

**COLLECTIVE ACTION SETTLEMENT AGREEMENT  
AND RELEASE OF CLAIMS**

This Collective Action Settlement Agreement and Release of Claims (the “Agreement”) is entered into by and between (a) Yolanda Santiago (the “Named Plaintiff”), individually and on behalf of the collective class of individuals that she seeks to represent (“Class Members”), (b) Marcha Auguste, Denisse Calderon and Nora Teresias (the “Opt-In Plaintiffs”) and (c) Senior Care Residences Sapphire Lakes at Naples, LLC (“Senior Care”) and Concierge Senior Living, LLC (“Concierge”) (Concierge and Senior Care are collectively referred to “Pineapple House”) (together with Named Plaintiff, the “Parties”).

**RECITALS**

WHEREAS, the Named Plaintiff has filed a lawsuit styled *Yolanda Santiago v. Concierge Senior Living, LLC d/b/a The Pineapple House*, In the United States District Court, Middle District of Florida, Case No. 2:22-cv-00021-JLB-MRM (the “Lawsuit”), in which she asserts claims against Concierge under the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201 *et seq.*, and related state laws based on allegedly unpaid overtime;

WHEREAS, the purpose of this Agreement is to settle fully and finally all Released Wage and Hour Claims (as hereinafter defined) between the Class Members and Pineapple House, all claims between the Opt-In Plaintiffs and Pineapple House and all claims between the Named Plaintiff and Pineapple House;

WHEREAS, Pineapple House denies all of the allegations made by the Named Plaintiff in the Lawsuit, denies that it failed to pay or owes the Named Plaintiff overtime or any other type of compensation, and denies that it is liable or owes damages to anyone with respect to the alleged facts or causes of action asserted in the Lawsuit. Nonetheless, without admitting or conceding any liability, wrongdoing or damages whatsoever, Pineapple House has agreed to settle the Lawsuit on the terms and conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing the Lawsuit;

WHEREAS, on March 18, 2022, the Parties participated in a mediation session of this matter, which was conducted by experienced collective action mediator Marlene Quintana (the “Mediator”);

WHEREAS, the Parties agree that the Named Plaintiff, Opt-In Plaintiffs and Class Members are/were employees of Senior Care rather than Concierge;

WHEREAS, during the mediation, the Parties were able to reach an accord resulting in this Agreement; and

WHEREAS, Class Counsel analyzed and evaluated the merits of the claims made against Pineapple House, conducted interviews with putative Class Members, and obtained and reviewed information relating to Senior Care’s timekeeping and automatic meal break policies. Based upon their analysis and evaluation of a number of factors, and recognizing the substantial risks of litigation, including the possibility that not resolving the claims at this time may result in no recovery to the Named Plaintiff, Opt-In Plaintiffs and the Class

Members, or recovery less favorable than provided in this Agreement, and that any recovery may not occur for several years, and that there was a risk that a class would not be certified or would eventually be decertified, Class Counsel are satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate and that this Agreement is in the best interests of the Named Plaintiff, Opt-In Plaintiffs and Class Members.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, as well as the good and valuable consideration provided for herein, the Parties hereto agree to a full and complete settlement on the following terms and conditions:

## **1. DEFINITIONS**

The defined terms set forth in this Agreement have the meanings ascribed to them below.

- 1.1 “Agreement” means this Collective Action Settlement Agreement and Release of Claims.
- 1.2 “Approval Order” means the Order entered by the Court approving the terms and conditions of this Agreement and directing the manner and timing of providing Notices to the Class Members.
- 1.3 “Claim Form” means Exhibit A, the form approved by Pineapple House and Class Counsel and subject to Court approval, which each Class Member must complete in full and return, as set forth herein, to recover a portion of the Settlement Proceeds.
- 1.4 “Claims Administrator” or “Phoenix” will be Phoenix Class Action Administration Solutions.
- 1.5 “Class Counsel” or “Plaintiffs’ Counsel” means Ricardo Prieto and Melinda Arbuckle at Shellist Lazarz Slobin LLP and R. Edward Rosenberg at Sorondo Rosenberg Legal P.A.
- 1.6 “Class Members” means the approximately 69 current and former Senior Care employees who (a) were paid hourly, (b) worked for Senior Care at the facility known as The Pineapple House at Sapphire Lakes at some point in time between June 1, 2020 and May 31, 2021; (c) who were subject to automatic meal break deductions during a week in which they worked over forty hours or would have worked over forty hours but for the automatic meal break deduction. Excluded from the definition of Class Members are one individual who was already compensated for a claim related to automatic meal break deductions and one individual who already settled an FLSA lawsuit involving this type of claim. Neither Named Plaintiff nor Opt-In Plaintiff Denisse Calderon is a Class Member.
- 1.7 “Concierge” means Concierge Senior Living, LLC, together with its predecessors, successors, affiliates, subsidiaries, parent companies, partners, directors, managers, members, shareholders, current and past employees, servants, insurers, agents,

professional employer organizations, business partners, representatives, legal representatives and any other person or entity acting on their behalf or who may have allegedly jointly employed the Named Plaintiff, Opt-In Plaintiffs and Class Members during the relevant time period.

