.5, 226, 226(a), 226.3, 226.7, 245-249, 510, 512, 558, 1174, 1174(d), 1174.5, 1175, 1182.2, 1194, 1194.2, 1195, 1197, 1197.1, 1198, the applicable IWC Wage Order, and the California Code of Regulations, Title 8, § 11090, and:
 - i. All claims for PAGA penalties for unpaid wages, including claims for minimum, regular, overtime, and double-time wages, claims for any improper deductions from wages, claims for failing to pay for all time worked, all claims for interest due on unpaid wages, and all claims for penalties related to unpaid wages.
 - ii. All claims for PAGA penalties for unpaid regular rates, including regular rates for overtime and double-time wages, meal and rest break premium wages, and paid sick leave.
 - iii. All claims for PAGA penalties for meal period violations, including claims for (1) first and second meal periods, (2) short, late, missed,

interrupted, on-duty, and/or otherwise improperly controlled meal periods, (3) the failure to pay premium wages, (4) the failure to pay premium wages at the correct regular rates, and (5) the failure to properly record meal periods;

- iv. All claims for PAGA penalties for rest break violations, including claims for (1) first, second, third, and fourth rest breaks, (2) short, late, missed, interrupted, on-duty and/or otherwise improperly controlled rest breaks, (3) the failure to pay premium wages, and (4) the failure to pay premium wages at the correct regular rates;
- v. All claims for PAGA penalties for the untimely payment of wages and associated penalties under sections 204 and 210 the Labor Code;
- vi. All claims for PAGA penalties for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code;
- vii. All claims for PAGA penalties for non-compliant itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the allegations in the Action, including the allegations that wage statements lacked the gross wages earned, the total number of hours worked and corresponding rates, including regular rates, and including claims for injuries suffered therefrom;
- viii. All claims for PAGA penalties for unpaid sick leave, including the failure to accrue, report, and record paid sick leave, and all related penalties for unpaid or unreported or unrecorded paid sick leave;
- ix. All claims for PAGA penalties for the alleged failure to keep accurate records in violation of Sections 1174 and 1175 of the Labor Code;
- x. All claims for PAGA penalties under the California Code of Regulations, Title 8, § 11090, premised on the facts, claims, and causes of action alleged in the Action;

- xi. All claims for PAGA penalties under the applicable Wage Order premised on the facts, claims, and causes of action alleged in the Action; and
- xii. All other claims for PAGA penalties alleged in the Action.

The period of the Released Dutra PAGA Claims will be the PAGA Settlement Period for the Dutra PAGA Members.

- b. **For the Marcy PAGA Members**, the “Released Marcy PAGA Claims” shall mean all claims and/or causes of action for PAGA penalties against the Released Parties that were or could have been alleged based on the allegations in the Action, including all claims for PAGA penalties based on alleged violations of Labor Code Sections 201, 202, 203, 226, 226(a), 226.7, 512, the applicable IWC Wage Order, and the California Code of Regulations, Title 8, § 11040, and:
 - i. All claims for PAGA penalties for unpaid premium wages for meal break violations, including all claims for unpaid regular rates.
 - ii. All claims for PAGA penalties for meal period violations, including claims for (1) first and second meal periods, (2) short, late, missed, interrupted, on-duty, and/or otherwise improperly controlled meal periods, (3) the failure to pay premium wages, (4) the failure to pay premium wages at the correct regular rates, and (5) the failure to properly record meal periods;
 - iii. All claims for PAGA penalties for the untimely payment of final wages and associated waiting time penalties under sections 201 to 203 of the Labor Code;
 - iv. All claims for PAGA penalties for improper or inaccurate itemized wage statements, including any alleged violations of Labor Code Section 226(a)(1)-(9) based on the allegations in the Action, including the allegations that wage statements lacked the gross wages earned, the total number of hours worked and corresponding rates, including regular rates, and including claims for injuries suffered therefrom;

- v. All claims for PAGA penalties under the California Code of Regulations, Title 8, § 11040, premised on the facts, claims, and causes of action alleged in the Action;
- vi. All claims for PAGA penalties under the applicable Wage Order premised on the facts, claims, and causes of action alleged in the Action; and
- vii. All other claims for PAGA penalties alleged in the Action.

The period of the Released Marcy PAGA Claims will be the PAGA Settlement Period for the Marcy PAGA Members.

36. Released Parties

“Released Parties” means Defendant J.R. Simplot Company ("Simplot") and its past, present and/or future, direct and/or indirect, owners, officers, directors, members, managers, employees, agents, representatives, attorneys, insurers, subsidiaries, affiliates, successors, and assigns.

37. Request for Exclusion

“Request for Exclusion” means a Class Member’s written letter indicating a request to be excluded from the Class Settlement.

38. Response Deadline

“Response Deadline” means the date forty-five (45) calendar days after the Settlement Administrator mails the Notice of Class Action Settlement to Class Members, which is the last date on which Class Members may timely: (a) submit a Request for Exclusion; (b) submit objections to the settlement; or (c) dispute the information contained in the Notice of Class Action Settlement. If the forty-fifth (45th) day falls on a Sunday or State or Federal holiday, then the deadline is extended to the next business day.

39. Settlement

“Settlement” or “Agreement” means this Class and Representative Agreement and Release.

40. Settlement Administrator

“Settlement Administrator” means ILYM Group, Inc., the third-party company that is responsible for administering the settlement, mutually agreed to by the Parties and appointed by the Court upon Class Counsel’s motion for preliminary approval of this Settlement.

41. Settlement Administrator Costs

“Settlement Administrator Costs” means the amount to be paid to the Settlement Administrator from the Gross Settlement Amount for administration of this Settlement.

42. Workweeks

“Workweeks” means any workweek in which a Class Member worked for any amount of time for Defendant during the Class Settlement Period according to Defendant’s records.

RECITALS

43. Procedural History

On October 26, 2023, the Parties participated in a mediation session with Louis Marlin, Esq., a prominent mediator experienced in resolving wage and hour class and representative actions. As a result of the mediator’s efforts, the Parties reached an agreement to settle all claims and causes of action alleged in the Action by the Plaintiffs under the California Labor Code, the California Business and Professions Code, the applicable California Wage Order, the PAGA, and the California Code of Regulations.

Before the mediation, Defendant produced extensive documentation including time and pay data, policy documents, class size information, PAGA size information, pay period and workweek information, and information regarding the hourly rates of the settlement class members. Defendant provided data, information, and documents sufficient to enable Plaintiffs and Class Counsel to rigorously evaluate the strengths and risks of the case and perform an analysis of the potential damages arising from the claims made in this case.

44. No Admission

Defendant denies any liability or wrongdoing of any kind associated with the claims asserted in the Action. Defendant also disputes the damages and penalties claimed by Plaintiffs, and further contends that, for any purpose other than settlement, Plaintiffs' claims are not appropriate for class or representative treatment. This Settlement is a compromise of disputed claims. Nothing contained in this Settlement, no documents referred to herein, and no action taken to carry out this Settlement, shall be construed or used as an admission by or against Defendant as to the merits of the claims asserted in the Actions or in any other proceeding.

Defendant contends that at all times it has complied with all applicable state, federal, and local laws related to the Class Members' employment. Defendant has entered into this Settlement to avoid the cost, risk and inconvenience of further litigation. Nothing contained in this Settlement, nor the fact of this Settlement itself, shall be construed or deemed as an admission of liability, or wrongdoing on the part of the Defendant collectively or individually, or as an admission that class or representative action treatment would be allowed outside the settlement context. The Parties agree that this Settlement cannot be used to support any claim for subsequent penalty violation rates under the PAGA in any subsequent PAGA litigation.

