



1           6.       “Class Counsel Litigation Expenses Payment” shall mean the actual litigation  
2 expenses and/or costs expended by Class Counsel subject to approval by the Superior Court incurred  
3 in connection with the Action, including pre-filing investigation, filing of the Action, and all related  
4 litigation activities, this Settlement, and all post-Settlement compliance procedures. Class Counsel’s  
5 expenses are not to exceed Twenty-Five Thousand Dollars and Zero Cents (\$25,000.00).

6           7.       “Class Notice” shall mean the Notice of Proposed Settlement, Preliminary Approval  
7 of Settlement, and Hearing Date for Final Court Approval, in substantially the form attached hereto  
8 as “**Exhibit A**” subject to approval by the Superior Court. The Class Notice shall contain (i) a Class  
9 Member’s first and last name, (ii) last known address, (iii) the Class Member’s Individual  
10 Workweeks, (iv) the PAGA Group Member’s Individual Pay Periods, if applicable; (v) the Class  
11 Member’s estimated Settlement Share; and (vi) the PAGA Group Member’s estimated PAGA  
12 Payment Share, if applicable. The Class Notice shall also provide the Class Members with  
13 instructions on how to opt-out of and/or object to the Class Settlement and how to dispute Individual  
14 Workweeks and/or Individual Pay Periods.

15           8.       “Class Period” shall mean the period of time from August 9, 2017, through October  
16 31, 2022.

17           9.       “Class Representative Enhancement Payment” shall mean the payment made to  
18 Plaintiff in his capacity as Class Representative to compensate him for prosecuting the Action, and  
19 performing work in support of the Action, in the amount of Ten Thousand Dollars (\$10,000.00),  
20 subject to approval by the Superior Court.

21           10.       “Class Settlement” shall mean the settlement and release of the Class Released Claims,  
22 as defined in Paragraph 75 below.

23           11.       “Defense Counsel” shall mean the attorneys representing Defendant in the Action,  
24 Andrea Rosenkranz, Esq. and Yahir A. Barragan, Esq. of O’Hagan Meyer.

25           12.       “Effective Date” shall mean the first business day following the last of the following  
26 occurrences: (i) if no Class Member both objects and also files either a timely motion to intervene  
27 and/or timely motion to vacate the Judgment, then sixty (60) days following the date the Court enters  
28 the Judgment; (ii) if a Class Member both objects and either files a timely motion to intervene or

1 timely motion to vacate the Judgment, then sixty-one (61) days following the date the Court enters  
2 the Judgment, assuming no appeal is filed; or (iii) if a Class Member both objects and also files a  
3 timely motion to intervene or files a motion to vacate the Judgment and also files a timely appeal,  
4 then the date of final resolution of that appeal (including any requests for rehearing and/or petitions  
5 for certiorari), resulting in final and complete judicial approval of the Settlement in its entirety, with  
6 no further challenge to the Settlement or Judgment being possible. The occurrence of the Effective  
7 Date is a prerequisite to any obligation of Defendant to pay any funds into the Settlement Account.

8 13. “Employer’s Payroll Taxes” shall mean Defendant’s share of all payroll taxes and  
9 contributions payable to any and all government agencies incurred for the wages portion of payments  
10 of Settlement Shares to Participating Class Members pursuant to this Settlement. Defendant’s  
11 payment of the normal employer’s share of payroll taxes and contributions will be made separately  
12 and shall not come from the Maximum Settlement Amount.

13 14. “Final Approval Hearing” shall mean the hearing to be conducted by the Superior  
14 Court to determine whether to finally approve and implement the terms of this Settlement.

15 15. “Individual Pay Periods” shall mean the number of Pay Periods for an individual  
16 PAGA Group Member.

17 16. “Individual Workweeks” shall mean the number of Workweeks for an individual Class  
18 Member.

19 17. “Judgment” shall mean the order granting Final Approval of the Settlement and  
20 judgment that the Parties anticipate will be entered by the Court following a Final Approval Hearing  
21 on the Settlement in this Action.

22 18. “LWDA Payment” shall mean the payment to the California Labor and Workforce  
23 Development Agency (“LWDA”), constituting seventy-five percent (75%) of the PAGA Penalties  
24 assigned to the claim for civil penalties under the California Labor Code Private Attorneys General  
25 Act, California Labor Code Section 2698, *et seq.* (“PAGA”). Specifically, Ninety-Seven Thousand,  
26 Five Hundred Dollars and Zero Cents (\$97,500.00), which shall constitute the LWDA’s seventy-five  
27 percent (75%) share of One Hundred and Thirty Thousand Dollars and Zero Cents (\$130,000.00) in  
28 civil penalties paid under this Settlement.

1           19.    “Maximum Settlement Amount” shall mean the maximum settlement amount of One  
2 Million, Seven Hundred and Fifty-Four Thousand, Eight Hundred Dollars and Zero Cents  
3 (\$1,754,800.00) payable by Defendant as provided by this Agreement, unless that amount is increased  
4 pursuant to Paragraph 71 below, exclusive of Employer’s Payroll Taxes. Defendant will pay the  
5 Employer’s Payroll Taxes separately, and shall not come from the Maximum Settlement Amount.

6           20.    “Net Settlement Amount” shall mean the Maximum Settlement Amount, less (i) the  
7 Class Representative Enhancement Payment approved by the Superior Court; (ii) the Class Counsel  
8 Fees Payment approved by the Superior Court; (iii) the Class Counsel Litigation Expenses Payment  
9 approved by the Superior Court; (iv) the PAGA Penalties approved by the Superior Court; and (v)  
10 the Settlement Administrator Payment approved by the Superior Court; and (vi) any other fees or  
11 expenses (other than Class Counsel Fees Payment and Class Counsel Litigation Expenses Payment)  
12 incurred in implementing the terms and conditions of this Agreement as approved by the Superior  
13 Court.

14           21.    “Non-Participating Class Member” shall mean a Class Member who submits a  
15 complete, valid, and timely Request for Exclusion pursuant to the instructions provided in the Class  
16 Notice.

17           22.    “PAGA Employee Payment” shall mean twenty-five percent (25%) portion of the  
18 PAGA Penalties assigned to the claim for civil penalties under PAGA, which is Thirty-Two  
19 Thousand, Five Hundred Dollars and Zero Cents (\$32,500.00), to be distributed to PAGA Group  
20 Members on a *pro rata* basis based upon the number of Pay Periods worked by each PAGA Group  
21 Member.

22           23.    “PAGA Group” shall mean all current and former non-exempt employees who  
23 worked for Defendant in California during the PAGA Period.

24           24.    “PAGA Group Member” shall mean an individual who is a member of the PAGA  
25 Group (or if any such person is incompetent, deceased, or unavailable due to military service, the  
26 person’s legal representative or successor in interest evidenced by reasonable verification).

27           25.    “PAGA Payment Share” shall mean each PAGA Group Member’s *pro rata* share of  
28 the PAGA Payment as provided by this Agreement.

1           26.    “PAGA Penalties” means the amount of **One Hundred Thirty Thousand Dollars**  
2 (\$1300,000.00) from the Maximum Settlement Amount which will be allocated toward civil penalties  
3 under the Private Attorneys General Act, California Labor Code § 2698 *et seq.*, of which seventy-five  
4 percent (75%) will be paid to the LWDA (i.e., the LWDA Payment), and twenty-five percent (25%)  
5 will be distributed to the PAGA Group Members (i.e., the PAGA Employee Payment).

6           27.    “**PAGA Period**” shall mean the period of time from August 9, 2017, through October  
7 31, 2022.

8           28.    “PAGA Settlement” shall mean the settlement and release of the PAGA Released  
9 Claims, as defined in Paragraph 76 below.

10          29.    “Participating Class Member” shall mean all Class Members who have not submitted  
11 a complete, valid, and timely Request for Exclusion pursuant to the instructions provided in the Class  
12 Notice.

13          30.    “Pay Period” shall mean any pay period during the PAGA Period in which a PAGA  
14 Group Member actually received payment from Defendant as a non-exempt employee.

15          31.    “Preliminary Approval” shall mean the Superior Court’s preliminary approval of the  
16 Settlement without material change that the Parties anticipate will be made following submission of  
17 this Agreement to the Court.

18          32.    “Settlement Administrator” shall mean Phoenix Settlement Administrators, the third-  
19 party administrator proposed by the Parties, subject to appointment by the Superior Court, to  
20 administer the Settlement.

21          33.    “**Settlement Administrator Payment**” shall mean the payment to the Settlement  
22 Administrator for its fees and expenses in administering this Settlement, in the amount not to exceed  
23 Fourteen Thousand Dollars and Zero Cents (**\$14,000.00**).

24          34.    “Settlement Share” shall mean each Participating Class Member’s *pro rata* share of  
25 the Net Settlement Amount as provided by this Agreement.

26          35.    “Superior Court” shall mean the Superior Court of California for the County of Los  
27 Angeles.

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1           36.     “Workweek” shall mean any week in which a Class Member actually performed paid  
2 work for Defendant during the Class Period as a non-exempt employee. Each Class Member will be  
3 credited with at least one (1) Workweek.