- 1.8 “Court” means the United States District Court, Middle District of Florida.
- 1.9 “Defense Counsel” means Steven Siegel of Fisher & Phillips LLP.
- 1.10 “Effective Date” shall be the date the Court approves this Collective Action Settlement Agreement and Release of Claims.
- 1.11 “Lawsuit” means the lawsuit between the Parties styled *Yolanda Santiago v. Concierge Senior Living, LLC d/b/a The Pineapple House*, In the United States District Court, Middle District of Florida, Case No. 2:22-cv-00021-JLB-MRM.
- 1.12 “Maximum Settlement Amount” means the maximum amount of \$78,500.00, which Senior Care has agreed to pay to fully resolve and settle the Lawsuit, including any claim for attorneys’ fees and costs approved by the Court, any and all amounts to be paid to or on behalf of Class Members, all Opt-In Plaintiffs, the Named Plaintiff, general release payments to the Named Plaintiff and Opt-In Plaintiffs, the Mediator fees and the Claims Administrator’s fees and costs. Under no circumstances will Senior Care be required to pay more than the gross total of \$78,500.00.
- 1.13 “Named Plaintiff” means Yolanda Santiago.
- 1.14 “Net Settlement Amount” means the amount remaining of the Maximum Settlement Amount after deductions for: (1) the Claims Administrator’s fees and costs; (2) Court-approved attorneys’ fees and costs for Class Counsel; (3) Court-approved general release payment to the Named Plaintiff; (4) Court-approved general release payments to the Opt-In Plaintiffs; and (5) the Mediator’s fees and costs.
- 1.15 “Notice” means the Court-approved Notice of Settlement of Collective Action Lawsuit, attached hereto as Exhibit B.
- 1.16 “Opt-In Plaintiffs” means Marcha Auguste, Denisse Calderon and Nora Teresias.
- 1.17 “Participating Class Members” shall mean those Class Members who timely return a completed Claim Form. Neither Named Plaintiff nor Opt-In Plaintiff Denisse Calderon can be a Participating Class Member.
- 1.18 “Parties” shall mean, collectively, Named Plaintiff and Pineapple House.
- 1.19 “Plaintiffs” shall mean Named Plaintiff, Opt-In Plaintiffs and Participating Class Members.
- 1.20 “Pineapple House” shall mean Concierge and Senior Care collectively.

- 1.21 “Released Wage and Hour Claims” means all FLSA claims for unpaid regular, straight time or overtime wages, any federal, state or local wage and hour or wage payment law claims, all derivative benefit claims (both ERISA and non-ERISA benefits, including 401(k) benefits or matching benefits, retirement benefits, and deferred compensation benefits), any state or local wage and hour or unpaid wages type of claims, quantum meruit claims, breach of contract claims, unjust enrichment, interest on any such claims, liquidated damages, penalties, and attorneys’ fees and costs related to such claims, and all other available remedies and relief of any kind or nature whatsoever related to such claims, relating to the Named Plaintiff and Opt-In Plaintiffs’ employment/alleged employment with Senior Care and Concierge from the beginning of time through the Effective Date.
- 1.22 “Senior Care” means Senior Care Residences Sapphire Lakes at Naples, LLC, together with its predecessors, successors, affiliates, subsidiaries, parent companies, partners, directors, managers, members, shareholders, current and past employees, servants, insurers, agents, professional employer organizations, business partners, representatives, legal representatives and any other person or entity acting on their behalf or who may have allegedly jointly employed the Named Plaintiff, Opt-In Plaintiffs and Class Members during the relevant time period.

## 2. APPROVAL AND CLASS NOTICE

- 2.1 **Binding Agreement:** This Agreement is a binding agreement and contains all material agreed-upon terms for the Parties to seek a full and final settlement of the Lawsuit.
- 2.2 **Claims Administrator:** The Claims Administrator will be responsible for locating Class Members through all reasonable efforts; mailing of Notices and Claim Forms to Class Members in accordance with the Court’s Approval Order; responding to Class Member inquiries; establishing a qualified settlement fund and qualified settlement fund account; reporting on the state of the settlement to the Parties; issuing payment via check (“Settlement Checks”) in accordance with this Settlement Agreement and the Court’s Approval Order; calculating Class Members’ share of taxes, distributing Settlement Checks to Class Members and withholding Class Members’ share of taxes; remitting such tax payments (i.e., withheld class members’ share of taxes) to the appropriate taxing authorities; providing Claim Forms to Defense Counsel and Class Counsel suitable for filing; preparing a declaration regarding its due diligence in the claims administration process; making all other payments and disbursements required by this Agreement; providing counsel with any information related to the administration of the settlement upon request; and performing such other duties as the Parties may jointly direct or as are specified herein.
- (A) Class Counsel has obtained a flat fee “not-to-exceed” bid from the Claims Administrator for administration of the settlement, including costs, for a total of \$5,000.00 or less.
- (B) The Parties will have equal access to the Claims Administrator and all information related to the administration of the settlement. The Claims

Administrator will provide weekly reports to the Parties regarding the status of the mailing of the Notices and Claim Forms to Class Members, executed Claim Forms received; the claims administration process, the substance and status of disputes raised by Class Members regarding the calculation of settlement awards, and distribution of the Settlement Checks.

