

SETTLEMENT AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS

This Settlement Agreement and General Release of All Claims (“Settlement Agreement”) is entered into by and between Sydney Rangel (“Plaintiff”), on the one hand, and Westmont Living, Inc. and Fresno Operations, LP (“Defendants”), on the other hand, as full and complete settlement and compromise of the within matters, agree to the terms and conditions set forth herein.

WHEREAS, Plaintiff is a former employee of Fresno Operations, LP; and

WHEREAS, on or around July 29, 2020, Plaintiff filed a Complaint for class and representative action against Defendants, titled *Sydney Rangel v. Westmont Living, Inc. et al.*, in San Luis Obispo County Superior Court, and assigned Case No. 20CVP-0242, alleging claims arising out of and relating to her employment (the “Action”), including class claims and representative claims under the Labor Code Private Attorneys General Act of 2004 (“PAGA”), alleging various violations of the California Labor Code, Industrial Welfare Commission Wage Order, and California Business and Professions Code; and

WHEREAS, on or around November 17, 2020, the Superior Court granted Defendants’ motion to compel arbitration and entered an order staying Plaintiff’s class and representative claims pending the arbitration of her individual claims; and

WHEREAS, Defendants deny all claims asserted in the Action and deny any other alleged wrongful or unlawful conduct, claim, damage, or liability of any kind with regard to Plaintiff, or in any other manner, or at all; and

WHEREAS, the Parties have had sufficient time and opportunity to evaluate the merits of their respective positions and have agreed to settle all of Plaintiff’s claims, on the terms and in the manner set forth in this Settlement Agreement;

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions set forth below, and as full and complete compromise and settlement of any and all claims, causes of action, and primary rights including but not limited to the Claims and right to assert penalties under PAGA, the Parties agree as follows:

I. SETTLEMENT SUM

1. In consideration of this Settlement Agreement and Plaintiff complying with its terms, Defendants agree to pay Plaintiff Eighty-Five Thousand Dollars (\$85,000), which shall be referred to herein as the “Settlement Amount,” as follows:

a. Nine Thousand Eight Hundred and Forty-Two Dollars and Twenty Cents (\$9,842.20), less all applicable federal, state, and local taxes and withholding, shall be made payable to “Sydney Rangel” as wage-based compensatory damages, for which a W-2 shall be issued;

b. Thirty-Nine Thousand Three Hundred and Sixty-Eight Dollars and Eighty Cents (\$39,368.80) shall be made payable to “Sydney Rangel” for all other damages, interest, penalties, for which the applicable 1099 shall be issued;

c. Thirty-Five Thousand Seven Hundred and Eighty-Nine Dollars (\$35,789.00) shall be made payable to "Sutton Hague Law Corporation, P.C." for attorneys' fees and costs for which the applicable 1099s shall be issued.

All checks shall be delivered to counsel for Plaintiff, specifically to the law offices of Sutton Hague Law Corporation, P.C., 5200 N. Palm Ave., Suite 203, Fresno, California 93704.

2. Defendants will pay the Settlement Amount within fifteen (15) days after all of the following occur: (i) execution of this Settlement Agreement by both Parties; (ii) receipt of a Form W-9 from Plaintiff and Plaintiff's counsel; and (iii) the PAGA settlement has been approved by the Court and the time to appeal the order approving the PAGA settlement has lapsed. This Settlement Agreement is expressly conditioned on the Court granting approval of the PAGA Settlement Agreement attached hereto as "Exhibit A." **Should the Court refuse or fail to grant approval of the PAGA Settlement Agreement attached hereto, this Settlement Agreement shall be null and void.**

3. As long as Plaintiff directs future employers to Defendants' Human Resources Department, Defendants agree to respond to all inquiries from prospective employers of Plaintiff with a neutral reference consisting of only: (1) Plaintiff's dates of employment; and (2) Plaintiff's job title at the time of separation.

4. Plaintiff acknowledges and agrees that Defendants and their attorneys, officers, directors, employees, agents and representatives have not made any representations regarding the tax consequences of any amounts paid in accordance with this Settlement Agreement. Plaintiff agrees to pay, and to be solely responsible for, any and all State, local and federal taxes, if any, which are required by applicable law to be paid with respect to the Settlement Amount and/or this Settlement Agreement that is determined to be owed by Plaintiff other than payroll taxes withheld pursuant to section I.1.a above and Defendants' share of payroll taxes as required by law. Plaintiff agrees that in the event that some federal, state or local agency takes the position that taxes should have been withheld from amounts paid pursuant to this Settlement Agreement, that she will be responsible for payment of any such alleged tax obligations and will indemnify and hold Released Persons harmless from any resulting tax liability, interest, attorneys' fees, or penalty associated therewith.