4     **II.     RECITALS**

5           37.     On August 9, 2021, Plaintiff filed a Class Action Complaint against Defendant in the  
6 Los Angeles County Superior Court, Case No. 21STCV29229. In his Complaint, Plaintiff pled causes  
7 of action for: (1) Unpaid Overtime; (2) Unpaid Meal Period Premiums; (3) Unpaid Rest Period  
8 Premiums; (4) Unpaid Minimum Wages; (5) Final Wages Not Timely Paid; (6) Wages Not Timely  
9 Paid During Employment; (7) Non-Compliant Wage Statements; (8) Failure to Keep Requisite  
10 Payrolls; (9) Unreimbursed Business Expenses; and (10) Violation of California Business &  
11 Professions Code Section 17200, *et seq.*

12           38.     On January 27, 2023, Plaintiff, on behalf of the PAGA Group, gave written notice to  
13 the Labor Workforce and Development Agency (“LWDA”) and Defendant of the sections of the  
14 California Labor Code and applicable Industrial Welfare Commission Wage Orders that Defendant  
15 is alleged to have violated (“LWDA Exhaustion Letter”).

16           39.     Plaintiff and Defendant have agreed that Plaintiff will file a First Amended Class  
17 Action Complaint for Damages & Enforcement Under the Private Attorneys General Act, California  
18 § 2698, Et Seq. (“First Amended Complaint” or “Operative Complaint”) in the Action, which upon  
19 filing, *inter alia*, will add a cause of action under the California Labor Code Private Attorneys General  
20 Act of 2004, Cal. Lab. Code § 2698, *et seq.*, a copy of which is attached hereto as “**Exhibit B.**”

21           40.     Defendant denies and continues to deny all of Plaintiff’s material allegations.  
22 Specifically, Defendant contends (1) it did not fail to pay the Class the minimum, straight time, regular  
23 rate, and/or overtime wages; (2) it paid the Class for all hours worked; (3) it provided the Class with  
24 all meal periods and associated premium pay (if required) according to law; (4) it provided the Class  
25 with all rest periods and associated premium pay (if required) according to law; (5) it did not fail to  
26 timely pay the Class wages due and owing during employment and/or upon separation; (6) it provided  
27 the Class with accurate itemized wage statements, consistent with Labor Code Section 226; (7) it  
28 properly maintained all payroll records; (8) it reimbursed employees for all necessary business

1 expenses; (9) it did not violate California Business & Professions Code Section 17200, *et seq.*; (10)  
2 it did not engaged in conduct giving rise to civil penalties recoverable under PAGA; and (11)  
3 Defendant is not liable for damages, including unpaid wages, liquidated damages, statutory or civil  
4 penalties, attorneys’ fees, or costs of litigation to the Class, State of California, or PAGA Group  
5 Members.

6 41. In connection with the Action, and in order to work toward a mediated resolution  
7 without the time and expense of formal discovery, the Parties engaged in extensive informal discovery  
8 and exchange of information, including and not limited to, Defendant’s production of voluminous  
9 information, documents, and data (including but not limited to, Class Representative employment  
10 records, employment and operations policies, practices, and procedures documents, random sampling  
11 of Class time and pay data) which were reviewed, investigated, and analyzed by Class Counsel.

12 42. On September 1, 2022, the Parties in Action participated in a full day of mediation  
13 before an experienced employment and class action mediator, Lynn Frank, Esq. (the “Mediation”).  
14 Ultimately, with the aid of the mediator’s recommendation, the Parties reached a settlement and  
15 entered into a Memorandum of Understanding (fully executed on September 7, 2022) for the  
16 resolution of the Action.

17 43. The Settlement described in this Agreement represents a compromise and settlement  
18 of highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission  
19 by Defendant that Plaintiff’s claims in the Action have any merit or that they have any liability to  
20 Plaintiff, the Class, the PAGA Group, or the State of California on those claims, or as an admission  
21 by Plaintiff that Defendant’s defenses in Action have any merit. This Settlement is intended to fully,  
22 finally, and forever compromise, release, resolve, discharge, and settle the released claims subject to  
23 the terms and conditions set forth in this Settlement.

24 44. Based on its own thorough, independent investigation and evaluation of this case,  
25 Class Counsel is of the opinion that the Settlement of this Action with Defendant for the consideration  
26 and on the terms set forth in this Settlement is fair, reasonable, adequate, and in the best interest of  
27 the Class in light of all known facts and circumstances, including the risk of significant costs and  
28 delay, the risk of non-certification of the Class, the risk of a finding that the PAGA claim is not

1 manageable, the defenses asserted by Defendant including the risks of adverse determinations on the  
2 merits, and the Superior Court’s discretion with respect to assessment of civil penalties, and numerous  
3 potential appellate issues. Although Defendant contends that it has no liability in the Action, Defense  
4 Counsel shares Class Counsel’s belief that the Settlement represents a fair and adequate settlement  
5 given the respective risks associated with the case.

6 45. Based on the foregoing Recitals, the Parties agree as follows:

7 **III. PROCEDURE FOR APPROVING SETTLEMENT**

8 46. **Motion for Preliminary Approval of Settlement by the Superior Court.** Plaintiff  
9 will move the Superior Court for an order granting Preliminary Approval of the Settlement, setting a  
10 date for the Final Approval Hearing no earlier than one hundred and twenty (120) calendar days from  
11 the date of the order granting Preliminary Approval of the Settlement, and approving the Class Notice  
12 (attached hereto as “**Exhibit A**”) (“Motion for Preliminary Approval”). Any unresolved  
13 disagreement among the Parties concerning the Class Notice or other documents necessary to  
14 implement the Settlement will be referred first to Lynn Frank, Esq., and if no resolution is reached,  
15 then to the Superior Court.

16 47. At the hearing on the Motion for Preliminary Approval, the Parties anticipate that they  
17 will jointly appear, support the granting of the Motion for Preliminary Approval, and obtain an order  
18 granting Preliminary Approval, granting approval of the Class Notice, and setting a date for the Final  
19 Approval Hearing no earlier than one hundred and twenty (120) calendar days from the date of the  
20 order granting Preliminary Approval.

21 48. Should the Superior Court require any amendments to this Agreement or the Motion  
22 for Preliminary Approval, the Parties agree to work jointly to resolve any issues in order to secure the  
23 Superior Court’s Preliminary Approval.

24 49. Should the Superior Court decline to preliminarily approve any material aspects of the  
25 Settlement, the Settlement will be null and void and the Parties will have no further obligations under  
26 it. In such event, the Parties shall be returned to their respective positions as of the date and time  
27 immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as  
28 if this Agreement had not been executed.



1           50.    **Class Notice.** After the Superior Court enters its order granting Preliminary Approval,  
2 every Class Member will be provided with the Class Notice (**in English and Spanish**) which will  
3 include the Class Notice completed to reflect the order granting Preliminary Approval of the  
4 Settlement and the Class Member’s information as follows:

5                   (a)    Within twenty-one (21) calendar days after the Motion for Preliminary  
6 Approval is granted, Defendant will provide to the Settlement Administrator the “Class Members’  
7 Data,” which shall consist of an electronic database containing (i) each Class Member’s last-known  
8 first and last name, (ii) the last-known mailing address, (iii) the Class Member’s Social Security  
9 number or Tax ID, (iv) the Class Member’s total number of Individual Workweeks, and (v) the Class  
10 Member/PAGA Group Member’s total number of Individual Pay Periods, if applicable. If any or all  
11 of the Class Members’ Data are unavailable to Defendant, Defendant will so inform Class Counsel  
12 prior to the date on which Defendant is required to submit the Class Members’ Data to the Settlement  
13 Administrator and the Parties will make their best efforts to reconstruct or otherwise agree upon the  
14 Class Members’ Data prior to when it must be submitted to the Settlement Administrator. If the  
15 Parties are unable to agree, the dispute will be referred to the mediator, Lynn Frank, Esq. This  
16 information will otherwise remain confidential and will not be disclosed to anyone, except as required  
17 to applicable taxing authorities, as required to carry out the reasonable efforts to identify Class  
18 Member information as described in Paragraph 53, pursuant to Defendant’s express written  
19 authorization, or by order of the Superior Court.

20                   (b)    Within seven (7) business days after receiving the Class Members’ Data, or as  
21 soon thereafter as it is able to do so, the Settlement Administrator will conduct a search of the U.S.  
22 Postal Services’ National Change of Address (“NCOA”) database to attempt to locate more recent  
23 addresses than those included in the Class Members’ Data (and use any more recent addresses that  
24 are located), and mail the Class Notice to all identified Class Members via first-class U.S. Mail using  
25 the mailing address information either obtain through the NCOA search or provided by Defendant.