- (C) In the event of a dispute regarding a Class Member's Settlement Award, the Claims Administrator shall promptly report the nature of the dispute to Class Counsel and Defense Counsel, who will confer in good faith with the Claims Administrator in an effort to resolve the dispute. In the event counsel are unable to reach agreement, Senior Care shall rely in good faith on its business records and shall have the final decision regarding any such dispute.
- (D) Senior Care agrees to cooperate with the Claims Administrator, provide accurate information (to the extent reasonably available) necessary to send the Settlement Checks, and assist the Claims Administrator in locating Class Members.

### **2.3 Filing of Settlement Approval Motion:**

- (A) Defense Counsel shall prepare the first draft of the Joint Motion for Approval of Settlement ("Approval Motion") and proposed Notice of Settlement of Collective Action Lawsuit and Claim Form, and a proposed Approval Order. Once they are finalized, the Parties shall file the Approval Motion. Before filing the Approval Motion, Class Counsel will file the appropriate paperwork to add Senior Care as a party to the Lawsuit. In connection with the Approval Motion, the Parties will submit this Agreement to the Court, including the proposed Notice of Settlement of Collective Action Lawsuit and Claim Form, and the proposed Approval Order.
- (B) In the Approval Motion, the Parties will request that the Court: (1) approve this Agreement as fair and reasonable; (2) dismiss the Lawsuit with prejudice; (3) award Class Counsel fees and costs; (4) approve the general release payments to Named Plaintiff and Opt-In Plaintiffs in accordance with the terms of this Agreement; and (5) retain jurisdiction and order the clerk to keep the case open until 45 days after the Extended Consent Deadline (as defined below) in order to allow the Parties to file the Claim Forms, if they are required or elect to do so.
- (C) If the Court declines to enter an Order approving the settlement, the Parties agree to negotiate in good faith terms for a revised settlement, for a period of up to 21 days from the denial of approval. If the Parties do not jointly agree to (a) seek reconsideration or appellate review of the decision, or (b) reach final agreement on the terms of a revised settlement, then this Agreement and the previously executed Term Sheet and any settlement documents executed in conjunction with this settlement will become null and void *ab initio*. In such an event, the litigation shall resume as if no settlement existed. At that point,

Pineapple House may contest whether this litigation should be maintained as a class or collective action and contest the merits of the claims being asserted by Plaintiff in this action. In the event settlement is not approved, this Agreement and the previously executed Term Sheet and any settlement documents executed in conjunction with this settlement will not be used for any purpose in connection with the litigation, any future litigation, or any other lawsuit, administrative or other legal proceeding, claim, investigation, or complaint, except that the confidentiality obligations will remain in effect.

#### **2.4 Notice to Class Members:**

- (A) Within 14 days of the Court's issuance of an Approval Order, Senior Care will provide the Claims Administrator the following information, in electronic form, for all Class Members: name, social security number, last known addresses, percent share of Net Settlement Amount ("Class List"). Defense Counsel will provide Class Counsel with the same list, but that list will not include the social security numbers or addresses for the Class Members. Likewise, Class Counsel will provide the Claims Administrator the name and last known address for the Named Plaintiff and each Opt-In Plaintiff within 14 days of the Court's issuance of an Approval Order. If the addresses conflict, the address provided by Class Counsel should be the proper address used.
  
- (B) Within 15 business days of the receipt of the Class List from Senior Care, the Claims Administrator will mail to all Class Members, via First-Class United States Mail, postage prepaid, the Court-approved Notice of Settlement of Collective Action Lawsuit and Claim Form. The Notice shall state it is authorized and approved by the Court, inform the Class Members of their eligibility to participate in the settlement by signing and returning the enclosed consent form, clearly state the deadline by which the Class Member must return the Claim Form to participate in the settlement, inform the class member of the acceptable method of transmitting the Claim Form, inform them of the general nature of the claims asserted in the Lawsuit, their rights as Class Members (including without limitation the right to be free from retaliation), specify the scope of the claims they release by virtue of participating in the settlement, state the legal effect of not participating in the settlement, advise them of their representation by Class Counsel at no cost if they choose, provide them instruction on how to contact Class Counsel and/or the Claims Administrator if they have questions, inform them of the Maximum Settlement Amount, and inform them of their settlement allocation. By signing the Claim Form, a Class Member agrees to participate in this settlement, accept representation by Class Counsel or designate alternative counsel and releases the Released Wage and Hour Claims as specified herein. The Claim Form shall also require the Class Member to provide his or her name, last four digits of their social security number and date of signing. The Claim Form will allow the Class Member to provide their current mailing address, email address and phone number, however none of the contact information voluntarily provided shall be filed with the Court or otherwise made public. The Claim Form, to be valid, can be

returned only by U.S. Mail. Class Members will only be bound by this Settlement, and will only be entitled to receive a share of the Net Settlement Fund, if they return their completed, signed consent form postmarked within sixty (60) days from the mailing of the Notice to them (“Initial Consent Deadline”).