Pursuant to California Evidence Code sections 1152 and 1154, this Settlement shall be inadmissible as evidence in any proceeding; except that the Settlement may be filed and used in this litigation or any related litigation as necessary to approve, interpret, or enforce this Settlement, or in any subsequent action against or by Defendant to support a stay of such subsequent action, or to establish a defense of res judicata, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

45. Benefits of Settlement to Class and PAGA Members

Class Counsel investigated the facts relevant to the Action, including reviewing documents and information provided by Defendant. Based on their own independent investigation and evaluation, Class Counsel believes that the Settlement with Defendant is fair, reasonable, and adequate, and in the best interest of the Settlement Class in light of all known facts and circumstances, including the risks of significant delay, defenses asserted by Defendant, uncertainties regarding a class trial, and numerous potential appellate issues. Accordingly, the Parties and

their counsel desire to fully, finally, and forever settle, compromise and discharge all disputes and claims arising from or relating to the Actions on the terms set forth herein.

Defendant has concluded that any further defense of this litigation would be protracted and expensive for all Parties. Substantial amounts of Defendant's time, energy, and resources have been and, unless this Settlement is completed, will continue to be devoted to, the defense of the claims asserted by Plaintiffs in the Action. Defendant has also taken into account the risks of further litigation in reaching the decision to enter into this Settlement. Even though Defendant continues to contend that it is not liable for any of the claims set forth by Plaintiffs in the Action, Defendant has agreed, nonetheless, to settle in the manner and upon the terms set forth in this Agreement to put to rest the claims in the Action.

46. Settlement of Disputed Claims

This Agreement is a compromise of disputed claims. Defendant has claimed and continues to claim that the Released Class Claims and Released PAGA Claims have no merit and do not give rise to liability. Plaintiffs and Participating Class Members and PAGA Members have claimed and continue to claim that the Released Class Claims and the Released PAGA Claims have merit and give rise to liability on the part of Defendant. Nothing contained in this Agreement, no documents referred to herein, and no action taken to carry out this Agreement, may be construed or used as an admission by or against the Participating Class Members or Class Counsel as to the merits or lack thereof of the claims asserted in this Action.

TERMS OF AGREEMENT

47. Release for All Participating Class Members

Upon the Effective Date and full funding of the Gross Settlement Amount, Plaintiffs and all Participating Class Members, as well as their spouses, heirs, executors, administrators, trustees and/or permitted assigns, hereby do and shall be deemed to have fully, finally and forever released, settled, compromised, relinquished and discharged any and all of the Released Parties of and from any and all Released Class Claims. These releases will take effect whether or not a Participating Class Member cashes or deposits any Individual Settlement Payment check.

48. Release by the Plaintiffs

Upon the Effective Date and full funding of the Gross Settlement Amount, the Plaintiffs fully and finally release the Released Parties from the Plaintiffs' Released Claims.

49. Release for All PAGA Members

Upon the Effective Date and full funding of the Gross Settlement Amount, as Representatives of the State of California and on behalf of the LWDA, the Plaintiffs in their PAGA Actions and all PAGA Members fully and finally release the Released Parties from the Released PAGA Claims for the PAGA Settlement Period. These releases will take effect whether or not a PAGA Member cashes or deposits any Individual PAGA Payment check.

50. The Motion for Preliminary Approval

Class Counsel shall be responsible for preparing the Motion for Preliminary Approval. Class Counsel agrees to provide Counsel for Defendant with drafts of all documents they intend to submit in support of their Motion for Preliminary Approval at least five (5) calendar days in advance of filing to allow Counsel for Defendant a reasonable time to review and comment on such papers. Class Counsel further agrees to reasonably incorporate the comments from Counsel for Defendant.

51. Settlement Administrator

Within twenty-one (21) calendar days following the date that the Court grants Preliminary Approval of this Agreement, Defendant shall provide the Settlement Administrator with the Class Information for purposes of mailing the Notice of Class Action Settlement to the Class Members. The Settlement Administrator shall maintain the Class Information as private and confidential and shall not disclose such data to any persons or entities other than Counsel for Defendant, except that relevant information can be provided to Class Counsel, on an individual basis only, and only when necessary for Class Counsel to respond to specific inquiries or requests from individual Class Members.

The Class Information is being supplied solely for purposes of the administration of the Settlement set forth in this Agreement and cannot be used by the Settlement Administrator or Class Counsel for any other purpose. The Parties agree that the

Class Information will not be used to solicit Class Members to file any claim, charge, or complaint of any kind whatsoever against Defendant and will only be used to administer the Settlement under the terms provided herein.

a. Notice by First Class U.S. Mail.

Upon receipt of the Class Information, the Settlement Administrator will perform a search based on the National Change of Address Database to update and correct any known or identifiable address changes. Within thirty (30) calendar days of receipt of the Class Information, the Settlement Administrator will mail copies of the Notice of Class Action Settlement to all Class Members via regular First-Class U.S. Mail. The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Class Member, including performing a skip-trace to identify any updated addresses. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Class Member. The form of the proposed Notice of Class Action Settlement will be agreed to by the Parties, and subject to Court approval and modification as necessary to fulfill the Parties desire to resolve the case.

b. Undeliverable Notices.

Any Notice of Class Action Settlement returned to the Settlement Administrator as undeliverable on or before the Response Deadline shall be re-mailed once to the forwarding address affixed thereto. If no forwarding address is affixed, the Settlement Administrator shall promptly attempt to determine a correct address by use of skip-tracing, or other search using the name, address and/or Social Security Number of the Class Member whose notice was undeliverable, and shall then re-mail all returned, undelivered mail within ten (10) calendar days of receiving notice that a Notice of Class Action Settlement was undeliverable. Class Members who receive a re-mailed Notice of Class Action Settlement shall have their Response Deadline extended twenty (20) calendar days from the date of re-mailing or original Response Deadline.

c. Disputes Regarding Individual Settlement Payments and Individual PAGA Payments.

Class Members will have the opportunity, should they disagree with the number of Workweeks or Pay Periods stated on their Notice of Class Action Settlement by submitting a "Written Dispute" that must be postmarked on or before the Response

Deadline.

The Written Dispute shall be a written letter disputing the pre-printed information on the Notice of Class Action Settlement as to the amount of one's Workweeks and Pay Periods during the Class Period and PAGA Period, and the dispute must: (a) contain the case name and number of the Action; (b) contain the Class Member's full name, signature, address, telephone number, and last four (4) digits of Social Security number; (c) clearly state the dispute about the Workweeks (or Pay Periods) credited and what the Class Member contends is the correct number; (d) attach any documentation that supports Class Member's position; and (e) be timely submitted by mail to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline.

If a Written Dispute is timely and properly submitted, the Settlement Administrator will consult with the Parties to determine whether an adjustment is warranted. The Settlement Administrator shall determine the eligibility of each Class and PAGA Member's eligibility for, and the amounts of, their Individual Settlement Payment and Individual PAGA Payment under the terms of this Agreement. The Settlement Administrator's determination of the eligibility for and amount of any Individual Settlement Payment and Individual PAGA Payment will be binding upon the Parties. In the absence of circumstances indicating fraud, manipulation, or destruction, Defendant's records will be given a rebuttable presumption of accuracy.

d. Disputes Regarding Administration of Settlement.