26                   (c)    If a Class Notice is returned by the U.S. Postal Service as undeliverable on or  
27 before the Response Deadline without a forwarding address, the Settlement Administrator will  
28 promptly, and not later than five (5) business days from receipt of the returned Class Notice, search

1 for a more current address for the Class Member and re-mail the Class Notice to the Class Member  
2 for whom new addresses are found. The Settlement Administrator will use the Class Members' Data  
3 and otherwise work with Defense Counsel or utilize its own resources such as skip traces to find a  
4 more current address. If a Class Notice is returned by the U.S. Postal Service as undeliverable on or  
5 before the Response Deadline with a forwarding address, the Settlement Administrator will promptly  
6 re-mail the Class Notice to the Class Member using the forwarding address. The Settlement  
7 Administrator will be responsible for taking reasonable steps, consistent with its agreed-upon job  
8 parameters, court orders, and fee, to trace the mailing address of any Class Member for whom a Class  
9 Notice is returned by the U.S. Postal Service on or before the Response Deadline. Any such Class  
10 Members who failed to receive a Class Notice, or who were subject to a re-mailing of the Class Notice  
11 as described herein, shall have their Response Deadline extended by fifteen (15) days from the  
12 original deadline.

13 (d) The Settlement Administrator will inform Class Counsel and Defense Counsel  
14 of the number of returned Class Notices it receives and Class Notices re-mailed in a weekly status  
15 report.

16 (e) Not later than sixteen (16) court days prior to the Final Approval Hearing, the  
17 Settlement Administrator will serve on the Parties an executed declaration of due diligence setting  
18 forth its compliance with its obligations under this Settlement. The declaration will be filed with the  
19 papers submitted with the Motion for Final Approval. Prior to the Final Approval Hearing, the  
20 Settlement Administrator will supplement its declaration of due diligence if any material changes  
21 occur from the date of the filing of its prior declaration.

22 **51. Participating Class Members; Requests for Exclusion from Class Settlement; and**  
23 **Objections to Class Settlement.** Class Members may submit requests to be excluded from the Class  
24 Settlement or objections to the Class Settlement, pursuant to the following procedures:

25 (a) **Participating Class Members.** Each Class Member shall be deemed to be a  
26 Participating Class Member unless they submit a complete, timely, and valid Request for Exclusion  
27 as provided below. All Participating Class Members shall be bound by the provisions and releases  
28 contained in this Settlement as it pertains to the Class Settlement.

1 (b) **Request for Exclusion from Class Settlement.** Class Members who wish to  
2 exclude themselves from the Class Settlement (“opt out” of the Settlement) must submit to the  
3 Settlement Administrator, not later than forty-five (45) days after the date that the Settlement  
4 Administrator first mails the Class Notices (“Response Deadline”), an a written request to be excluded  
5 from the Class Settlement (“Request for Exclusion”). Requests for Exclusion may be submitted to  
6 the Settlement Administrator via U.S. Mail only. To be valid, Class Members must complete, sign,  
7 date, and timely return a Request for Exclusion to the Settlement Administrator, setting forth their (i)  
8 full name, (ii) address, (iii) the Action name and case number (i.e., of *Pender v. Congregational*  
9 *Homes, Inc.*, Los Angeles, Case No. 21STCV29229), and (iii) the following statement or a similar  
10 statement: “I wish to exclude myself from the class settlement reached in the matter of *Pender v.*  
11 *Congregational Homes, Inc.* I understand that by excluding myself, I will not receive any money  
12 from the class settlement reached in this matter.” A Class Member who does not complete and submit  
13 a valid and timely Request for Exclusion in the manner and by the Response Deadline will remain a  
14 Participating Class Member and, if the Court approves the Settlement, will be bound by all terms and  
15 conditions of the Settlement and by the Judgment, as they pertain to the Class Settlement. A Class  
16 Member who timely submits a valid Request for Exclusion will not participate in, or be bound by, the  
17 Class Settlement and will not be issued any payment pursuant to the Class Settlement, and will not  
18 have any right to object, appeal, or comment thereon. All PAGA Group Members will be bound to  
19 the PAGA Settlement, will release the PAGA Released Claims, and will be issued their PAGA  
20 Payment Share regardless of their decision to participate in the Class Settlement. To be valid,  
21 Requests for Exclusion must be completed in full, signed, and returned to the Settlement  
22 Administrator no later than the Response Deadline. Non-Participating Class Members will not be  
23 permitted to file objections to the Class Settlement and/or voice any objections to the Class Settlement  
24 at the Final Approval Hearing. The Settlement Administrator will provide Class Counsel, Defense  
25 Counsel, and the Superior Court with only the names of the Non-Participating Class Members.

26 (c) **Objections to Settlement.** The Class Notice will provide that any Class  
27 Member who does not request exclusion from the Class Settlement and who wishes to object to the  
28 Class Settlement may submit a written objection (“Objection”) to the Settlement Administrator, not

1 later than the Response Deadline, which sets forth the grounds for the objection and the other  
2 information required by this Paragraph. The written Objection must (i) state the Class Member’s full  
3 name, (ii) state the Class Member’s address, (iii) state the Action name and case number (i.e., of  
4 *Pender v. Congregational Homes, Inc.*, Los Angeles, Case No. 21STCV29229), (iv) state the dates  
5 of the Class Member’s employment with Defendant, (v) state the basis for each objection in clear and  
6 concise terms, (vi) state the full name, address, and telephone number of any legal representative of  
7 the Class Member, (vii) attach any documents upon which the Objection is based, and (viii) state  
8 whether the Class Member intends to appear at the Final Approval Hearing. In addition to, or in lieu  
9 of a written Objection in the manner and by the deadline specified herein, the Class Member may  
10 appear at the Final Approval Hearing to state their objection to the Class Settlement, orally. If a Class  
11 Member fails to submit a written Objection or to appear at the Final Approval hearing to make an oral  
12 objection, the Class Member will be deemed to have waived all objections and will be foreclosed  
13 from making any objections – whether by appeal or otherwise – to the Class Settlement.

14 (d) If a Class Member submits both a Request for Exclusion and a written  
15 Objection, the Request for Exclusion shall be valid and it shall be presumed that the Class Member  
16 does not wish to participate in the Class Settlement.

17 (e) If the Superior Court rejects the Class Member’s objection to the Class  
18 Settlement, or if the Superior Court approves the settlement despite any objections to the Class  
19 Settlement, the Class Member will be deemed to be a Participating Class Member and will be bound  
20 by the terms of this Settlement as it pertains to the Class Settlement.

21 (f) A Class Member who timely submits a complete and valid Request for  
22 Exclusion will not participate in, or be bound by, the Class Settlement and will not receive any  
23 payment pursuant to the Class Settlement, will not be bound by the terms of the Class Settlement, and  
24 will not have any right to object, appeal, or comment thereon. All PAGA Group Members will be  
25 bound to the PAGA Settlement, will release the PAGA Released Claims, and will receive their PAGA  
26 Payment Share regardless of their decision to participate in the Class Settlement.

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1           52.     **Report.** Not later than seven (7) calendar days after the Response Deadline (or if  
2 applicable, extended Response Deadline, whichever is later), the Settlement Administrator will  
3 provide Defendant, through its Defense Counsel, with a complete and accurate list of names for all  
4 Participating Class Members, all Non-Participating Class Members, all PAGA Group Members, and  
5 all Class Members who objected to the Class Settlement. The report shall also be accompanied by an  
6 itemized calculation of the Settlement Shares for each Participating Class Member and all PAGA  
7 Payment Shares for each PAGA Group Member. The Settlement Administrator shall also provide  
8 both Parties with a report identifying the number of Participating Class Members, the number of Non-  
9 Participating Class Members, the number of PAGA Group Members, and the number of Class  
10 Members who submitted Objections. Class Counsel shall also receive a list of the names of the Class  
11 Members who object to the Class Settlement and a list of the names of the Non-Participating Class  
12 Members.

13           53.     **Resolution of Class Member and PAGA Group Member Disputes Regarding**  
14 **Individual Workweeks and/or Individual Pay Periods.** If a Class Member and/or PAGA Group  
15 Member disputes the number of his or her Individual Workweeks and/or Individual Pay Periods stated  
16 in their Class Notice, the Class Member and/or PAGA Group Member must, by the Response  
17 Deadline, mail a written dispute (“Workweeks or Pay Periods Dispute”) to the Settlement  
18 Administrator. A Workweeks or Pay Periods Dispute must include the Class Member’s (i) full name,  
19 (ii) address, (iii) the Action name and case number (i.e., of *Pender v. Congregational Homes, Inc.*,  
20 Los Angeles, Case No. 21STCV29229), (iv) a statement of the number of Workweeks and/or Pay  
21 Periods that he or she contends were worked, and (v) include any documentation the Class Member  
22 and/or PAGA Group Member has to support their contention. The Settlement Administrator shall  
23 notify Defendant of the dispute and provide them with a copy of the Class Notice and any  
24 documentation received in support of the dispute within three (3) court days of receipt thereof. The  
25 Settlement Administrator shall notify Class Counsel of the existence and nature of the dispute, as well  
26 as any impact on the Workweeks, only. Defendant shall review their payroll and personnel records  
27 and verify the correct number of Individual Workweeks and/or Individual Pay Periods for the  
28 disputing Class Member(s) within five (5) court days of the Settlement Administrator’s notification.