- (C) The Claims Administrator will take all reasonable steps to obtain the correct address of any Class Members for whom a Notice is returned by the Post Office as undeliverable and shall attempt re-mailings as described in this Agreement. The Claims Administrator will notify Class Counsel and Defense Counsel of any Notice sent to a Class Member that is returned as undeliverable after the first mailing, as well as any such Notice returned as undeliverable after any subsequent mailing(s) as set forth in this Agreement. For anyone whose Notice is returned as undeliverable and a re-mailing attempted, they shall have until the later of the Initial Consent Deadline or 15 days from the re-mailing of the Notice to return their completed, signed consent form (“Extended Consent Deadline”). Thirty (30) days after the initial mailing of the Notice, the Claims Administrator shall send a reminder postcard to all Class Members who, as of that date, have not yet returned a completed Claim Form, reminding Class Members of the deadline and acceptable method for returning a completed Claim Form. A copy of the reminder postcard is attached as Exhibit C. No other reminder notice of any type shall be sent. Prior to the submission of their Claim Form, there shall be no other attempts to contact Class Members by the Claims Administrator or Class Counsel. Within 7 days of the later of the Initial Consent Deadline or the Extended Consent Deadline, the Claims Administrator shall provide Defense Counsel and Class Counsel with a list of all Participating Class Members and electronic copies of all timely received and completed Claim Forms, together with redacted copies of such Claim Forms suitable for filing with the Court.

## **2.5 Claim Forms and Settlement Checks:**

- (A) Payment is on a claims-made basis — only those Class Members who return a timely Claim Form and Opt-In to the Lawsuit will be paid and every unclaimed award remains the property of Senior Care or shall revert to Senior Care. A Class Member who timely returns a completed Claim Form is a Participating Class Member, and will be issued a Settlement Check by the Claims Administrator in accordance with the Approval Order. Having already filed their Consents to Join, the Opt-In Plaintiffs who are also Class Members will not be sent a Notice or Claim Form and will instead be sent their Class Member’s Settlement Award at the time the Settlement Awards for the Participating Class Members are mailed out by the Claims Administrator.
- (B) The Settlement Awards will be mailed to Participating Class Members by the Claims Administrator within 10 business days of the date that Senior Care submits the portion of the Maximum Settlement Amount that is necessary to fulfill the terms of this settlement as described herein.

- (C) The following release language shall be included by the Claims Administrator on the back of each Settlement Check:

My signature or negotiation of this check constitutes a full, final and complete release by me of Senior Care Residences Sapphire Lakes at Naples, LLC and Concierge Senior Living, LLC d/b/a The Pineapple House and their parents, subsidiaries and affiliated entities, and its officers, directors and employees, for any and all unpaid wages, overtime and minimum wage type claims, including those that were or could have been asserted or alleged on my behalf in the matter of *Yolanda Santiago v. Concierge Senior Living, LLC d/b/a The Pineapple House*, In the United States District Court, Middle District of Florida, Case No. 2:22-cv-00021-JLB-MRM, as well as my acknowledgement that I accept this check as payment in full for the Released Wage and Hour Claims.

### **3. SETTLEMENT TERMS AND ADMINISTRATION**

#### **3.1 Settlement Amount:**

- (A) Senior Care agrees to pay up to the Maximum Settlement Amount of \$78,500.00, which shall be the maximum amount necessary pursuant to the terms of this Agreement to fully resolve and satisfy any claim for attorneys' fees and costs approved by the Court, any and all amounts to be paid to or on behalf of the Named Plaintiff, Opt-In Plaintiffs, payments to Class Members, the Mediator's fees, and payment to the Claims Administrator for fees and costs. Under no circumstances will Senior Care be required to pay more than the gross total of \$78,500.00 under the terms of this Agreement.

#### **3.2 Creation and Implementation of a Qualified Settlement Fund:**

- (A) Establishing the Qualified Settlement Fund: The settlement amounts described in this Agreement will be deposited in an account titled XXXXXX Settlement Fund (the "Settlement Fund"), intended by the Parties to be a "Qualified Settlement Fund" as described in Section 468B of the Internal Revenue Code of 1986, as amended, and Treas. Reg. Section 1.468B-1, et seq. The Settlement Fund shall be established as a Qualified Settlement Fund within the meaning of Section 468B of the Internal Revenue Code of 1986, as amended, the Treas. Reg. Section 1.468B-1, et seq., and shall be administered by the Claims Administrator, subject to the ultimate authority of the Court. The payments to the Settlement Fund, and the timing of the payments to the Settlement Fund are described below.
- (B) Administering the Settlement Fund: The Claims Administrator shall serve as Trustee of the Settlement Fund and shall act as a fiduciary with respect to the handling, management, and distribution of the Settlement Fund, including the handling of tax-related issues and payments. The Claims Administrator shall act in a manner necessary to qualify the Settlement Fund as a Qualified Settlement Fund and to maintain that qualification. The Settling Parties shall



cooperate to ensure such treatment and shall not take a position in any filing or before any tax authority inconsistent with such treatment. The Settling Parties agree to any relation-back election required to treat the Settlement Fund as a Qualified Settlement Fund from the earliest possible date.