Any disputes not resolved by the Settlement Administrator concerning the administration of the Settlement will be resolved by the Court under the laws of the State of California. Prior to any such involvement of the Court, counsel for the Parties will confer in good faith to attempt to resolve the dispute without involving the Court.

e. Exclusions.

The Notice of Class Action Settlement shall state that Class Members who wish to exclude themselves from the Settlement must submit a Request for Exclusion by the Response Deadline. The Request for Exclusion must: (1) contain the name, address and telephone number of the Class Member requesting exclusion; (2) contain a statement expressing that the Class Member elects to be excluded from the Settlement; (3) be signed by the Class Member; and (4) be postmarked by the

Response Deadline and returned to the Settlement Administrator at the specified address.

The date of the postmark on the return mailing envelope on the Request for Exclusion shall be the exclusive means used to determine whether a Request for Exclusion has been timely submitted. Class Members who fail to submit a valid and timely Request for Exclusion on or before the Response Deadline shall be bound by all terms of the Settlement and any Final Judgment entered in this Action.

Any Class Member who requests to be excluded from the Class Settlement will not be entitled to any recovery under the Class Settlement and will not be bound by the terms of the Class Settlement including the Released Class Claims or have any right to object to or appeal the Class Settlement.

Any Request for Exclusion has no effect on the PAGA Settlement. Any Class Member who is also considered a PAGA Member will still be issued their Individual PAGA Payment and be bound by the PAGA Settlement, regardless of whether they submit a Request for Exclusion from the Class Settlement.

No later than seven (7) calendar days after the Response Deadline (plus an additional 14 days in the event of any remailings), the Settlement Administrator will provide counsel for the Parties with a complete list of all Class Members who have timely submitted a Request for Exclusion.

f. Objections.

The Notice of Class Action Settlement shall state that Participating Class Members who wish to object to the Settlement may do so in person (or other method of personal appearance permitted by the court, e.g., remote appearance) at the Final Approval Hearing and/or in writing. Any written objection ("Notice of Objection") must be mailed to the Settlement Administrator by the Response Deadline. The date of mailing on the envelope shall be deemed the exclusive means for determining that a Notice of Objection was timely received.

The Notice of Objection must be signed by the Settlement Class Member and state: (1) the full name and address of the objecting Settlement Class Member; (2) the factual and/or legal basis for the objection; and (3) whether the Settlement Class Member intends to appear at the Final Approval Hearing. Class Counsel will ensure that any Notice of Objection received by the Settlement Administrator by

the Response Deadline is filed with the Court along with the Motion for Final Approval.

Any of the Parties may file a response to any objection before the Final Approval Hearing. Any attorney who represents an individual objecting to this Settlement who has not filed a written objection must file a notice of appearance with the Court and serve Class Counsel and counsel for Defendant with this notice no later than the Response Period Deadline. Any Settlement Class Member who fails to submit a timely written objection or to present an objection in person at the Final Approval Hearing shall be deemed to have waived any objections and shall be foreclosed from making any objection to the Settlement whether by appeal or otherwise.

52. No Solicitation of Settlement Objections or Exclusions

The Parties agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members to object to the Settlement or file Requests for Exclusion, or to appeal from the Court's Final Judgment.

53. Funding of the Qualified Settlement Fund

No later than ten (10) calendar days after the Effective Date, the Settlement Administrator shall send Defendant's Counsel electronic wiring instructions for paying the Gross Settlement Amount into the QSF. The Settlement Administrator will also inform Defendant of the amount to be sent to the QSF to pay for the employer's share of payroll taxes. No later than thirty (30) calendar days after the Effective Date, Defendant shall fund the QSF.

54. Net Settlement Amount

The Net Settlement Amount will be determined by the Settlement Administrator by subtracting the Class Counsel Award, Class Representative Enhancement Award, PAGA Payment, and Settlement Administrator Costs from the Gross Settlement Amount. The anticipated Net Settlement Amount is \$437,150.00. The Parties estimate the amount of the Net Settlement Amount to be calculated as follows:

Gross Settlement Amount	\$900,000.00

Class Rep. Enhancement Award	Up to \$10,000.00 to each Class Representative
Requested Class Counsel Fees	Up to \$315,000.00
Requested Class Counsel Expenses	Up to \$35,000
Total PAGA Payment	\$80,000.00
Settlement Administrator Costs	\$12,850.00
Net Settlement Amount -- \$437,150.00	
Net Settlement Amount Allocated to the Dutra Class Action Subclass	\$327,862.50 or 75% of Net Settlement Amount
Net Settlement Amount Allocated to the Marcy Class Action Subclass	\$109,287.50 or 25% of Net Settlement Amount

This is a non-reversionary Settlement in which Defendant will pay the Gross Settlement Amount. No portion of the Gross Settlement Amount will revert to Defendant. The employer's share of payroll taxes and other required withholdings from Individual Settlement Payments, including but not limited to the FICA and FUTA contributions, if applicable, shall be paid separately from, and in addition to, the Gross Settlement Amount. Any award of less than the amounts requested for the Class Representative Enhancement Award, Class Counsel Award, or Settlement Administrator Costs will be returned to the Net Settlement Amount and distributed to the Participating Class Members.

55. Settlement Dates

Class Counsel shall provide Defendant's Counsel a draft Motion for Preliminary Approval for Defendant's review and input.	5 calendar days in advance of filing.
Defendant provides the Class Information to the Administrator	21 calendar days after the Court grants Preliminary Approval
Settlement Administrator to mail Notice of Class Action Settlement	30 calendar days after receipt of the Class Information
Settlement Administrator to re-mail Notice of Class Action Settlement	10 calendar days after receipt of notice that the Notice of Class Action Settlement was undeliverable.
Response Deadline to the Notice of Class Action Settlement	45 calendar days after mailing

New Response Deadline to the Notice of Class Action Settlement for those receiving re-mailed Notices of the Class Action Settlement	20 calendar days from the date of remailing or original Response Deadline
Settlement Administrator to provide counsel for the Parties a complete list of all Class Members who timely submitted a Request for Exclusion.	7 calendar days after the Response Deadline
Defendant has the option to nullify the Settlement.	10 calendar days after notification by the Settlement Administrator that more than 10% of the Class Members submitted valid Requests for Exclusion.
Class Counsel shall provide Defendant's Counsel a draft Motion for Final Approval for Defendant's review and input.	5 calendar days in advance of filing.
Settlement Administrator shall send to Defendant's Counsel the electronic wiring instructions for the Settlement Amount.	10 calendar days after the Effective Date.
Defendant shall fund the QSF.	30 calendar days after the Effective Date.
Settlement Administrator shall mail Individual Settlement Payments	15 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail Individual PAGA Payments	15 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail the Class Representative Enhancement Award	15 calendar days after Defendant funds the QSF.
Settlement Administrator shall mail the Class Counsel Award	15 calendar days after Defendant funds the QSF.
Settlement Administrator shall be paid the Settlement Administrator Costs.	15 calendar days after the Defendant funds the QSF
Settlement Administrator shall mail reminder postcards to the Participating Class Members and PAGA Members whose settlement checks were not returned or cashed.	100 calendar days <u>before</u> the Individual Settlement Payments and Individual PAGA Payments expire.

Deadline for Participating Class Members and PAGA Members to cash settlement checks.	180 calendar days after the mailing of the Individual Settlement Payments and Individual PAGA Payments
Settlement Administrator shall provide declaration to Class Counsel regarding uncashed settlement checks.	21 court days before compliance hearing.
Settlement Administrator shall report any remaining funds to the State of California Unclaimed Property Fund	30 calendar days after the settlement checks void date.