1 Defendant's records will have a rebuttable presumption of accuracy. After consultation with Class  
2 Counsel, Defense Counsel, and the applicable Class Member and/or PAGA Group Member, the  
3 Settlement Administrator will, within three (3) court days of Defendant's verification, make a  
4 determination of the Class Member's and/or PAGA Group Member's number of Individual  
5 Workweeks and/or Individual Pay Periods and that determination will be final, binding on the Parties  
6 and the Class Member and/or PAGA Group Member, and is not appealable.

7       **54. No Solicitation of Objection; Right to Void.** Neither the Parties, nor their respective  
8 counsel, will directly or indirectly solicit or otherwise encourage any Class Member to exclude him  
9 or herself from the Class Settlement, object to the Class Settlement, and/or appeal from the Judgment.  
10 If ten percent (10%) or more of the Class Members submit a complete, valid, and timely Request for  
11 Exclusion and are deemed to be Non-Participating Class Members, then Defendant shall have the  
12 unilateral right to void this Settlement. Defendant may do so by giving notice to Plaintiff and the  
13 Court of its election to void the Settlement not later than fourteen (14) calendar days after the  
14 Settlement Administrator issues its report identifying the number of Participating Class Members, the  
15 number of Non-Participating Class Members, and the number of Class Members who objected to the  
16 Class Settlement as described in Paragraph 52. Notwithstanding any other provisions in this  
17 Settlement, no sums shall be payable by Defendant in the event that this Settlement is voided as  
18 provided for herein.

19       **55. Additional Briefing and Final Approval.**

20       (a) Not later than sixteen (16) court days before the Final Approval Hearing,  
21 Plaintiff will prepare and file with the Superior Court a Motion for Final Approval of the Settlement,  
22 including payment of the Settlement Administrator's Payment, and a memorandum in support of their  
23 motion ("Motion for Final Approval"), including requests for awards of the Class Representative  
24 Enhancement Payment, Class Counsel Fees Payment, the Class Counsel Litigation Expenses  
25 Payment, and Settlement Administrator Payment, pursuant to this Settlement, and memoranda in  
26 support of its motion. Absent the escalator provisions outlined in Paragraph 71, if applicable, Plaintiff  
27 will not seek additional fees from Defendant or an increase in the Maximum Settlement Amount as  
28 part of the Motion for Final Approval.

1 (b) Not later than five (5) court days before the Final Approval Hearing, the Parties  
2 shall be entitled to file and serve a response to any Class Member’s written Objection to the Settlement  
3 and/or reply in support of their Motion for Final Approval, to the extent that any opposition to said  
4 motion is filed.

5 (c) If the Superior Court ultimately does not grant Final Approval of the  
6 Settlement the Settlement will be null and void and the Parties will have no further obligations under  
7 it. In such event, the Parties shall be returned to their respective positions as of the date and time  
8 immediately prior to the execution of this Agreement, and the Parties shall proceed in all respects as  
9 if this Agreement had not been executed. If the Settlement is voided in this manner, the Parties will  
10 have no further obligations under the Settlement, including any obligation by Defendant to pay any  
11 amounts that otherwise would have been payable under this Settlement, except that the voiding Party  
12 will pay the Settlement Administrator’s reasonable fees and expenses incurred as of the date that the  
13 Party exercises the right to void the Settlement under this Paragraph. An award by the Superior Court  
14 of a lesser amount than that sought by Plaintiff and Class Counsel for the Class Representative  
15 Enhancement Payment, the Class Counsel Fees Payment, and/or the Class Counsel Litigation  
16 Expenses Payment, will not constitute a material change to the Settlement within the meaning of this  
17 Paragraph.

18 (d) Upon Final Approval of the Settlement by the Superior Court at or after the  
19 Final Approval Hearing, the Parties will present for the Superior Court’s approval and entry a  
20 proposed Judgment. The entry of the Judgment shall permanently bar all Participating Class Members  
21 from prosecuting Class Released Claims against Defendant.

22 (e) After entry of the Judgment, the Superior Court will have continuing  
23 jurisdiction over the Action and the Settlement solely for purposes of (i) enforcing this Settlement,  
24 (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as  
25 may be appropriate under court rules or applicable law.

26 56. **Waiver of Right to Appeal.** Provided that the Judgment is consistent with the terms  
27 and conditions of this Settlement and following the occurrence of the Effective Date, Plaintiff,  
28 Defendant, and their respective counsel hereby waive any and all rights to appeal from the Judgment,

1 including all rights to any post-judgment proceeding and appellate proceeding, such as a motion to  
2 vacate judgment, a motion for new trial, a motion under Code of Civil Procedure Section 473, and  
3 any extraordinary writ, and the Judgment therefore will become non-appealable by them at the time  
4 it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal,  
5 appellate proceedings, or post-judgment proceedings. If an appeal is taken from the Judgment, the  
6 time for consummation of the Settlement (including making payments under the Settlement) will be  
7 suspended until such time as the appeal is finally resolved and the Judgment, consistent with the terms  
8 of this Settlement, becomes final.

9 **57. Vacating, Reversal, or Material Modification of Judgment on Appeal or Review.**

10 If, after a notice of appeal, a petition for review, or a petition for *certiorari*, or any other motion,  
11 petition, writ, or application, the reviewing court vacates, reverses, or modifies the Judgment such  
12 that there is a material modification to the Settlement, and that court's decision is not completely  
13 reversed and the Judgment is not fully affirmed on review by a higher court, then either Party will  
14 have the right to void the Settlement, which the Party must do by giving written notice to the other  
15 Parties, the reviewing court, and the Superior Court, not later than fourteen (14) calendar days after  
16 the reviewing court's decision vacating, reversing, or materially modifying the Judgment becomes  
17 final. A vacation, reversal, or modification of the Superior Court's award of the Class Representative  
18 Enhancement Payment, the Class Counsel Fees Payment, and/or Class Counsel Litigation Expenses  
19 Payment will not constitute a vacation, reversal, or material modification of the Judgment within the  
20 meaning of this Paragraph.

21 **58. Establishment of Settlement Account.** The Settlement Administrator shall establish  
22 a settlement account ("Settlement Account") within ten (10) days of the Effective Date and notify the  
23 Parties when the Settlement Account has been established. The Settlement Administrator shall also  
24 provide Defendant with an itemized statement for the total amount to be deposited into the Settlement  
25 Account, which shall equal the Maximum Settlement Amount and Employer's Payroll Taxes  
26 ("Settlement Account Deposit"). Within ten (10) days after receiving notification of the Settlement  
27 Account and statement for the Settlement Account Deposit, Defendant shall pay into the Settlement  
28 Account an amount equal to the Settlement Account Deposit. Defendant shall have no obligation to



1 pay any additional funds into the Settlement Account.

2           **59. Payment of Settlement Shares.** The Settlement Administrator shall pay to each  
3 Participating Class Member his or her Settlement Share from the Settlement Account. The Settlement  
4 Administrator shall pay each Settlement Share by sending a check in the appropriate amount after  
5 withholdings (for the wages portion of each Settlement Share) to the Participating Class Member at  
6 the address indicated in the Class Member’s Data. Such payment shall be sent by the Settlement  
7 Administrator via U.S. Mail within fourteen (14) calendar days of its receipt of the Settlement  
8 Account Deposit from Defendant.

9           **60. Payment of PAGA Payment Shares.** The Settlement Administrator shall pay to each  
10 PAGA Group Member his or her PAGA Payment Share from the Settlement Account. The Settlement  
11 Administrator shall pay each PAGA Payment Share by sending a check in the appropriate amount to  
12 the PAGA Group Member at the address indicated in the PAGA Group Member’s Data. Such  
13 payment shall be sent by the Settlement Administrator via U.S. Mail within fourteen (14) calendar  
14 days of its receipt of the Settlement Account Deposit from Defendant. The Settlement Administrator  
15 may, at its discretion, distribute the Settlement Share and PAGA Payment Share by way of a single  
16 check that combines both payments (if applicable).

17           **61. Time Period that Settlement Share and PAGA Payment Share Checks Remain**  
18 **Valid and Negotiable.** Any checks paid to Participating Class Members and/or PAGA Group  
19 Members shall be negotiable for one hundred and eighty (180) calendar days from the date of their  
20 issuance. If a check is returned to the Settlement Administrator within ninety (90) days of initial  
21 mailing, the Settlement Administrator shall take all reasonable efforts to identify the Participating  
22 Class Member’s and/or PAGA Group Member’s correct address, including the performance of a  
23 “skip-trace.” If an updated address can be identified, the Settlement Administrator shall issue another  
24 check to the Participating Class Member and/or PAGA Group Member and mail it to the Participating  
25 Class Member and/or PAGA Group Member at his or her updated address. The Settlement  
26 Administrator will keep an accounting of all funds and shall give notice to the Parties of the total  
27 balance of funds in the Settlement Account.