- 3.3 Settlement Funding:** Within forty-five (45) days after the Effective Date, Senior Care will deliver to the Claims Administrator the amount necessary to cover Class Counsel's fees and expenses that have been approved by the Court and pay the Named Plaintiff's and Opt-In Plaintiffs' General Release Payments and the claims administration fees. Senior Care has already paid the Mediator's fees in the amount of \$2,575.00. The remaining amount necessary to fulfill the settlement (to pay out all Participating Class Members who timely return a Claim Form) will be sent by Senior Care to the Claims Administrator within twenty-one (21) days of when the Claims Administrator provides Defense Counsel with the calculated amount required following the end of the notice period, including any extension as a result of any re-mailings. The Claims Administrator will distribute the Court approved General Release Payments, attorneys' fees and costs for Class Counsel and claims administration fees within 7 days of receipt of the first payment. Within 14 days after receipt from Senior Care of the funds necessary to pay all Participating Class Members, the Claims Administrator shall distribute all payments to Participating Class Members as required by this Agreement. The portion of the Net Settlement Amount attributable to claims of Class Members who did not timely return their Claim Form will be the sole property of Senior Care and any overpayment sent to the Claims Administrator beyond the amount necessary to pay all Participating Class Members shall be returned to Senior Care by the Claims Administrator.
- 3.4 Net Settlement Amount and Allocation to Class Members:** The allocation to the Class Members will be made from the Net Settlement Amount. The Net Settlement shall be approximately \$42,858.00, which is calculated by starting at the Maximum Settlement Amount of \$78,500.00, deducting \$25,905.00 for attorney fees and costs of \$912.00 (leaving a total of \$51,683.00), then deducting the amount already paid to the Mediator (\$2,575.00), the total amount of the General Release Payments (\$1,250.00), and the amount of the Claims Administrator's fee (\$5,000.00). The allocation of each Class Member's award, which is their proportionate share of the Net Settlement Amount, has been calculated as follows.
- (A) The total amount of time automatically deducted between June 1, 2020 and May 31, 2021 from each Class Member both during overtime and non-overtime weeks was calculated. The value of that time was then calculated at the Class Member's last hourly rate. Overtime hours were valued at time and one half. Time automatically deducted during overtime weeks was then valued at twice that of time automatically deducted during non-overtime weeks. Each Class Member's amount was then divided by the total amount to arrive at the Class Member's proportionate share of the Net Settlement Amount.
- (B) Each Class Member's settlement amount, which is calculated by multiplying their proportionate share times the Net Settlement Amount, shall be referred to

as their “Settlement Award.” A Class Member shall only receive their Settlement Award if they timely return a completed Claim Form and become a Participating Class Member. Otherwise, their Settlement Award remains the property of Senior Care.

- 3.5 Check Expiration Date:** Participating Class Members will have 90 calendar days from the date of mailing to cash their Settlement Checks, which they will be informed of in the Notice and on the Settlement Checks.
- 3.6 Reversion:** Any unclaimed funds remaining in the Qualified Settlement Fund and un-negotiated Settlement Checks to Participating Class Members that remain uncashed 90 calendar days after the date of mailing shall belong to Senior Care. The Claims Administrator shall distribute any such amounts to Senior Care within 20 days after the last date on which Participating Class Members may cash their Settlement Checks.
- 3.7 Settlement Amounts Payable as Attorneys’ Fees and Costs:**
- (A) In the Joint Approval Motion, Class Counsel will seek an award of attorneys’ fees in the amount of \$25,905.00 and actual costs of \$912.00. Pineapple House will not oppose this application.
- (B) The substance of Class Counsel’s request for attorneys’ fees and costs is to be considered separately from the Court’s consideration of the fairness, reasonableness, adequacy, and good faith of the settlement of the Litigation. The outcome of any proceeding related to Class Counsel’s application for attorneys’ fees and costs shall not terminate this Agreement or otherwise affect the Court’s ruling on the approval of the underlying settlement. However, any attorneys’ fees not approved in Section 3.7(A) shall remain in the Net Settlement for apportionment to the Class Members.
- 3.8 Payment to Named Plaintiff:** In return for the risk she incurred and the services she rendered to the Class Members and in consideration of the individual settlement agreement being executed by her, including a general release, the Named Plaintiff will be paid \$500.00. In return for the risks they incurred and the services they rendered to the Class Members and in consideration of the individual settlement agreements being executed by them, including general releases, the Opt-In Plaintiffs will be paid \$250.00 each (collectively, the “General Release Payments”). Pineapple House will not contest Class Counsel’s request for these General Release Payments. The amount of these General Release Payments will be deducted from the Maximum Settlement Amount as described above. Prior to receiving the General Release Payments, the Named Plaintiff and Opt-In Plaintiffs must first execute separate Supplemental Settlement Agreement and General Releases of all claims to be prepared by Defense Counsel, as set forth in detail herein.