5. Plaintiff acknowledges and agrees that the Settlement Amount is being paid in exchange for her agreement to this Settlement Agreement, including but not limited to Plaintiff's agreement to waive and release the Released Claims as set forth in this Settlement Agreement, and that Plaintiff would not be entitled to payment of the Settlement Amount otherwise. Plaintiff further understands and agrees that the Settlement Amount includes any wages, expenses or other amounts which Plaintiff claims or may claim are due and owing to Plaintiff by Defendants as a result of her employment with Defendants. Plaintiff acknowledges and agrees that none of the terms contained herein are in violation of California Labor Code section 206.5.

6. Plaintiff acknowledges and agrees that any and all matters, claims, primary rights, and causes of action arising on or before the date of this Settlement Agreement which Plaintiff has, has had, may have or may have had against the Released Persons (as described below), including but not limited

to the Released Claims (as described below), are hereby fully compromised and settled and Plaintiff shall not recover any future payments from Defendants related to her employment or the termination thereof.

II. GENERAL RELEASE OF CLAIMS

7. Plaintiff waives and releases Defendants and each of their owners, shareholders, members, parent corporations or entities, sister corporations or entities, related and/or affiliated entities, subsidiaries, divisions, investors, partners, general partners, limited partners, directors, officers, employees, managers, supervisors, assigns, heirs, beneficiaries, predecessors, successors, attorneys, agents, and representatives, and all others related to them, and each of them (collectively, the “Released Persons”), from any and all rights, claims, causes of action, primary rights, demands, liabilities, obligations, contracts, damages, penalties, complaints, charges, grievances, and duties, whether legal, equitable or contractual, asserted or not asserted, known or unknown, suspected to exist or not suspected to exist, which Plaintiff now has, may have, claims to have or may claim to have against the Released Persons, or any of them, arising prior to or on the date of this Settlement Agreement.

This release includes without limiting the generality of the foregoing any and all claims, demands, causes of actions, obligations, charges, liabilities, attorneys’ fees, costs, actual, compensatory and punitive damages, and all claims for any other type of relief relating to, arising out of, or based upon: all claims based on tort and/or breach of contract, whether written or oral, express or implied, and any covenant of good faith and fair dealing; all claims for unpaid wages, commissions, or other benefits, including minimum wage, regular, overtime, double time, vacation, associated penalties and/or premiums, and expense reimbursement; all claims for rest or meal periods and associated penalties and/or premiums; all claims for inaccurate wage statements; all claims for the alleged failure to pay all wages at separation; all claims for failure to timely provide documents for review and/or inspection; any claim for unlawful or unfair business practices; all claims of harassment, discrimination, and/or retaliation in violation of State or Federal law; all claims for failure to accommodate and/or failure to engage in the interactive process; violations, interference with and/or retaliation for requesting and taking a leave of absence under state or Federal law; all claims of violation of public policy, including a claim for wrongful and/or constructive termination of employment; all claims for fraud or misrepresentation; all claims for emotional distress; and any and all claims generally relating to Plaintiff’s employment with Defendants and the cessation thereof, including any alleged violation of any federal, state or other governmental statute, regulation, ordinance, or executive order, including without limitation (collectively, “the Released Claims”):

- (1) The Civil Rights Acts of 1866, 1964, and 1991, as amended;
- (2) 42 U.S.C. § 1981;
- (3) The California Fair Employment and Housing Act;
- (4) Section 503 of the Rehabilitation Act of 1973;
- (5) The Fair Labor Standards Act (including the Equal Pay Act);
- (6) The California and United States Constitutions;
- (7) The California Labor Code, specifically including, but not limited to the Private Attorneys General Act pursuant to Labor Code § 2699, et seq.;
- (8) The California Government Code, specifically including, but not limited to the Fair

Employment and Housing Act pursuant to Government Code § 12900, et seq.;

- (9) The California Business and Professions Code;
- (10) The Employee Retirement Income Security Act, as amended;
- (11) The California Family Rights Act;
- (12) The Americans with Disabilities Act;
- (13) The Family Medical Leave Act;
- (14) The California Pregnancy Discrimination Act;
- (15) The Age Discrimination in Employment Act of 1967
- (16) The California Wage Orders;
- (17) The National Labor Relations Act;
- (18) The Immigration Reform and Control Act;
- (19) The California Occupational Safety and Health Act, or the Federal equivalent; and
- (20) The Worker Adjustment and Retraining Notification Act.
- (21) The Older Workers' Benefits Protection Act; and
- (22) The Families First Coronavirus Response Act.