56. **Individual Settlement Payments**

Individual Settlement Payments will be paid from the Net Settlement Amount and shall be paid pursuant to the settlement formula as follows:

- a. **Dutra Class Action Subclass – the NSA allocation.** After preliminary approval of the Settlement, using the Class Information, the Settlement Administrator will compute the total number of Workweeks of all Participating Dutra Class Members collectively during the Class Settlement Period, and this sum shall be known as the Workweek Total; (ii) the Settlement Administrator will divide the Net Settlement Amount of \$327,862.50 or 75% of Net Settlement Amount (allocated to the Dutra Class Action Subclass) by the Workweek Total to determine the settlement value for each Workweek (the “Workweek Value”); and (iii) the Settlement Administrator will multiply the number of Workweeks of a Participating Dutra Class Member during the Class Period by the Workweek Value to determine that Participating Dutra Class Member’s estimated Individual Settlement Payment for all claims.
- b. **Marcy Class Action Subclass – the NSA allocation.** After preliminary approval of the Settlement, using the Class Information, the Settlement Administrator will compute the total number of pay periods in which at least one meal period premium wage payment was made for all Participating Marcy Class Members collectively during the Class Period, and this sum shall be known as the Pay Period Total; (ii) the Settlement Administrator will divide the Net Settlement Amount of \$109,287.50 or 25% of Net Settlement Amount (allocated to the Marcy Class Action Subclass) by the Pay Period Total to determine the settlement value for each Pay Period (the “Pay Period Value”); and (iii) the Settlement Administrator will multiply the number of Pay Periods of a Participating Marcy Class Member during the

Class Period by the Pay Period Value to determine that Participating Marcy Class Member's estimated Individual Settlement Payment for all claims.

- c. **Final Approval**. After final approval of the Settlement, the Settlement Administrator will again make the calculations set forth above in Sections 56(a) and 56(b) to determine that Participating Class Member's final Individual Settlement Payments and Individual PAGA Payments.

Individual Settlement Payments shall be mailed by regular First-Class U.S. Mail to each Participating Class Member's last known mailing address within fifteen (15) calendar days after Defendant fully funds the settlement.

57. PAGA Payments

A total amount of \$80,000.00 from the Gross Settlement Amount will be allocated as the PAGA Payment to be paid as penalties under the PAGA, seventy-five percent (75%) of this amount will be the LWDA PAGA Payment to be paid to the LWDA and the remaining twenty-five (25%) shall be distributed to the PAGA Members as Individual PAGA Payments. Any portion of the PAGA Payment not approved by the Court shall be added to the Net Settlement Amount and any additional amount ordered by the Court shall be paid from the Gross Settlement Amount. In no event shall Defendant be required to pay in excess of the Gross Settlement Amount in such circumstances.

The LWDA PAGA Payment will be paid to the LWDA within fifteen (15) calendar days after Defendant fully funds the settlement.

The remaining 25% of the PAGA Payment is to be distributed to the PAGA Members as Individual PAGA Payments and shall be distributed as follows:

a. Dutra PAGA Members

The Dutra PAGA Members will each receive a pro rata share of \$15,000.00 (allocated as the PAGA Payment amount to settle the Dutra PAGA Action) based on the number of Pay Periods during the Dutra PAGA Settlement Period. To establish the "Pay Period Value" the Settlement Administrator will first determine the total number of Pay Periods during the Dutra PAGA Settlement Period. The Pay Period Value will be divided by the total number of Pay Periods worked by Dutra PAGA Members during the Dutra PAGA Settlement Period. The Pay Period

Value will be rounded to the nearest cent. The amount of the Individual PAGA Payment to be paid to each Dutra PAGA Member will be determined by multiplying the Pay Period Value by the total number of Pay Periods. Individual PAGA Payments shall be mailed by regular First-Class U.S. Mail to each Dutra PAGA Member's last known mailing address within fifteen (15) calendar days after Defendant fully funds the settlement.

b. Marcy PAGA Members

The Marcy PAGA Members will each receive a pro rata share of \$5,000.00 (allocated as the PAGA Payment amount to settle the Marcy PAGA Action) based on the number of Pay Periods during the Marcy PAGA Settlement Period. To establish the "Pay Period Value" the Settlement Administrator will first determine the total number of Pay Periods during the Marcy PAGA Settlement Period. The Pay Period Value will be divided by the total number of Pay Periods worked by Marcy PAGA Members during the Marcy PAGA Settlement Period. The Pay Period Value will be rounded to the nearest cent. The amount of the Individual PAGA Payment to be paid to each Marcy PAGA Member will be determined by multiplying the Pay Period Value by the total number of Pay Periods. Individual PAGA Payments shall be mailed by regular First-Class U.S. Mail to each Marcy PAGA Member's last known mailing address within fifteen (15) calendar days after Defendant fully funds the settlement.

58. Class Representative Enhancement Award

Plaintiffs will make an application to the Court for a Class Representative Enhancement Award of up to \$10,000.00 for each named Plaintiff. The Class Representative Enhancement Award shall be paid to the Plaintiffs from the Gross Settlement Amount no later than fifteen (15) calendar days after Defendant fully funds the Settlement. The Class Representative Enhancement Award shall be in addition to the Plaintiffs' Individual Settlement Payments as a Participating Class Member and Individual PAGA Payments as a PAGA Member. Any amount requested by Plaintiffs for the Class Representative Enhancement Award that is not granted by the Court shall return to the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement. In the event the Court reduces or does not approve the requested Class Representative Enhancement Award, Plaintiffs and Class Counsel shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiffs or Class Counsel seek, request, or demand an increase to the Gross Settlement Amount on that basis.

59. Class Counsel Award

Class Counsel will file a motion for attorney fees in the amount of up to thirty-five percent (35%) of the Gross Settlement Amount (estimated \$315,000), and for the reimbursement of reasonable litigation costs and expenses associated with Class Counsel's prosecution of this matter, not to exceed \$35,000, to be paid from the Gross Settlement Amount. Class Counsel shall be paid the Class Counsel Award no later than fifteen (15) calendar days after Defendant fully funds the settlement. Any amount requested by Class Counsel for the Class Counsel Award and not granted by the Court shall return to the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement.

This Settlement is not contingent upon the Court awarding Class Counsel any particular amount in attorney fees and costs and, in the event that the Court reduces or does not approve the requested Class Counsel Award, Plaintiffs shall not have the right to modify or revoke the Settlement, or to appeal such order, nor will Plaintiffs seek, request, or demand an increase to the Gross Settlement Amount on that basis.

60. Tax Treatment

The Settlement Administrator will report each payment made from the Qualified Settlement Fund to state and federal government authorities, including the Internal Revenue Service, to the extent required by law. All Individual Settlement Payments shall be allocated as follows: 20% as wages and 80% as penalties and interest. The 20% portion of Settlement Payments subject to required withholdings and deductions by the Settlement Administrator shall be reported on a Form W-2 (and such other state or local tax reporting forms as may be required by law) with respect to the year of payment as wage income to the Settlement Class Member by the Settlement Administrator on behalf of the Qualified Settlement Fund. All Individual PAGA Payments shall be allocated as 100% penalties, for which a Form 1099 will be issued if required. The Settlement Administrator shall issue an I.R.S. Form 1099 if required for the remaining payments under this Agreement. Defendant shall solely be responsible for paying the employer's share of payroll taxes on the amounts allocated as wages, which amount shall be paid separately from the Gross Settlement Amount. Plaintiffs, any Participating Class Member, and any PAGA Member who receives any Individual Settlement Payment or Individual PAGA Payment should consult with their tax advisors concerning the tax consequences of the payments they receive under the Settlement.