### 3.9 Tax Characterization:

- (A) For tax purposes, 50% of each Class Members' Settlement Award shall be treated as back wages and 50% of such payments shall be treated as interest and/or liquidated damages. The General Release Payments shall not be treated as wages and will be reportable on a 1099.
- (B) Payments treated as back wages pursuant to Section 3.5(A) shall be made net of all applicable employment taxes, including, without limitation, federal, state and local income tax withholding and the employee share of the FICA tax, and shall be reported to the Internal Revenue Service ("IRS") and the payee under the payee's name and Social Security Number on an IRS Form W-2. Payments treated as interest and/or liquidated damages pursuant to Section 3.5(A) shall be made without withholding and shall be reported to the IRS and the payee, to the extent required by law, under the payee's name and Social Security Number on an IRS Form 1099. Payments of attorneys' fees and costs pursuant to the terms of this Agreement shall be made without withholding and reported to the IRS and the payee under the payee's name and taxpayer identification number, which each such payee shall provide for this purpose, on an IRS Form 1099.
- (C) All taxes (including any estimated taxes, interest, or penalties) arising with respect to the income earned by the Settlement Fund, if any, including any taxes or tax detriments that may be imposed on Senior Care with respect to income earned for any period during which the Settlement Fund does not qualify as a "Qualified Settlement Fund" for federal and state income tax purposes (hereinafter "Settlement Fund Taxes"), and expenses and costs incurred in connection with the operation and implementation of this paragraph (including, without limitation, expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing (or failing to file) any returns described herein or otherwise required to be filed pursuant to applicable authorities) (hereinafter "Settlement Fund Tax Expenses") shall be paid out of the Settlement Fund. Further, Settlement Fund Taxes and Settlement Fund Tax Expenses shall be treated as a cost of the administration of the Settlement Fund. The Settling Parties agree to cooperate with the Claims Administrator, each other, and their tax attorneys and accountants to the extent reasonably necessary to carry out the provisions set forth in this Section.
- (D) With the exception of employer-side payroll taxes, Named Plaintiff and Opt-In Plaintiffs acknowledge and agree that they will be solely responsible for all taxes, interest and penalties due with respect to any payment received pursuant to this Agreement.
- (E) The employee portion of all applicable income and payroll taxes will be the responsibility of the individual Participating Class Member receiving a Settlement Check.

#### 4. RELEASE

##### 4.1 Release of Claims:

By operation of the entry of the Approval of this Agreement, and except as to such rights or claims as may be created by this Agreement,

- (A) By the Named Plaintiff's and Opt-In Plaintiffs' signature on this Agreement, the Named Plaintiff and each Opt-In Plaintiff fully, finally and forever releases, remises and discharges Concierge and Senior Care and any of their predecessors, successors, affiliates, subsidiaries, parent companies, partners, directors, managers, members, shareholders, current and past employees, servants, insurers, agents, professional employer organizations, business partners, representatives, legal representatives and any other person or entity acting on their behalf or who may have allegedly jointly employed the Named Plaintiff, Opt-In Plaintiffs and Class Members (the "Released Parties") from all wage and hour claims of any type, including the FLSA and Florida state law claims asserted in the Lawsuit (the "Released Wage and Hour Claims"). The Released Wage and Hour Claims include all FLSA claims for unpaid regular, straight time or overtime wages, any federal, state or local wage and hour or wage payment law claims, all derivative benefit claims (both ERISA and non-ERISA benefits, including 401(k) benefits or matching benefits, retirement benefits, and deferred compensation benefits), any state or local wage and hour or unpaid wages type of claims, quantum meruit claims, breach of contract claims, unjust enrichment, interest on any such claims, liquidated damages, penalties, and attorneys' fees and costs related to such claims, and all other available remedies and relief of any kind or nature whatsoever related to such claims, relating to the Named Plaintiff and Opt-In Plaintiffs' employment/alleged employment with Senior Care and Concierge from the beginning of time through the Effective Date. Likewise, by signing and timely returning a completed Claim Form, all Participating Class Members fully, finally and forever release, remise and discharge the Released Parties from the Released Wage and Hour Claims.
- (B) In addition to the Released Wage and Hour Claims, the Named Plaintiff and each Opt-In Plaintiff will first execute a separate Supplemental Settlement Agreement and General Release, and which will include, among other things, payment of their general release award as additional consideration, their agreement to a full general release, a non-disparagement provision and a no re-hire provision. The tax treatment of the payment made to the Named Plaintiff and Opt-In Plaintiffs pursuant to their individual settlement agreements will be addressed in the individual settlement agreement. The form of the separate Supplemental Settlement Agreement and General Release is attached as Exhibit D.
- (C) Except as provided in this Agreement, the Named Plaintiff and Opt-In Plaintiffs, on behalf of themselves and the Class Members individually and

collectively, hereby irrevocably and unconditionally release, acquit, and forever discharge any claim that he, she or they may have against Pineapple House for attorneys' fees or costs associated with Class Counsel's representation of the Class Members. Named Plaintiff and Opt-In Plaintiffs further understand and agree that any fee payments approved by the Court will be the full, final and complete payment of all attorneys' fees and costs associated with their representation in the Lawsuit. The release, acquittal and discharge set forth in this paragraph shall not apply to any attorneys' fees or costs incurred in relation to any efforts to enforce the terms of this Agreement.