Defendants believe they paid all wages owed to Plaintiff. To the extent Plaintiff believes any additional wages are owed, Plaintiff understands and agrees that this Settlement Agreement represents a settlement in good faith of a bona fide dispute regarding what wages, including overtime, penalties, or premiums if any, may be owed to Plaintiff, and that the promises and payments and consideration of this Settlement Agreement shall not be construed to be an admission of any liability of, or obligation owed by, Defendants to Plaintiff.

Notwithstanding this release or any other conflicting provision(s) of this Settlement Agreement, Plaintiff understands that: (a) nothing in this Settlement Agreement is intended to limit or shall limit Plaintiff's ability to file a charge or complaint with any federal, state or local governmental agency or commission (collectively, "Government Agencies"); and (b) this Settlement Agreement is also not intended to and does not limit Plaintiff's ability to communicate with any Government Agencies or otherwise participate in any investigation or proceeding that may be conducted by any Government Agency, including by providing documents or other information, without notice to Defendants, and without waiving any right to receive an award for providing any such documents or information. However, Plaintiff acknowledges and agrees that she would not be eligible to receive any additional payment from any of the Released Parties as a result of any such charge or complaint. Specifically excluded from this release are any claims arising under applicable Worker's Compensation law.

8. Plaintiff also agrees not to sue any or all of the Released Persons in any forum for any claim covered by the waivers and releases this Settlement Agreement. If Plaintiff violates this Settlement Agreement by suing the Released Persons after the Effective Date of this Settlement Agreement, for the claims released in this Settlement Agreement, Plaintiff shall be liable to such Released Persons for their reasonable attorneys' fees and other litigation costs incurred in defending against such a lawsuit.

9. Plaintiff has read and understands the following statutory language of Section 1542 of the California Civil Code:

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

Having been so apprised, Plaintiff elects to waive the benefits of Section 1542, and further elects to and does assume all risks for any and all claims, whether known or unknown, suspected or not suspected, arising from the subject matter of this Settlement Agreement, including but not limited to the Released Claims, and knowingly and voluntarily releases the Released Persons from any and all liability and claims arising out of such matters.

10. Plaintiff represents and warrants that Plaintiff has not sold, assigned, transferred, subrogated or otherwise disposed of any interest in the Released Claims, or any of them, and Plaintiff agrees to indemnify, defend and hold harmless the Released Persons, and each of them, from any and all liability and claims arising out of any such sale, assignment, transfer, subrogation, or other disposition.

III. GENERAL

11. Except as otherwise provided in this Settlement Agreement (*and except as provided in paragraph 12 and/or except as required under applicable law*), neither Plaintiff nor Plaintiff's counsel, agents or assigns will hereafter, without compulsion of legal process, disclose to others, either directly, indirectly or by implication, the terms of this Agreement, the amounts referred to in this Agreement (either by specific dollar amounts, by number of “figures,” or otherwise), or the fact of the payment of said amount, except that Plaintiff may disclose such information to her spouse, or to her attorneys, accountants or other professional advisors to effect the purposes for which they have been consulted, or where disclosure is required by law. Any person or entity to whom Plaintiff is permitted to and in fact discloses the terms or amounts referred to in this Agreement, other than where a disclosure is required by law, must be notified of and agree to the terms of this confidentiality provision. In the event that Plaintiff believes she is legally obligated by compulsion of legal process to make a disclosure as to the terms or amounts referred to in this Agreement, she shall, within five (5) business days provide written notification to Defendants' counsel as follows: Christopher Hoffman, Fisher & Phillips LLP, 4747 Executive Drive, #1000, San Diego, CA 92121; choffman@fisherphillips.com. If Defendants take any action to challenge such disclosure, Plaintiff shall defer making such disclosure until the challenge is finally resolved.