Participating Class Members, PAGA Members and Class Counsel shall be solely responsible for the reporting and payment of their share of any federal, state, and/or local income tax or other tax or any other withholdings, if any, on any of the payments made pursuant to this Settlement. The Notice will advise each Class and PAGA Member to seek his/her own personal tax advice prior to acting in response to the Notice, and Defendant, the Class Representative, and each Class and PAGA settlement member will have an adequate opportunity to seek tax advice prior to acting in response to the Notice.

61. No Tax Advice

Defendant has not made any representations as to the taxability to any Participating Class Members of any portion of the Individual Settlement Payments, to any PAGA Members regarding the Individual PAGA Payments, the payment of any attorney fees and expenses to Class Counsel, or the payment of the Class Representative Enhancement Award to the Class Representative. Neither Plaintiffs, Class Counsel, nor Defendant's Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

62. Unclaimed Settlement Payment(s)

After one hundred and eighty (180) calendar days of the mailing of the Individual Settlement Payments and Individual PAGA Payment checks, any remaining funds attributable to unclaimed, undeliverable, or expired Individual Settlement Payment checks and/or Individual PAGA Payment checks shall be deposited to the State of California Unclaimed Property Fund in the name of each Participating Class Member and/or PAGA Member who did not cash their Individual Settlement Payment check or Individual PAGA Payment check. The Parties agree that this disposition results in no "unpaid residue" under California Civil Procedure Code § 384, as the entire Net Settlement will be paid out to Participating Class Members, whether or not they all cash their Individual Settlement Payments, and Defendant will not be required to pay any interest on said amount.

63. Settlement Administrator Costs

The Settlement Administrator has provided a settlement administration quote for \$12,850.00. Upon filing the motion for Final Approval, Plaintiffs will request the

Court to award an amount equal to the actual administration costs. The Settlement Administrator shall have the authority and obligation to make payments, credits and disbursements to Participating Class Members and PAGA Members in the manner set forth herein, calculated in accordance with the methodology set out in this Agreement and orders of the Court. The Parties agree to cooperate in the Settlement Administration process and to make reasonable efforts to control and minimize the cost and expenses incurred in administration of the Settlement. The Settlement Administrator shall be paid the Settlement Administrator Costs no later than fifteen (15) calendar days after Defendant fully funds the settlement. Any amount requested for the Settlement Administrator Costs and not granted by the Court shall return to the Net Settlement Amount and be distributed to Participating Class Members as provided in this Agreement.

64. Settlement Administrator Duties

In addition to establishing the Qualified Settlement Fund, the Settlement Administrator shall be responsible for the following: creating a plan of settlement administration and settlement fund distribution; using the Class Information to calculate each Class Member's approximate Individual Settlement Payment and each PAGA Member's Individual PAGA Payment; ascertaining the identity and whereabouts of the Class Members and mailing Notice of Class Action Settlement out to them; communicating with Class Members as necessary; printing and mailing the Notice of Class Action Settlement and tax forms to the Participating Class Members and PAGA Members as directed by the Court (including, but not limited to, the DE 9, the DE 9C, 1099s, W-2s and W-3s); creating a settlement website on which to publish the Settlement Agreement, Preliminary Approval Order, Final Approval Order and Final Judgment, and other relevant settlement documents; receiving and reporting requests for exclusion and objections; processing and mailing payments to Plaintiffs, Class Counsel, Participating Class Members, the LWDA and PAGA Members; notifying the Parties of, and resolving any disputes regarding, the calculation of Participating Class Members' Individual Settlement Payments or PAGA Members' Individual PAGA Payments; complying with all tax reporting notice and filing requirements; carrying out all other duties related to the Qualified Settlement Fund's documentation and filing; providing declaration(s) as necessary in support of preliminary and/or final approval of this Settlement; providing status reports as needed, among other administrative duties; and other tasks as the Parties mutually agree or the Court orders the Settlement Administrator to perform. The Settlement Administrator shall keep the Parties timely apprised of the performance of all Settlement Administrator responsibilities.

Defendant and their Counsel shall have no responsibility for validating or ensuring the accuracy of the Settlement Administrator's work. Plaintiffs, Class Counsel, Defendant and Defendant's Counsel shall not bear any responsibility for any errors or omissions in the calculation or distribution of the Individual Settlement Payments, Individual PAGA Payments, or any other distribution of monies contemplated by this Agreement.

65. Final Approval Hearing and Entry of Final Judgment

Upon expiration of the Response Deadline, with the Court's permission, a Final Approval Hearing shall be conducted to determine final approval of the Settlement along with the amount properly payable for: (a) the Class Counsel Award; (b) the Class Representative Enhancement Award; (c) Individual Settlement Payments; (d) the PAGA Payments to the LWDA and to PAGA Members and (e) Settlement Administrator Costs.

66. Final Approval Order

Plaintiffs will request, and Defendant will concur in said request, that the Court enter, after the Final Approval Hearing, a Final Approval Order and a Final Judgment. Plaintiffs will request that the Final Approval Order certify the Settlement Class; find that this Agreement is fair, just, adequate, and in the best interests of the Class; and require the Parties to carry out the provisions of this Agreement. The Parties shall jointly prepare the proposed Final Approval Order.

Plaintiffs shall be responsible for preparing the Motion for Final Approval, and any Motion Requesting Attorney fees, Costs, and Class Representative Enhancement Award, supporting declarations, and exhibits thereto, for final approval by the Court. Plaintiffs agrees to provide Counsel for Defendant with drafts of all documents they intend to submit in support of their Motion for Final Approval and application for attorney fees and costs at least five (5) calendar days in advance of filing to allow Counsel for Defendant a reasonable time to review and comment on such papers. Plaintiffs further agrees to reasonably incorporate the comments from Counsel for Defendant. The Parties must meet and confer and make all reasonable efforts to agree on any modifications to this Agreement that will result in entry of the Final Approval Order.

67. Nullification of Agreement

In the event: (a) the Court denies preliminary approval of the Settlement; (b) the

Court denies final approval of the Settlement; (c) the Court refuses to enter a Final Judgment as provided herein; or (d) the Settlement does not become final for any other reason, this Agreement shall be null and void and any order or judgement entered by the Court in furtherance of this Settlement shall be treated as void from the beginning.

To the extent that more than 10% of Class Members submit valid Requests for Exclusion, Defendant shall have the option to nullify this Settlement within ten (10) calendar days of notification by the Settlement Administrator after the Response Deadline of the total number of Requests for Exclusion, via a written notice to Plaintiffs' counsel. If Defendant exercises this option, the Settlement will become void and unenforceable in its entirety and the Parties shall be returned to their status as if this Agreement had not been executed, except that any fees already incurred by the Settlement Administrator shall be paid by the Defendant for terminating the Settlement.

68. Conditional Class Certification

The Parties are agreeing to class certification for settlement purposes only. This Agreement shall not constitute, in this or in any other proceeding, an admission of any kind by Defendant, including without limitation, that certification of a class for trial or any other purpose is appropriate or proper or that Plaintiffs can establish any of the requisite elements for class or representative treatment of any of the claims in these Actions.