28 ///

1           **62. Cancellation of Settlement Share and PAGA Payment Share Checks.** All  
2 Settlement Share and/or PAGA Payment Share checks that are not cashed, deposited, or otherwise  
3 negotiated, will be canceled after one hundred and eighty (180) calendar days after first issuance, or  
4 in the case of a re-mailed check, will be canceled within ninety (90) calendar days of re-issuance, and  
5 funds from such canceled checks shall be transmitted by the Settlement Administrator to the  
6 Controller of the State of California to be held pursuant to the Unclaimed Property Law, California  
7 Civil Code Section 1500, *et seq.*, in the names of those Participating Class Members and/or PAGA  
8 Group Members whose checks were canceled, until such time they claim their property. The Parties  
9 agree that this disposition results in no “unpaid residue” under California Civil Procedure Code § 384.

10           **63. Final Report by Settlement Administrator to Superior Court.** Within ten (10)  
11 calendar days after final disbursement of all funds from the Settlement Account, the Settlement  
12 Administrator will serve on the Parties and file with the Superior Court a declaration providing a final  
13 summary report on the disbursements of all funds from the Settlement Account. Within ten (10)  
14 days after transmission to Controller of the State of California of any funds remaining after  
15 cancellation of checks, the Settlement Administrator will serve on the Parties and file with the Superior  
16 Court a declaration providing a final summary report regarding the transmission of said funds to  
17 Controller of the State of California as outlined Paragraph 62.

18 **IV. SETTLEMENT TERMS AND CONDITIONS**

19           **64. Conditional Certification for Settlement Purposes.** Solely for the purposes of  
20 effectuating this Settlement, and subject to Court approval, the Parties hereby stipulate to the  
21 conditional certification of the Class as defined herein. The Parties agree that if for any reason the  
22 Settlement is not preliminarily and/or finally approved, the conditional certification of the Class will  
23 be of no force or effect, does not constitute an admission by Defendant that class certification is  
24 proper, and will not be deemed admissible in this or any other proceeding, and that the Parties will  
25 litigate the issue of class certification.

26           **65. Settlement Shares.** Subject to the terms and conditions of this Settlement, the  
27 Settlement Administrator will calculate the preliminary, estimated Settlement Shares for each Class  
28 Member within ten (10) days after Defendant provide the Settlement Administrator with the Class

1 Members' Data, prior to mailing the Class Notice. The estimated Settlement Share for each Class  
2 Member and the final Settlement Share for each Participating Class Member, will be calculated as  
3 follows, understanding that the formulas below do not constitute an admission by either Party, and  
4 are intended only to provide a practical means to simplify and administer the settlement  
5 administration process:

6 (a) **Number of Class Members and Workweeks.** Defendant shall determine the  
7 total number of Class Members and the Individual Workweeks for those Class Members as of the  
8 time of Preliminary Approval. This information shall be provided to the Settlement Administrator  
9 along with the Class Members' Data as described in Paragraph 50(a) above.

10 (b) **Calculation of the Workweek Value.** The Settlement Administrator shall  
11 determine the preliminary, estimated value of a Workweek ("Preliminary Workweek Value") by  
12 taking the Net Settlement Amount and dividing it by the sum of all Class Members' Individual  
13 Workweeks. After the Effective Date, the Settlement Administrator shall determine the final value  
14 of a Workweek ("Final Workweek Value") by taking the Net Settlement Amount and dividing it by  
15 the sum of all Participating Class Members' Individual Workweeks.

16 (c) **Calculation of Settlement Shares.** For the preliminary estimated and  
17 calculations to be included in the Class Notice, the Settlement Administrator shall assign to each  
18 Class Member a Settlement Share which shall be equal to the Preliminary Workweek Value  
19 multiplied by each Class Member's Individual Workweeks. Upon calculation of the Class Members'  
20 estimated Settlement Shares and prior to the mailing of the Class Notice, the Settlement Administrator  
21 shall furnish to Class Counsel and Defense Counsel a worksheet containing a list of employee  
22 identification numbers for the Class Members with their corresponding Individual Workweeks and  
23 Settlement Shares. After the Effective Date, the Settlement Administrator shall assign to each  
24 Participating Class Member a Settlement Share which shall be equal to the Final Workweek Value  
25 multiplied by each Participating Class Member's Individual Workweeks. Upon calculation of the  
26 Participating Class Members' final Settlement Shares, the Settlement Administrator shall furnish to  
27 Class Counsel and Defense Counsel a worksheet containing a list of employee identification numbers  
28 for the Participating Class Members with their corresponding Individual Workweeks and Settlement

1 Shares.

2           66.     **PAGA Payment Shares.** Subject to the terms and conditions of this Settlement, the  
3 Settlement Administrator will calculate the PAGA Payment Shares for each PAGA Group Member  
4 within ten (10) days after Defendant provide the Settlement Administrator with the PAGA Group  
5 Members' Data, and then again after the Effective Date. The PAGA Payment Share for each PAGA  
6 Group Member will be calculated as follows, understanding that the formulas below do not constitute  
7 an admission by either Party, and are intended only to provide a practical means to simplify and  
8 administer the settlement distribution process:

9                   (a)     **Number of PAGA Group Members and Pay Periods.** Defendant shall  
10 determine the total number of PAGA Group Members and the aggregate number of Pay Periods for  
11 those PAGA Group Members as of the time of Preliminary Approval. This information shall be  
12 provided to the Settlement Administrator along with the Class Members' Data as described in  
13 Paragraph 50(a) above.

14                   (b)     **Calculation of the Pay Period Value.** Both prior to the mailing of the Class  
15 Notice and after the Effective Date, the Settlement Administrator shall determine the value of a Pay  
16 Period ("Pay Period Value") by taking the PAGA Payment amount and dividing it by the sum of all  
17 PAGA Group Members' Pay Periods.

18                   (c)     **Calculation of PAGA Payment Shares.** The Settlement Administrator shall  
19 assign to each PAGA Group Member a PAGA Payment Share which shall be equal to the Pay Period  
20 Value multiplied by each PAGA Group Member's Individual Pay Periods. Upon calculation of the  
21 PAGA Group Members' PAGA Payment Shares, both prior to the mailing of the Class Notice and  
22 after the Effective Date, the Settlement Administrator shall furnish to Class Counsel and Defense  
23 Counsel a worksheet containing a list of employee identification numbers for the PAGA Group  
24 Members with their corresponding Individual Pay Periods and PAGA Payment Shares.

25           67.     **Taxes and Withholdings.** Ten percent (10%) of each Settlement Share shall represent  
26 wages and the remaining ninety percent (90%) of each Settlement Share shall represent penalties,  
27 interest, and non-wage damages. The portion of the Settlement Share representing wages shall be  
28 paid to each Participating Class Member subject to any applicable employee-side tax withholdings

1 and deductions, and the Settlement Administrator shall issue an IRS Form W-2 to each Participating  
2 Class Member for that amount. The portion of the Settlement Share representing penalties, interest,  
3 and non-wage damages shall be paid to the Participating Class Member in full without deductions or  
4 withholdings, and the Settlement Administrator shall issue an IRS Form 1099 to each Participating  
5 Class Member for that amount. Each Participating Class Member shall be individually responsible  
6 for their own share of applicable income tax withholdings and deductions for the portion of the  
7 Settlement Share for which an IRS Form 1099 will be issued. Defendant's payment of the Employer's  
8 Payroll Taxes attributable to the Settlement Share payments constituting wages will be made  
9 separately, and shall not come from the Maximum Settlement Amount. The Parties agree and  
10 understand that Defendant have not made any representations regarding the tax obligations or  
11 consequences, if any, related to this Settlement. The Parties agree that Defendant and each  
12 Participating Class Member are solely responsible for determining the tax consequences of payments  
13 made pursuant to this Settlement and for paying taxes, if any, which are determined to be owed by  
14 each of them on such payments (including penalties and interest related thereto) by any taxing  
15 authority, whether state, local, or federal.

16 68. One hundred percent (100%) of each PAGA Payment Share shall represent civil  
17 penalties. The PAGA Payment Share shall be paid to the PAGA Group Member in full and the  
18 Settlement Administrator will not undertake any deductions or withholdings with respect to the  
19 PAGA Payment Share, and the Settlement Administrator shall issue an IRS Form 1099 to each PAGA  
20 Group Member for that amount, if applicable. Each PAGA Group Member shall be individually  
21 responsible for their own share of applicable income tax withholdings and deductions for his or her  
22 PAGA Payment Share.

23 69. **Total Payment Amount.** In no event will Defendant be required to pay more than  
24 the Maximum Settlement Amount (unless that amount is increased pursuant to Paragraph 71 below)  
25 for distribution to the Plaintiff, Class Counsel, Participating Class Members, PAGA Group Members,  
26 State of California or LWDA, Settlement Administrator, or for any other costs or expenses not  
27 otherwise enumerated. However, Defendant's payment of the Employer's Payroll Taxes attributable  
28 to the Settlement Share payments constituting wages will be made separately, and shall not come

1 from the Maximum Settlement Amount.