- 4.2 Non-Admission of Liability:** Pineapple House denies that it violated the law in any manner asserted in, alleged in or related to the Lawsuit. Pineapple House has agreed to the terms of settlement herein without in any way acknowledging any fault or liability, and with the understanding that terms have been reached because this settlement will (i) avoid the further expense and disruption of Pineapple House's business due to the pendency and expense of litigation, and (ii) put the claims in the Lawsuit finally to rest. Nothing in this Agreement shall be deemed, construed or used as an admission of liability, culpability, negligence, wrongdoing or unlawful conduct of any kind or nature whatsoever by or on behalf of Pineapple House, or as an admission that a class should be certified for any purpose other than settlement purposes.

## **5. INTERPRETATION AND ENFORCEMENT**

- 5.1 Cooperation Between the Parties; Further Acts:** The Parties shall reasonably cooperate with each other and shall use their reasonable best efforts to effectuate this Agreement, including during any appeals, and to obtain the Court's approval of this Agreement and all of its terms and to defend this Agreement and the settlement from any legal challenge. Each party, upon the request of any other party, agrees to perform such further acts and to execute and deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement. The Parties will fully cooperate with each other and with the Claims Administrator to accomplish, implement, and effectuate the terms of this Agreement, including but not limited to, the preparation and execution of documents necessary to implement this Agreement.
- 5.2 No Assignment:** The Parties represent and warrant that they have not assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof or interest therein, including, but not limited to, any interest in the Lawsuit, or any related action.
- 5.3 Entire Agreement:** This Agreement and the individual Supplemental Settlement Agreements to be executed by the Named Plaintiff and Opt-In Plaintiffs constitute the entire, complete and integrated agreement between the Parties with regard to the subject matter contained herein, including all settlement terms, and supersedes all previous oral or written agreements, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement.

This Agreement may not be amended or modified except by a writing duly signed by the Parties or their duly authorized representatives.

- 5.4 Binding Effect:** This Agreement shall be binding upon the Parties and, with respect to the Named Plaintiff, Opt-In Plaintiffs and all Participating Class Members, their spouses, children, representatives, heirs, administrators, executors, beneficiaries, conservators, trustees, attorneys, successors and assigns.
- 5.5 Arms' Length Transaction; Materiality of Terms:** The Parties have negotiated all the terms and conditions of this Agreement at arms' length. All terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement, unless otherwise expressly stated.
- 5.6 Captions:** The captions or headings of the Sections and paragraphs of this Agreement have been inserted for convenience or reference only and shall have no effect upon the construction or interpretation of any part of this Agreement.
- 5.7 Construction:** The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this Agreement, and therefore the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.
- 5.8 Blue Penciling/Severability:** If any provision of this Agreement is held by a court of competent jurisdiction to be void, voidable, unlawful or unenforceable with the exception of the provisions of the Release contained herein, such finding shall not affect the validity of the remaining portions of this Agreement which will remain in full force and effect and will be construed and enforced to effect the purposes thereof to the fullest extent permitted by law.
- 5.9 Governing Law:** This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of Florida, without regard to choice of law principles, except to the extent that the law of the United States governs any matter set forth herein, in which case such federal law shall govern.
- 5.10 Continuing Jurisdiction of the Court:** The parties will request that the Court retain jurisdiction over the interpretation, implementation, and enforcement of the terms of this Agreement as well as any and all matters arising out of, or related to, the interpretation or implementation of this Agreement and of the settlement contemplated thereby, including any and all orders and judgments entered in connection therewith.
- 5.11 Waivers, Etc. To Be in Writing:** No waiver, modification or amendment of the terms of this Agreement, whether purportedly made before or after the Court's approval of this Agreement, shall be valid or binding unless in writing, signed by or on behalf of all Parties and then only to the extent set forth in such written waiver, modification or

amendment, subject to any required Court approval. Any failure by any party to insist upon the strict performance by the other party of any of the provisions of this Agreement shall not be deemed a waiver of future performance of the same provisions or of any of the other provisions of this Agreement, and such party, notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Agreement.