If, for any reason, the Settlement is not approved, the Parties agree to attend mediation again, either before the same mediator or another mutually agreed upon mediator experienced in California wage and hour class actions, in an effort to reach a settlement that will be approved by the Court.

If, even after the second mediation, the Agreement is ultimately not approved by the Court, this Agreement will be void and the Parties will be restored to their respective positions as if they had not entered into the Agreement. The Parties further agree that this Agreement will not be admissible in this or in any other proceeding as evidence that either (a) a class action should be certified or not decertified, or that this matter may proceed as a representative action; or (b) Defendant is liable to Plaintiffs or any Settlement Class Member or any PAGA Member other than according to the Settlement's terms. In the event that the Settlement is not approved or otherwise voided, Defendant expressly reserves all

rights to challenge certification of a class, or Plaintiffs' ability to maintain a representative action, for all purposes.

69. No Publicity

Prior to preliminary approval, the Parties agree not to disclose the terms of this Settlement except in court papers filed to seek approval or to make other disclosures jointly agreed to by the Parties in advance as necessary to effectuate the Settlement.

Before and after approval of this Settlement, Plaintiffs and Class Counsel shall not respond to any media inquiries, issue a press release, hold a press conference, publish information about the settlement on any website, or otherwise publicize the Settlement.

Nothing herein restricts Class counsel from fulfilling its duties to Class and PAGA Members. However, Class Counsel may (in future declarations submitted in Court) refer to the fact that this matter settled on a class and representative action basis, but only for the reason of detailing the experience of counsel. Plaintiffs and Class Counsel agree not to respond to any media inquiries except to refer reporters to the papers filed with the court.

70. No Effect on Employee Benefits

The Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for, or calculation of, any employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the respective Plaintiffs, Participating Class Members, and PAGA Members. The Parties agree that any Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments paid to Plaintiffs, Participating Class Members, and PAGA Members under the terms of this Settlement do not represent any modification of any previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by the Defendant. Further, any Class Representative Enhancement Award, Individual Settlement Payments, and Individual PAGA Payments shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by the Defendant.

71. Representation

All of the Parties have been represented by counsel throughout all negotiations which preceded the execution of this Settlement, and all Parties have been advised by counsel prior to entering into this Settlement.

72. Exhibits and Headings

The terms of this Agreement include the terms set forth in any attached Exhibits, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Agreement are an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

73. Interim Stay of Proceedings

Upon full execution of this Agreement, the Parties agree to jointly request the Court to stay proceedings except for the proceedings necessary to implement and complete the Settlement.

74. Amendment or Modification

This Agreement may be amended or modified only by a written instrument signed by counsel for all Parties or their successors-in-interest.

75. Entire Agreement

This Agreement and any attached Exhibits constitute the entire Agreement among these Parties, and no oral or written representations, warranties, or inducements have been made to any Party concerning this Agreement or its Exhibits other than the representations, warranties, and covenants contained and memorialized in the Agreement and its Exhibits. The Parties are entering into this Agreement based solely on the representations and warranties herein and not based on any promises, representation, and/or warranties not found herein.

76. Authorization to Enter into Agreement

Counsel for all Parties are expressly authorized by the Parties whom they represent to negotiate this Agreement and take all appropriate actions required or permitted

to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Agreement.

The Parties will cooperate with each other and use their best efforts to effect the implementation of the Settlement. In the event the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement. The person signing this Agreement on behalf of the Defendant represents and warrants that she or she is authorized to sign this Agreement on behalf of the Defendant. Plaintiffs represents and warrants that she is authorized to sign this Agreement and that she has not assigned any claim, or part of a claim, covered by this Settlement to a third-party.

77. Binding on Successors and Assigns

This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

78. California Law Governs

All terms of this Agreement and the Exhibits hereto shall be governed by and interpreted according to the laws of the State of California.

79. Counterparts

This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

80. Jurisdiction of the Court

Pursuant to California Code of Civil Procedure section 664.6, and section 41(a) of the Federal Rules of Civil Procedure, the Court shall retain jurisdiction with respect to the interpretation, implementation, and enforcement of the terms of this Agreement and all orders and judgments entered in connection therewith, and the Parties and their counsel submit to the jurisdiction of the Court for purposes of interpreting, implementing, and enforcing the settlement embodied in this Agreement and all connected orders and judgments.

81. Invalidity of Any Provision

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

WHEREFORE, Plaintiffs, on behalf of themselves and the Participating Class Members and the PAGA Members, and Defendant have executed this Agreement as of the dates set forth below.

Date: 10/15/24

By: 
Dennis Tony Dutra, Plaintiff

Date: _____


By: _____
Danielle Marcy, Plaintiff

Date: _____

By: _____
Authorized Agent for Defendant
J.R. Simplot Company

APPROVED AS TO FORM

Date: 10/15/2024

By: 
James R. Hawkins
Counsel for Plaintiff
Dennis Tony Dutra

Date: _____

By: _____
Liane Katzenstein Ly
Counsel for Plaintiff
Danielle Marcy

Date: _____

By: _____
Michael J. Nader
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
Counsel for Defendant
J.R. Simplot Company

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

WHEREFORE, Plaintiffs, on behalf of themselves and the Participating Class Members and the PAGA Members, and Defendant have executed this Agreement as of the dates set forth below.


Date: _____

By: _____
Dennis Tony Dutra, Plaintiff

Date: October 14, 2024

By: 
Danielle Marcy, Plaintiff

Date: 9-17-2024


By: 
Authorized Agent for Defendant
J.R. Simplot Company

APPROVED AS TO FORM

Date: _____

By: _____
James R. Hawkins
Counsel for Plaintiff
Dennis Tony Dutra

Date: October 9, 2024

By: 
Liane Katzenstein Ly
Counsel for Plaintiff
Danielle Marcy

Date: September 17, 2024


By: 
Michael J. Nader
Ogletree, Deakins, Nash,
Smoak & Stewart, P.C.
Counsel for Defendant
J.R. Simplot Company

Exhibit A

Dennis Tony Dutra and Danielle Marcy v. J.R. Simplot Company,
San Joaquin Superior Court, Case No. STK-CV-UOE-2021-4841
San Joaquin County Superior Court

Class and PAGA Action Settlement Notice

A court authorized this notice. This is not a solicitation from a lawyer.

Why am I receiving this? On [insert date of court order granting preliminary approval], the Court in this action granted preliminary approval of a proposed settlement as set forth in the Settlement Agreement available at [website] concerning the lawsuit noted above (the “Lawsuit”). You are receiving this notice because J.R. Simplot Company’s records show that you are one of the people eligible to participate in the Settlement process.

What is the Lawsuit about? The people who brought the Lawsuit are known as “the Plaintiffs.”

Settlement Subclasses: Plaintiffs (Dennis Tony Dutra and Danielle Marcy) brought this Lawsuit against J.R. Simplot (“Simplot”). Plaintiffs allege that they were not paid all wages, or provided all compliant breaks, were not reimbursed for all business expenses, and related claims. Plaintiffs alleged that they brought their action on behalf of the following subclasses:

- **Dutra Class Action Subclass:** All current and former hourly, non-exempt drivers employed by Simplot in California during the Class Settlement Period, which is from January 24, 2019 to January 24, 2024.
- **Marcy Class Action Subclass:** All current and former non-exempt employees of Simplot in California, excluding drivers, who were paid at least one meal break premium during the Class Settlement Period, which is from January 24, 2019 to January 24, 2024.