2           70.     **Payments to Plaintiff and Class Counsel and Others.** Subject to the terms and  
3 conditions of this Settlement, the Settlement Administrator will make the following payments out of  
4 the Maximum Settlement Amount as follows:

5                   (a)     **To Plaintiff:** In addition to his respective Settlement Share and PAGA  
6 Payment Share, Plaintiff will apply to the Superior Court for Class Representative Enhancement  
7 Payment in an amount not to exceed Ten Thousand Dollars and Zero Cents (\$10,000.00) to Plaintiff.  
8 Defendant will not oppose this Class Representative Enhancement Payment. The Settlement  
9 Administrator will pay the Class Representative Enhancement Payment approved by the Superior  
10 Court out of the Maximum Settlement Amount. Payroll tax withholding and deductions will not be  
11 taken from the Class Representative Enhancement Payment and an IRS Form 1099 will be issued to  
12 Plaintiff for this payment. Such payment shall be distributed by the Settlement Administrator to  
13 Plaintiff within fourteen (14) calendar days of its receipt of the Settlement Account Deposit from  
14 Defendant.

15                   (b)     **To Class Counsel:** Class Counsel will apply to the Superior Court for the  
16 Class Counsel Fees Payment in an amount not to exceed Thirty-Five percent (35%) of the Maximum  
17 Settlement Amount (currently estimated to be Six Hundred and Fourteen Thousand, One Hundred  
18 and Eighty Dollars and Zero Cents (\$614,180.00) if the Maximum Settlement Amount is  
19 \$1,754,800.00). Class Counsel will also submit to the Superior Court a request for for the Class  
20 Counsel Litigation Expenses Payment in an amount not to exceed Twenty-Five Thousand Dollars  
21 (\$25,000.00), to be paid from the Maximum Settlement Amount. Defendant will not oppose these  
22 requests. The Settlement Administrator will pay the amounts approved by the Superior Court out of  
23 the Maximum Settlement Amount. Withholding and deductions will not be taken from the Class  
24 Counsel Fees Payment or Class Counsel Litigation Expenses Payment and one or more IRS Forms  
25 1099 will be issued to Class Counsel with respect to those payments. Such payments shall be  
26 distributed by the Settlement Administrator to Class Counsel within fourteen (14) calendar days of  
27 its receipt of the Settlement Account Deposit from Defendant, unless otherwise directed by Class  
28 Counsel. With respect to the Class Counsel Fees Payment and Class Counsel Litigation Expenses

1 Payment to Class Counsel, the Settlement Administrator may purchase an annuity to utilize United  
2 States Treasuries and bonds or other attorney fee deferral vehicles, for Class Counsel. Any additional  
3 expenses for the purchase of an annuity by the Settlement Administrator shall be paid separately by  
4 Class Counsel and shall not be included within the Settlement Administrator Payment. Defendant and  
5 Defense Counsel shall not be liable for any expenses associated with the use of such attorney fee  
6 deferral vehicles by the Settlement Administrator.

7 (c) **To the LWDA:** As part of their Motions for Preliminary and Final Approval,  
8 the Parties will jointly apply to the Superior Court for approval of the LWDA Payment in the amount  
9 of Ninety-Seven Thousand, Five Hundred Dollars and Zero Cents (\$97,500.00), which shall  
10 constitute the LWDA's seventy-five percent (75%) share of One Hundred and Thirty Thousand  
11 Dollars and Zero Cents (\$130,000.00) in civil penalties paid under this Settlement. The remaining  
12 Thirty-Two Thousand, Five Hundred Dollars and Zero Cents (\$32,500.00) in civil penalties shall be  
13 distributed on a *pro rata* basis based upon the number of pay periods worked by each PAGA Group  
14 Member (i.e., the "PAGA Employment Payment").

15 (d) **To the Settlement Administrator:** The Settlement Administrator will be paid  
16 from the Maximum Settlement Amount its reasonable fees and expenses as approved by the Superior  
17 Court, which are estimated not to exceed Fourteen Thousand Dollars and Zero Cents (\$14,000.00).

18 **71. Escalator Provision.** Defendant represents that as of August 20, 2022, the number  
19 of workweeks worked by Settlement Class Members during the Class Period is approximately  
20 79,986. If it is determined that the workweeks through October 31, 2022, exceeds 87,985 (i.e.,  
21 79,986 plus 10% of 79,986), then Defendant shall have the option of either (i) increasing the Net  
22 Settlement Amount by an amount determined by the following formula:  $([\text{Actual Number of}$   
23  $\text{Workweeks} - 87,985] \div 79,986) \times \text{Net Settlement Amount}$ ; or (ii) changing the end date of the  
24 Class Period (and PAGA Period) to the last date on which there are no more than 87,985  
25 Workweeks.

26 **72. Appointment of Settlement Administrator.** The Parties will ask the Superior Court  
27 to appoint Phoenix Class Action Administrators, a qualified and experienced administrator, to serve  
28 as the Settlement Administrator, which, as a condition of appointment, will agree to be bound by this

1 Agreement with respect to the performance of its duties and its compensation. The Settlement  
2 Administrator's duties will include (i) calculating Settlement Shares and PAGA Payment Shares; (ii)  
3 preparing, printing, and mailing the Class Notice to all Class Members; (iii) using reasonable  
4 measures to contact all Class Members, including conducting a National Change of Address search  
5 on all Class Members before mailing the Class Notice to each Class Member's address; (iv) re-mailing  
6 the Class Notice (to the extent provided herein); (v) setting up a toll-free telephone number to receive  
7 calls from Class Members; (vi) receiving Requests for Exclusion and Objections to the Class  
8 Settlement; (vii) providing the Parties with weekly status reports about the delivery of Class Notices  
9 and any Requests for Exclusion and Objections received; (viii) issuing the checks to effectuate the  
10 payments due under the Settlement; (ix) using reasonable measures to deliver issued checks to  
11 Participating Class Members; and (x) otherwise administering the Settlement pursuant to this  
12 Agreement including collecting from Defendant and paying and reporting on behalf of Defendant,  
13 the Employer's Payroll Taxes to the appropriate taxing agency. The Settlement Administrator will  
14 have the final authority to resolve all disputes concerning the calculation of a Participating Class  
15 Member's Settlement Share and/or PAGA Group Member's PAGA Payment Share, subject to the  
16 terms set forth in this Agreement. The Settlement Administrator's reasonable fees and expenses are  
17 estimated to not exceed Fourteen Thousand Dollars and Zero Cents (\$14,000.00) and will be paid out  
18 of the Maximum Settlement Amount, as set forth herein, subject to Court approval.

19 **V. RELEASE OF CLAIMS**

20 73. **Plaintiff's Released Claims.** Plaintiff, individually and on behalf of Plaintiff's heirs,  
21 executors, administrators, representatives, attorneys, successors, and assigns knowingly and  
22 voluntarily releases and forever discharges the Released Parties (as defined in Paragraph 77), to the  
23 fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and  
24 unasserted, which Plaintiff has or may have against the Released Parties as of the date of execution  
25 of this Settlement Agreement. Plaintiff is not waiving any rights Plaintiff may have to: (i) Plaintiff's  
26 own vested accrued employee benefits under the Defendant's health, welfare or retirement benefits  
27 plans, if any, as of the date of execution of this Settlement Agreement; (ii) benefits or rights to seek  
28 benefits under applicable workers' compensation (except as to claims under California Labor Code



1 §§ 132a and 4553 which are expressly released herein) or unemployment insurance or  
2 indemnification statutes; (iii) pursue claims which by law cannot be waived by signing this Settlement  
3 Agreement; and (iv) enforce this Settlement Agreement.

4 74. To affect a full and complete general release as described above, Plaintiff expressly  
5 waives and relinquishes all rights and benefits of § 1542 of the Civil Code of the State of California  
6 and does so understanding and acknowledging the significance and consequence of specifically  
7 waiving § 1542. Section 1542 states:

8 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE**  
9 **CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO**  
10 **EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE**  
11 **RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**  
12 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE**  
13 **DEBTOR OR RELEASED PARTY.**

14 Thus, notwithstanding the provisions of § 1542, and to implement a full and complete release  
15 and discharge of all Released Parties, Plaintiff expressly acknowledges this Settlement Agreement is  
16 intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to  
17 exist in Plaintiff's favor at the time of signing this Settlement Agreement, and that this Settlement  
18 Agreement contemplates the extinguishment of any such claims. Plaintiff warrants Plaintiff has read  
19 this Settlement Agreement, including this waiver of California Civil Code § 1542, and that Plaintiff  
20 has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this  
21 Settlement Agreement and specifically about the waiver of § 1542, and that Plaintiff understands this  
22 Settlement Agreement and the § 1542 waiver, and so Plaintiff freely and knowingly enters into this  
23 Settlement Agreement. Plaintiff further acknowledges that Plaintiff later may discover facts different  
24 from or in addition to those Plaintiff now knows or believes to be true regarding the matters released  
25 or described in this Settlement Agreement, and even so Plaintiff agrees that the releases and  
26 agreements contained in this Settlement Agreement shall remain effective in all respects  
27 notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assume  
28 any and all risk of any mistake in connection with the true facts involved in the matters, disputes or  
controversies released or described in this Settlement Agreement or with regard to any facts now  
unknown to Plaintiff relating thereto.