#### **5.12 Non-Disclosure and Publicity:**

- (A) The Named Plaintiff and the Opt-In Plaintiffs and Class Counsel will keep the terms, conditions and existence of the settlement and this Agreement strictly confidential (except to the extent necessary to advise the Named Plaintiff, Opt-In Plaintiffs and any Class Members who contact Class Counsel) and will not contact, or comment to, the media about the settlement or this Agreement, or disclose, make known, discuss or relay orally, or in writing, electronically or otherwise, the existence or terms of the settlement or this Agreement, or any information concerning or discussions leading up to the settlement or this Agreement, prior to submission to the court for approval. After submission to the Court of the Approval Motion, neither the Named Plaintiff, nor Opt-In Plaintiffs nor Class Counsel, or Pineapple House or Defense Counsel, may make any public comment, make or have any communications to or with the press or media, or make any form of advertising or public announcement, utilize any form of social media, or issue any press release or media release, regarding the Lawsuit, this Agreement or the settlement, except to state the amount of the settlement and to refer to the Court filings. Notwithstanding the foregoing, the Parties shall have the right to disclose this Agreement as may be required under federal or state tax and/or securities laws or under generally accepted accounting principles, and may disclose in legal proceedings a summary of the terms of this Agreement.
- (B) Any communication about the settlement to Class Members other than Named Plaintiff and Opt-In Plaintiffs prior to the Court-approved mailing will be limited to a statement that a settlement has been reached and the details will be communicated in a forthcoming Court-approved notice.
- (C) Nothing in this Agreement shall prohibit Class Counsel and Defense Counsel from disclosing information concerning this Agreement to their respective employees and agents to the extent necessary to effectuate the terms of this Agreement. Moreover, nothing in this Agreement shall prohibit Pineapple House from disclosing information concerning this Agreement to its employees and agents to the extent necessary to effectuate the terms of this Agreement or who otherwise have a need to know the terms. The Parties may also disclose information concerning this Agreement to their respective counsel and tax, audit and legal advisors.
- (D) Nothing in this Agreement shall prevent Pineapple House or its Counsel from making any necessary, appropriate or required disclosures to Pineapple

House's regulators, auditors and the like, or from complying with its obligations under the law.

- (E) Within five (5) business days of receipt of any third-party legal demand that they disclose information pertinent to the settlement or this Agreement, Class Counsel will notify Defense Counsel, by telephone and confirmed immediately thereafter in writing, so that Pineapple House may have the opportunity to intervene to assert what rights they may have in non-disclosure prior to any response to the third party legal demand.

- 5.13 Return of Documents/Data:** Class Counsel will destroy all documents produced by Pineapple House and/or Defense Counsel (whether formally or for purposes of mediation) and shall delete all electronic records thereof within 30 days of the last day on which Participating Class Members may cash their Settlement Checks, except as required by Class Counsel's malpractice insurance and the Rules of Professional Conduct.
- 5.14 When Agreement Becomes Enforceable; Counterparts:** This Agreement shall become binding upon its execution. The Parties may execute this Agreement in counterparts, and execution in counterparts shall have the same force and effect as if all Parties had signed the same instrument.
- 5.15 Indemnification:** The Named Plaintiff, Opt-In Plaintiffs and Participating Class Members agree (a) that Pineapple House has not made any representations regarding the taxability of any payments made pursuant to this Agreement; (b) they have been and remain solely responsible for the timely payment of all taxes owed by each of them, if any, which have been due, or which may become due to any governmental authority from receipt of any funds received pursuant to this Settlement Agreement, except as provided in 3.9(D); and (c) to indemnify, pay the costs of defense, and hold Pineapple House harmless from and against any and all claims, demands, obligations, and liabilities for such taxes, if any, for taxes owed by the them, including, but not limited to, taxes, levies, assessments, garnishments, fines, interest, attorneys' fees and costs owed by them, if any, or incurred by Pineapple House.
- 5.16 Signature of Named Plaintiff and Opt-In Plaintiffs:** This Agreement is valid and binding once signed by an authorized representative for Senior Care, Concierge, the Named Plaintiff and Opt-In Plaintiffs.
- 5.17 Facsimile, Electronic and Email Signatures:** Any party may execute this Agreement by transmitting that signature page via facsimile or email to counsel for the other party. Any signature made and/or transmitted electronically by facsimile, or email for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party whose counsel transmits the signature page by facsimile, electronic signature or email.




**5.18 Parties' Authority:** The signatories hereto hereby represent that they are fully authorized to enter into this Agreement and bind the Parties hereto and the Participating Class Members to the terms and conditions thereof.

**WE AGREE TO THESE TERMS**


DATED: Sept. 27, 2022

**Yolanda Santiago**

  
\_\_\_\_\_


DATED: Sept. 22, 2022

**Marcha Auguste**

  
\_\_\_\_\_

DATED: Sept. 22, 2022

**Denisse Calderon**

  
\_\_\_\_\_

DATED: Sept. 22, 2022

**Nora Teresias**

*Nora Teresias*  
\_\_\_\_\_

10/3/2022  
DATED: Sept. \_\_\_\_\_, 2022

**Senior Care Residences Sapphire Lakes at Naples, LLC**

By: \_\_\_\_\_  
DocuSigned by:  
MICHAEL KERNER  
92E56D607FC64F2...

Its: \_\_\_\_\_  
It's managing member

10/3/2022  
DATED: Sept. \_\_\_\_\_, 2022

**Concierge Senior Living, LLC**

By: \_\_\_\_\_  
DocuSigned by:  
Scott Winans  
6DCE9490C10A406...

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