What is the Settlement? The Plaintiffs and Simplot (collectively, “the Parties”) have agreed to settle the Lawsuit for a payment of \$900,000.

What is this notice? This notice only summarizes the Settlement. For more information, visit [insert site].

Defendant Simplot denies any liability or wrongdoing of any kind associated with the claims asserted in the Lawsuit. This Settlement is a compromise of disputed claims. Simplot supports the settlement and will not retaliate in any manner against any class member for any reason, including whether they decide to remain in the class and receive a settlement payment, or choose another option provided in this notice.

**Your legal rights are affected whether you act or do not act.
Read this notice carefully.**

Your legal rights and options in this settlement

<p>DO NOTHING AND GET YOUR SETTLEMENT CHECK</p>	<p>If you want to participate and receive your share of the money from the Class and PAGA settlement, you do not need to do anything. If you do nothing, you will be mailed a settlement payment and you will release certain claims. Your current address must be on file with Simplot to get your check.</p>
<p>EXCLUDE YOURSELF FROM THE CLASS SETTLEMENT AND <u>NOT</u> GET A CLASS SETTLEMENT CHECK</p>	<p>If you want to exclude yourself from the Class portion of the settlement, then you will not get a related settlement check. If you exclude yourself, you keep any rights as an individual to sue Defendant separately about the same legal claims that are resolved here. You may exclude yourself from the settlement by submitting a written Request for Exclusion according to the instructions contained in this Notice. The deadline to submit a Request for Exclusion is [45 calendar days from date of mailing].</p> <p>If you are a PAGA Member, even if you exclude yourself from the class action, you will still receive a portion of the PAGA settlement money and be bound by the release of PAGA claims.</p>
<p>OBJECT</p>	<p>If you want to object to the Class Action Settlement because you think that the Settlement is not fair or related reason, then send your written objection to the Settlement Administrator and, if you wish, appear at the Final Approval Hearing. If you submit a Request for Exclusion from the Settlement, you cannot also object to it. The deadline to submit an objection is [45 calendar days from date of mailing].</p>

Basic Information

1. Why did I get this notice package?

The purpose of this notice is to let you know that the Parties in the Lawsuit have reached a Settlement, subject to Court approval in the class and PAGA action known as *Dennis Tony Dutra and Danielle Marcy v. J.R. Simplot Company*, San Joaquin County Superior Court, Case No. STK-CV-UOE-2021-002402 (the “Lawsuit”). You have received this notice because Simplot’s records show that you worked for Simplot in California as either (a) a non-exempt driver or (b) a non-exempt employee who was paid at least one meal break premium during a Class Settlement Period.

The Court authorized that you be sent this notice because you have a right to know about the proposed Settlement of the Lawsuit, and about your options, before the Court decides whether to grant final approval of the Settlement. If the Court approves it and after any objections and

appears are reserved, a third party administrator appointed by the Court will make the payments that the Settlement allows. This notice provides you with instructions on the options available to you under the Settlement.

2. What is this lawsuit about?

In the Lawsuit, Plaintiffs allege that they were not paid all wages, meal and rest break premiums, or paid sick leave, did not get all compliant meal and rest breaks, were not reimbursed for all business expenses, did not receive compliant wage statements, and related claims for penalties.

Simplot denies the allegations and asserts that no wages, damages, penalties, or PAGA civil penalties are due to any employees in California.

3. What is class action? What is a PAGA action?

In a class action, one or more people, called “Class Representatives” (in this case, Dennis Tony Dutra and Danielle Marcy) sue on behalf of people who have similar claims. In a class action, all people with similar class claims are called “Class Members.” Class Members do not need to do anything to be part of a class action in the context of a settlement. Once the Court decides that a case can proceed as a class action (as the Court has done here but only for purposes of this Settlement), all Class Members are included in the class by default, except for those who exclude themselves. In a class action, the court resolves the issues for all Class Members together in one legal proceeding.

In a PAGA action, a plaintiff sends a letter to the California Labor and Workforce Development Agency (“LWDA”) describing the alleged Labor Code violations committed against that employee and other employees (“PAGA Members”) by the Defendant employer. If the LWDA does not opt to pursue the alleged Labor Code violations, the plaintiff is allowed to sue the defendant on behalf of the State of California, on behalf of him/herself, and all other PAGA Members. PAGA Members cannot opt out of the settlement of a PAGA action. If the Settlement of a PAGA action is approved by the Court, the PAGA Members covered under the PAGA action will have their claims for PAGA penalties released, whether or not the PAGA Members opt out of the Settlement of the class action. The State of California receives 75% of the PAGA penalties, and the PAGA Members receive the other 25%.

4. Why is there a settlement?

The Court did not decide in favor of either party. Instead, both sides agreed to a settlement, which, if approved, brings the Lawsuit to an end. That way, Plaintiffs, Class Members, PAGA Members, and Defendant Simplot avoid the cost, delay, and uncertainty of moving forward in litigation to trial and possible appeals, and the Class Members and PAGA Members can receive their checks. The Class Representatives and their attorneys (“Class Counsel”) believe that the Settlement is fair, reasonable, adequate and in the best interests of the Class Members and PAGA Members.

Who is in the Settlement

5. Who is included in the Settlement?

The Settlement provides benefits to the Class Members and the PAGA Members. The Class Members include the following:

- Dutra Class Action Subclass: All current and former hourly, non-exempt drivers employed by Simplot in California during the Class Settlement Period, which is from January 24, 2019 to January 24, 2024.
- Marcy Class Action Subclass: All current and former non-exempt employees of Simplot in California, excluding drivers, who were paid at least one meal break premium during the Class Settlement Period, which is from January 24, 2019 to January 24, 2024.

The Settlement Benefits—What You Get

6. What does the Settlement provide?

Money. All Class Members who do not exclude themselves from this Settlement will get a settlement check.

Tax treatment.

Class Action. The Settlement Agreement allocates how payments made to you under this Settlement should be treated for tax purposes. Accordingly, 20% of all payments to Settlement Group members for the class action settlement will be allocated as wages, and normal payroll taxes and withholdings will be deducted from this portion of the payment as required by law, and it will be reported on an IRS Form W-2. The remaining 80% of payments to Settlement Group members for Settlement of the class action will be allocated as non-wage penalties and interest and will be reported on an IRS form 1099.

PAGA Action. 100% of payments made to PAGA Group Members for settlement of the PAGA action will be allocated as non-wage penalty payments, and will be reported on an IRS form 1099.

You will be responsible for correctly reporting all income from this Settlement for tax purposes and for paying any taxes on the amounts received. You will be responsible for the tax obligations and consequences of all payments received from the Settlement. Simplot, Defendant's Counsel, and Class Counsel are not providing tax advice to you, and they make no representations regarding the tax characterization of any Settlement payments or any tax obligations of, or tax consequences to, any Settlement Group members.

7. What can I get from the Settlement?

Each Class Member will receive some money, depending on the number of weeks/pay periods worked at Simplot as a member of one of the subclasses from January 24, 2019 to January 24, 2024. Class Members who opt out will only get a check related to the PAGA settlement.

How You Get a Payment

8. When will I get my payment?

The terms and conditions of this Settlement are subject to Court approval. The Court will hold a hearing on [insert fairness hearing date], to decide whether to approve the Settlement. If the Court approves the Settlement, and there are no appeals, **we estimate that checks will be mailed around [insert approximate date]**. The Settlement Administrator will provide regular updates of the status of the Settlement at [website]. If your contact information changes, please promptly inform the Settlement Administrator.