1           **75. Participating Class Members Released Claims.** As of the date of Defendant’s full  
2 funding of the Maximum Settlement Amount and payment of the Settlement Account Deposit, each  
3 Participating Class Member, and without the need to manually sign a release document, shall release  
4 the Released Parties from all causes of action and claims that were alleged in the Action or reasonably  
5 could have been alleged based on the facts and legal theories alleged in the Operative Complaint,  
6 arising during the Class Period, including all of the following claims for relief: (i) failure to pay all  
7 regular wages, minimum wages, and overtime wages due (Cal. Lab. Code §§ 510, 558, 1194, 1194.2,  
8 1197, 1197.1, & 1198); (ii) failure to provide compliant meal periods and associated meal period  
9 premiums (Cal. Lab. Code §§ 226.7 & 512); (iii) failure to provide compliant rest breaks and  
10 associated rest break premiums (Cal. Lab. Code § 226.7); (iv) failure to timely pay wages during  
11 employment (Cal. Lab. Code §§ 204 & 210); (v) failure to provide complete, accurate wage  
12 statements (Cal. Lab. Code § 226); (vi) failure to pay wages timely at time of termination or  
13 resignation (Cal. Lab. Code §§ 201-203); (vii) failure to indemnify all necessary business expenses  
14 (Cal. Lab. Code § 2800, *et seq.*); (viii) unfair business practices that could have been premised on the  
15 claims, causes of action, or legal theories of relief described above or any of the claims, causes of  
16 action, or legal theories of relief pleaded in the Operative Complaint (Cal. Bus. & Prof. Code § 17200,  
17 *et seq.*); (ix) any claim for costs and attorneys’ fees and expenses; and (x) any claim arising from the  
18 claims described above under applicable federal, state, local or territorial law as well as applicable  
19 regulations and Industrial Welfare Commission Wage Orders (collectively, the “Class Released  
20 Claims”). Participating Class Members who cash, deposit, or otherwise negotiate their Settlement  
21 Share checks are deemed to have opted in and waived all Released Class Claims arising under the  
22 Fair Labor Standards Act. Participating Class Members who do not cash, deposit, or otherwise  
23 negotiate their Settlement Share checks shall be deemed to waive all Released Class Claims except  
24 for those arising under the Fair Labor Standards Act.

25           **76. PAGA Group Released Claims.** As of the date of Defendant’s full funding of the  
26 Maximum Settlement Amount and payment of the Settlement Account Deposit, the State of  
27 California and each PAGA Group Member, and without the need to manually sign a release  
28 document, shall release the Released Parties for claims for civil penalties under the California Labor

1 Code Private Attorneys General Act of 2004 based upon all facts and legal theories alleged in the  
2 Operative Complaint and LWDA Exhaustion Letter or reasonably could have been alleged based on  
3 the facts and legal theories alleged in the Operative Complaint and the LWDA Exhaustion Letter,  
4 arising during the PAGA Period, including all of the following claims for relief: (i) failure to pay all  
5 regular wages, minimum wages, and overtime wages due (Cal. Lab. Code §§ 510, 558, 1194, 1194.2,  
6 1197, 1197.1, & 1198); (ii) failure to provide compliant meal periods and associated meal period  
7 premiums (Cal. Lab. Code §§ 226.7 & 512); (iii) failure to provide compliant rest breaks and  
8 associated rest break premiums (Cal. Lab. Code § 226.7); (iv) failure to timely pay wages during  
9 employment (Cal. Lab. Code §§ 204 & 210); (v) failure to provide complete, accurate wage  
10 statements (Cal. Lab. Code §§ 226 & 226.3); (vi) failure to maintain accurate employment and payroll  
11 records (Cal. Lab. Code §§ 1174 & 1174.5); (vii) failure to pay wages timely at time of termination  
12 or resignation (Cal. Lab. Code §§ 201-203); and (viii) failure to indemnify all necessary business  
13 expenses (Cal. Lab. Code § 2800, *et seq.*) (collectively, the “PAGA Released Claims”).

14 77. Released Parties means Defendant and its past, present, and/or future, direct and/or  
15 indirect, officers, directors, members, managers, employees, agents, representatives, attorneys  
16 (including but not limited to O’Hagan Meyer), insurers, partners, investors, shareholders,  
17 administrators, parent companies, subsidiaries, affiliates, divisions, predecessors, successors, assigns,  
18 and joint venturers (“Released Parties”).

19 78. In light of the binding nature of a PAGA judgment on non-party employees with  
20 respect to the resolution of claims for civil penalties under PAGA, pursuant to *Arias v. Sup. Ct.*  
21 (*Angelo Dairy*) (2009) 46 Cal.4th 969 and *Cardenas v. McLane Foodservice, Inc.* (2011) 796  
22 F.Supp.2d 1246, individuals otherwise meeting the definition of a Class Member who exclude  
23 themselves from the Class Settlement, and who meet the definition of a PAGA Group Member, shall  
24 nonetheless be issued a payment for the amount of each such individual’s estimated share of the  
25 PAGA Payment and shall have released PAGA Released Claims, as outlined in Paragraph 76.

26 79. The Class Released Claims and PAGA Released Claims described in Paragraphs 75  
27 and 76 expressly exclude all claims made by a Participating Class Member and/or PAGA Group  
28 Member for vested benefits, wrongful termination, unemployment insurance, disability, social

1 security, workers' compensation, claims while classified as exempt, and claims outside of the Class  
2 Period and/or PAGA Period.

3           80.     **Class Counsel.** As of the Effective Date, and except as otherwise provided by this  
4 Settlement, Class Counsel and any counsel associated with Class Counsel waive any further claims  
5 to costs and attorneys' fees and expenses against Defendant or the Released Parties arising from or  
6 related to the Action, including but not limited to claims based on the California Labor Code, the  
7 Code of Civil Procedure, PAGA, the Fair Labor and Standards Act, the California Business and  
8 Professions Code, or any other contract, statute or law ("Class Counsel Released Claims").

9           81.     **No Effect on Other Benefits.** The payment of Settlement Shares and/or PAGA  
10 Payment Shares will not result in any additional employee benefit payments (such as 401(k), vacation,  
11 or bonus) and shall not have any effect on the eligibility for, or calculation of, any employee benefit.

12 **VI.     DUTIES OF THE PARTIES**

13           82.     **Mutual Full Cooperation.** The Parties agree to cooperate fully with one another to  
14 accomplish and implement the terms of this Stipulation. Such cooperation shall include, but not be  
15 limited to, execution of such other documents and the taking of such other actions as may reasonably  
16 be necessary to fulfill the terms of this Settlement unless the Court denies the Settlement with  
17 prejudice. The Parties shall use their best efforts, including all efforts contemplated by this Settlement  
18 and any other efforts that may become necessary by court order or otherwise, to effectuate this  
19 Settlement and the terms set forth herein. As soon as practicable after execution of this Settlement  
20 Agreement, Class Counsel, with the cooperation of Defendant and Defense Counsel, shall take all  
21 necessary and reasonable steps to secure the Court's approval of this Settlement. The Parties will  
22 work together to make any non-material modifications of the Settlement requested by the Court to  
23 obtain approval of the Parties' Settlement.

24           83.     **Duty to Support and Defend the Settlement.** The Parties agree to abide by all of the  
25 terms of the Settlement in good faith and to support the Settlement fully and to use their best efforts  
26 to defend this Settlement from any legal challenge, whether by appeal or collateral attack.

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1           84.     **Duties Prior to Court Approval.** Class Counsel shall promptly submit this  
2 Settlement to the Court for preliminary approval and determination by the Court as to its fairness,  
3 adequacy, and reasonableness. Promptly upon execution of this Stipulation, Class Counsel shall  
4 apply to the Court for the entry of a Preliminary Approval order, scheduling a hearing on the question  
5 of whether the Settlement should be approved as fair, reasonable, and adequate as to the Class  
6 Members, approving as to form and content the proposed Class Notice attached hereto as “**Exhibit**  
7 **A**”, respectively, and directing the mailing of the Class Notice to Settlement Class Members.

8           85.     **Non-Monetary Relief and Catalyzation of Policy Change.** Although Defendant  
9 denies any liability of any kind associated with the claims alleged in the Action, denies any liability  
10 or intentional wrongdoing, Defendant revised and updated their wage and hour policies and practices,  
11 including but not limited to their timekeeping and meal period and rest break policies and procedures.

12 **VII.    MISCELLANEOUS TERMS**

13           86.     **Interim Stay of Litigation.** Plaintiff and Defendant agree to the stay of all  
14 proceedings in the Action, including with respect to California Code of Civil Procedure section  
15 583.310, except such proceedings necessary to implement and complete the Settlement, pending final  
16 approval of the Settlement by the Court.

17           87.     **No Admission of Liability.** Defendant denies that it has engaged in any unlawful  
18 activity, has failed to comply with the law in any respect, or has any liability to anyone under the  
19 claims asserted in the Action. This Settlement is entered into solely for the purpose of compromising  
20 highly disputed claims. Nothing in this Settlement is intended or will be construed as an admission  
21 of liability or wrongdoing by Defendant, an admission by Plaintiff that any of his claims were non-  
22 meritorious, or any defense asserted by Defendant was meritorious. This Settlement and the fact that  
23 Plaintiff and Defendant were willing to settle the Action will have no bearing on, and will not be  
24 admissible in connection with, any litigation (other than solely in connection with the Settlement).

25           88.     The Parties also agree that this release constitutes a resolution of a good faith dispute  
26 concerning wages and complies with California Labor Code Section 206.5, which reads in part:

27                   “Execution of release of claim or right on account of wages due. No employer shall  
28                   require the execution of any release of any claim or right on account of wages due, or  
                    to become due, or made, or made as an advance on wages to be earned, unless payment

1 of those wages has been made.”

2 89. Whether or not the Judgment becomes final, neither the Settlement, any document,  
3 statement, proceeding, or conduct related to the Settlement, nor any reports or accounting of those  
4 matters, will be (i) construed as, offered, or admitted in evidence as, received as, or deemed to be  
5 evidence for any purpose adverse to Defendant or any of the Released Parties, including, but not  
6 limited to, evidence of a presumption, concession, indication, or admission by any of the Released  
7 Parties of any liability, fault, wrongdoing, omission, concession, or damage; or (ii) disclosed, referred  
8 to, or offered in evidence against any of the Released Parties, or any other civil, criminal or  
9 administrative action or proceeding except for purposes of effectuating this Settlement.

10 90. Notwithstanding Paragraph 89 of this Settlement, any and all provisions of this  
11 Settlement may be admitted in evidence and otherwise used in any and all proceedings to enforce any  
12 or all terms of this Settlement, or in defense of any claims released or barred by this Settlement.

13 91. **Non-Disparagement.** Plaintiff and Class Counsel agree not to make any untruthful,  
14 malicious, disparaging, or defamatory statements, allegations, comments, or communications,  
15 regardless of form (whether written, oral, or electronic, including but not limited to Glassdoor, Yelp,  
16 or otherwise), regarding Defendant. Plaintiff and Class Counsel further agree not to encourage  
17 authorize or permit any such statements, allegations, comments, or communications to be made by  
18 others on their behalf. Plaintiff and Class Counsel dispute that they have posted or encouraged the  
19 posting of any negative comments about Defendant on Glassdoor, Yelp, or other websites. To the  
20 extent Plaintiff and/or Class Counsel have posted any negative comments about Defendant on  
21 Glassdoor, Yelp, or other websites, Plaintiff and/or Class Counsel agree to request that these  
22 comments be removed and to provide a copy of such request to Defense Counsel within thirty (30)  
23 calendar days of the execution of this Agreement.

24 92. **Waiver of Reemployment.** Plaintiff acknowledges that he has no intent to apply for  
25 employment and/or re-employment with Defendant. Plaintiff further acknowledges that Defendant  
26 or any related, successor, parent, or subsidiary companies has the right to refuse the rehire of Plaintiff  
27 for non-discriminatory and non-retaliatory reasons and Plaintiff acknowledges that Defendant’s  
28 position is that such legitimate non-discriminatory and non-retaliatory reasons exist.

1           93.     **Integrated Agreement.** After this Settlement is signed and delivered by all Parties  
2 and their counsel, this Settlement and its exhibits will constitute the entire agreement between the  
3 Parties relating to the Settlement, and it will then be deemed that no oral representations, warranties,  
4 covenants, or inducements have been made to any Party concerning this Settlement or its exhibits  
5 other than the representations, warranties, covenants, and inducements expressly stated in this  
6 Settlement and its exhibits.

7           94.     **Attorney Authorization.** Class Counsel and Defense Counsel warrant and represent  
8 that they are authorized by Plaintiff and Defendant, respectively, to take all appropriate action  
9 required or permitted to be taken by such Parties pursuant to this Settlement to effectuate its terms,  
10 and to execute any other documents required to effectuate the terms of this Settlement. The Parties  
11 and their counsel will cooperate with each other and use their best efforts to affect the implementation  
12 of the Settlement. In the event the Parties are unable to reach agreement on the form or content of  
13 any document needed to implement the Settlement, or on any supplemental provisions that may  
14 become necessary to effectuate the terms of this Settlement, the Parties will seek the assistance of  
15 mediator Lynn Frank, Esq., and if no resolution is reached the Superior Court, and in all cases all  
16 such documents, supplemental provisions, and assistance of the court will be consistent with this  
17 Settlement.

18           95.     **Modification of Agreement.** Before this Agreement has been submitted to the Court  
19 in connection with seeking Preliminary Approval of the Settlement, this Agreement, and any and all  
20 parts of it, may be amended, modified, changed, or waived, except in an express written instrument  
21 signed by the counsel for the Parties. After this Agreement has been submitted to the Court in  
22 connection with seeking Preliminary Approval of the Settlement, this Agreement, and any and all  
23 parts of it, may be amended, modified, changed, or waived only by an express written instrument  
24 signed by the counsel for the Parties, subject to approval by the Court.

25           96.     **Settlement Binding on Successors.** This Settlement Agreement will be binding upon,  
26 and inure to the benefit of, the successors of each of the Parties.

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1           97.     **Applicable Law.** All terms and conditions of this Settlement and its exhibits will be  
2 governed by and interpreted according to the laws of the State of California, without giving effect to  
3 any conflict of law principles or choice of law principles.

4           98.     **Cooperation in Drafting.** The Parties have cooperated in the drafting and preparation  
5 of this Settlement. This Settlement will not be construed against any Party on the basis that the Party  
6 was the drafter or participated in the drafting.

7           99.     **Fair Settlement.** The Parties and their respective counsel believe and warrant that  
8 this Settlement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at  
9 this Settlement through arms-length negotiations, taking into account all relevant factors, current and  
10 potential.

11           100.    **Headings.** The descriptive heading of any section or Paragraph of this Settlement is  
12 inserted for convenience of reference only and does not constitute a part of this Settlement.

13           101.    **Notice.** All notices, demands, or other communications given under this Settlement  
14 will be in writing and deemed to have been duly given as of the third business day after mailing by  
15 U.S. Mail, addressed as follows:

16                    *To Class Counsel:*                   Edwin Aiwazian, Esq.  
17   Arby Aiwazian, Esq.  
18   Joanna Ghosh, Esq.  
19   Brian J. St. John, Esq.  
20   LAWYERS *for* JUSTICE, PC  
   410 West Arden Avenue, Suite 203  
   Glendale, California 91203

21                    *To the Defendant’s Counsel:*                   Andrea Rosenkranz, Esq.  
22   Yahir A. Barragan, Esq.  
23   O’HAGAN MEYER  
   3200 Park Center Drive, Suite 700  
   Costa Mesa, CA 92626

24           102.    **Execution in Counterpart.** This Settlement may be executed in one or more  
25 counterparts. All executed counterparts and each of them will be deemed to be one and the same  
26 instrument provided that counsel for the Parties will exchange between themselves original signed  
27 counterparts. Facsimile signatures, scanned PDF signatures, and electronic signatures will be  
28 presumptive evidence of execution of the original, which shall be produced on reasonable request.



1 Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

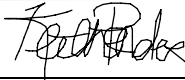
2 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this  
3 Joint Stipulation of Class Action and PAGA Settlement and Release of Claims between Plaintiff  
4 and Defendant:

5 **IT IS SO AGREED:**

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DATED: 03/07/2023

**PLAINTIFF**

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Keith Pender

DATED: \_\_\_\_\_

**CONGREGATIONAL HOMES, INC.**


By: \_\_\_\_\_

Its: \_\_\_\_\_

**APPROVED AS TO FORM:**

DATED: 03/07/2023

**LAWYERS *for* JUSTICE, PC**

By:  \_\_\_\_\_

Edwin Aiwanian, Esq.  
Arby Aiwanian, Esq.  
Joanna Ghosh, Esq.  
Brian J. St. John, Esq

Attorneys for Plaintiff,  
KEITH PENDER

1 Any executed counterpart will be admissible to prove the existence and contents of this Settlement.

2 **IN WITNESS WHEREOF**, the Parties hereto knowingly and voluntarily executed this  
3 Joint Stipulation of Class Action and PAGA Settlement and Release of Claims between Plaintiff  
4 and Defendant:

5 **IT IS SO AGREED:**

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7 DATED: \_\_\_\_\_

**PLAINTIFF**

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\_\_\_\_\_  
Keith Pender

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12 DATED: 3/16/2023

**CONGREGATIONAL HOMES, INC.**

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By: \_\_\_\_\_  
DocuSigned by:  
Patricia Williams  
CFDA4C702096421...

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Its: \_\_\_\_\_  
CEO/President

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**APPROVED AS TO FORM:**

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19

DATED: \_\_\_\_\_

**LAWYERS *for* JUSTICE, PC**

20

21

By: \_\_\_\_\_  
Edwin Aiwazian, Esq.  
Arby Aiwazian, Esq.  
Joanna Ghosh, Esq.  
Brian J. St. John, Esq.

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Attorneys for Plaintiff,  
KEITH PENDER

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DATED: 3/7/2023

**O'HAGAN MEYER**

By: Andrea Rosenkranz  
Andrea Rosenkranz, Esq.  
Yahir A. Barragan, Esq.

DocuSigned by:

Attorneys for Defendant,  
CONGREGATIONAL HOMES, INC.