Release Agreement

9. What am I giving up to get a payment?

Participating Class Members will be giving up or "releasing" the claims described below:

Released Class Claims for the Dutra Subclass: All claims and/or causes of action under any state, local, or federal law or administrative regulation brought by Participating Class Members against the Released Parties, and that were or could have been alleged based on the allegations in the Lawsuit, including all class claims stated in the Action alleging violations of Labor Code sections 201, 202, 203, 204, 210, 216, 218.5, 218.6, 221-224, 226, 226(a), 226.3, 226.7, 245-249, 510, 512, 558, 1174, 1175, 1182.2, 1194, 1194.2, 1195, 1197, 1197.1, 1198, the applicable IWC Wage Order, section 17200 et seq of the California Business and Professions Code, and the California Code of Regulations, Title 8, § 11090, and all claims for unpaid wages, for meal and

rest breaks, for paid sick leave, for compliant wage statements, for timely payment of wages, for business expenses, and for related claims for penalties.

Released Class Claims for the Marcy Subclass: All claims and/or causes of action under any state, local, or federal law or administrative regulation brought by Participating Class Members against the Released Parties, and that were or could have been alleged based on the allegations in the Action, including all class claims stated in the Action alleging violations of Labor Code sections 201, 202, 203, 226, 226(a), 226.7, 512, the applicable IWC Wage Order, section 17200 et seq of the California Business and Professions Code, and the California Code of Regulations, Title 8, § 11040, and claims for compliant meal and rest breaks, for timely payment of current and final wages, for compliant wage statements, and related claims for penalties.

PAGA Members and the State of California will be giving up or “releasing” claims for civil penalties under PAGA:

For the Dutra PAGA Members: All claims and/or causes of action for PAGA penalties against the Released Parties that were or could have been alleged based on the allegations in the Action, including all claims for PAGA penalties based on alleged violations of Labor Code Sections 201, 202, 203, 204, 210, 216, 221-224, 225.5, 226, 226(a), 226.3, 226.7, 245-249, 510, 512, 558, 1174, 1174(d), 1174.5, 1175, 1182.2, 1194, 1194.2, 1195, 1197, 1197.1, 1198, the applicable IWC Wage Order, and the California Code of Regulations, Title 8, § 11090, and all claims for PAGA penalties for unpaid wages, for meal and rest breaks, for paid sick leave, for compliant wage statements, for timely payment of wages, for business expenses, and related claims for penalties.

For the Marcy PAGA Members: All claims and/or causes of action for PAGA penalties against the Released Parties that were or could have been alleged based on the allegations in the Action, including all claims for PAGA penalties based on alleged violations of Labor Code Sections 201, 202, 203, 226, 226(a), 226.7, 512, the applicable IWC Wage Order, and the California Code of Regulations, Title 8, § 11040, and all claims for PAGA penalties for compliant meal and rest breaks, for timely payment of current and final wages, for compliant wage statements, and related claims for penalties.

A full list of the released claims is in the settlement agreement on file at [website].

The Lawyers Representing You

10. Do I have a lawyer in this case?

The Court appointed James R. Hawkins, Christina M. Lucio, and Mitchell J. Murray with the firm of James Hawkins APLC and Eric B. Kingsley and Liane Katzenstein Ly with the law

Eric B. Kingsley, Esq. and Liane Katzenstein Ly to represent you and the other Settlement Group members. Together, these lawyers are called Class Counsel or Plaintiffs' Counsel.

James R. Hawkins
Christina M. Lucio
Mitchell J. Murray
JAMES HAWKINS APLC
9880 Research Drive, Suite 200
Irvine, CA 92618
(949) 387-7200

james@jameshawkinsaplc.com
christina@jameshawkinsaplc.com
mitchell@jameshawkinsaplc.com

Eric B. Kinglsey
Liane Katzenstein Ly
KINGSLEY & KINGSLEY, APC
16133 Ventura Blvd., Suite 1200
Encino, CA 91436
(818) 990-8300
eric@kingsleykingsley.com
liane@kingsleykingsley.com

11. How will the Class Counsel and Class Representative be paid?

Class Counsel will ask the Court for attorneys' fees of up to \$315,000 of the \$900,000 Settlement fund, and reimbursement of out-of-pocket costs of up to \$35,000, consistent with the terms of the Settlement Agreement. In addition, Class Counsel will apply to the Court for a service award of up to \$10,000 for each Class Representative. The Court will decide whether to approve Class Counsel's and the Class Representative's requests.

Excluding Yourself from the Settlement

12. What does excluding yourself from the Settlement mean?

If you want to preserve your right to sue Simplot on your own about the legal issues in this case, then you need to take steps to remove yourself from the Settlement. This is called excluding yourself from -- or opting out of -- the Settlement. If you opt out, then you will not get a settlement check related to the class action settlement.

13. How do I remove myself/opt out of the Settlement?

To exclude yourself from (i.e., opt out of) the Settlement and not release any claims, you must send a letter stating your request to be excluded from the Class Settlement which must also contain: (a) the case name and number of the Lawsuit; (b) your full name, present address, signature, telephone number, and last four digits of your Social Security number; and (c) mail your letter to the Settlement Administrator at the specified address, postmarked on or before the Response Deadline. Your opt-out request letter must be received or postmarked by [insert date].

Can I exclude myself, and I get money, from this Settlement?

No. You cannot get money from the class action settlement if you exclude yourself. But you will still get a check from the settlement of the PAGA action (because you cannot opt out from the PAGA settlement).

Objecting to the Settlement

15. What does objecting to the Settlement mean?

If you don't think the Class Action Settlement is fair, and you don't request to be excluded from the class settlement, you can object to the Settlement and tell the Court that you don't agree with the Settlement, or some part of it, before the Court decides whether to grant final approval of the Settlement.

To object in writing, you must submit a timely written objection to the Settlement Administrator. Your objection must state that you object to the proposed Settlement of this case and be sure to include your name, address, telephone number, and signature, and the specific reasons you object to the Settlement. You must mail your written objection to the Administrator at [address], postmarked on or before _____, 2024. [45 days from mailing of Settlement Notice Packet] Objections postmarked after this date may be disregarded.

If you have questions regarding this Settlement, you should contact Class Counsel or the Settlement Administrator. Please DO NOT contact attorneys for Defendant or any of the Defendant's managers, supervisors, or owners.

There is no option to object to the PAGA portion of the Settlement.

16. When and where will the Court decide whether to approve the Settlement?

The Court will hold a final approval hearing at [insert time and date and location of the Court and other details]. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court may consider them. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take. If you plan to attend the hearing, you should check [add details of administrator website] or the Court's site at [add details] to confirm that the hearing date has not been changed.

17. Do I have to come to the hearing?

No. Unless you opt out of the Settlement, Class Counsel will represent you and will answer any questions the Court may have. But you are welcome to come at your own expense. If you send a comment (including an objection), you do not have to come to Court to talk about it. As long as you submitted your objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

If You Do Nothing

18. What happens if I do nothing at all?

If you do nothing, you will get a check under the Settlement, and you will be bound to the release of claims in the Settlement.

Getting More Information

19. Are there more details about the Settlement?

This Notice is intended to be a summary of the terms of the Settlement. More information is available by contacting the Settlement Administrator at [add info].

PLEASE DO NOT TELEPHONE THE COURT OR THE COURT CLERK'S OFFICE TO INQUIRE ABOUT THIS SETTLEMENT OR THE CLAIM PROCESS.