12. *Notwithstanding anything in this Settlement Agreement to the contrary, nothing in this Agreement shall prevent Plaintiff's disclosure of factual information related to a claim filed in a civil action or a complaint filed in an administrative action regarding any of the following:* (1) An act of sexual assault that is not governed by subdivision (a) of Section 1002; (2) An act of sexual harassment, as defined in Section 51.9 of the Civil Code; (3) An act of workplace harassment or discrimination, failure to prevent an act of workplace harassment or discrimination, or an act of retaliation against a person for reporting or opposing harassment or discrimination, as described in subdivisions (a), (h), (i), (j), and (k) of Section 12940 of the Government Code; and/or (4) An act of harassment or discrimination, or an act of retaliation against a person for reporting harassment or discrimination by the owner of a housing accommodation, as

described in Section 12955 of the Government Code.

13. Plaintiff agrees and promises that she will not make any unlawfully defamatory, libelous, or slanderous statements, as defined in California Civil Code section 43 *et seq.*, regarding any of the Released Persons. To the extent permitted by law, Plaintiff agrees that she will not counsel or assist any attorneys or clients in the presentation or prosecution of any disputes and/or differences by any third party against the Released Persons unless pursuant to a lawfully issued subpoena or other order by a court or agency of competent jurisdiction. Plaintiff further agrees to give Defendants' counsel notice within five (5) business days of receipt of a subpoena or other order by court or agency pursuant to this Paragraph. Nothing herein shall be construed to limit Plaintiff's right to file a charge of discrimination with, or to communicate with, or to participate in an investigation or action conducted by, the Equal Employment Opportunity Commission ("EEOC") or any similar state or local administrative fair employment practices agency, and nothing in this Settlement Agreement shall be construed to prohibit such action by Plaintiff or to interfere with the statutory duties and/or authority of such agencies. However, Plaintiff expressly waives any and all rights or entitlement to any type of relief or recovery (including monetary damages, awards, or incentives, penalties, injunctive relief, reinstatement, etc.) in connection with any such claim, complaint, charge, action, proceeding and/or investigation brought against the Released Persons from any of the Released Persons, regardless of who files, initiates, or pursues any claim, complaint, charge, action, proceeding, and/or investigation as described in this Paragraph, except that this limitation on monetary recovery will not apply to proceedings as otherwise provided for by current applicable law. Nothing in this Settlement Agreement is intended to prevent Plaintiff from testifying about alleged criminal conduct or alleged harassment or discrimination by the Defendants or their agents or employees in an administrative, legislative, or judicial proceeding if she is requested to attend the proceeding pursuant to a court order, subpoena, or written request from an administrative agency or the legislature.

14. Plaintiff declares that, before signing this Settlement Agreement, Plaintiff had an opportunity to consult with attorneys of Plaintiff's own choosing, and to be apprised of sufficient relevant information, both through experts, attorneys or other sources of Plaintiff's own selection, in order that Plaintiff might intelligently exercise Plaintiff's own judgment in deciding whether to execute, and in deciding on the contents of, a release, compromise and settlement of the Released Claims.

15. Plaintiff acknowledges that a breach of the covenants set forth in Paragraphs 11 and 13 of this Settlement Agreement will cause substantial harm to the Released Persons, including but not limited to the cost of prosecuting any claims and lawsuits against Plaintiff. Plaintiff also acknowledges that it is impossible for such harm to be calculated with any degree of certainty. Therefore, Plaintiff agrees that any proven breach by her or her obligations under Paragraphs 11, 14, and/or 15 of this Settlement Agreement shall entitle the Released Persons to liquidated damages in the sum of Two Thousand Five Hundred Dollars and Zero Cents (\$2,500.00) for each proven breach, as well as recovery of attorneys' fees and court costs suffered by the prevailing party.

16. Medical Bills, Liens, and Other Potential Rights for Reimbursement.

a. Responsibility for Satisfaction of All Liens. Plaintiff represents and warrants that all bills, costs or liens resulting from or arising out of Plaintiff's alleged injuries, claims and/or the Dispute are Plaintiff's responsibility to pay. Plaintiff agrees to assume responsibility for satisfaction of any and all demands for payment, claims or liens of any kind, that arise from or are related to

payments made or services provided to Plaintiff or on Plaintiff's behalf. Plaintiff agrees to assume responsibility for all expenses, costs or fees incurred by Plaintiff related to Plaintiff's alleged injuries, claims and/or the Dispute including without limitation, all Medicare conditional payments, subrogation claims, liens or other rights to payment, relating to medical treatment or lost wages that have been or may be asserted by any health care provider, insurer, governmental entity, employer or other person or entity. Further, Plaintiff will indemnify, defend and hold Released Persons harmless from any and all damages, claims and rights to payment, including any attorneys' fees, brought by any person, entity or governmental agency to recover any of these amounts only if they result from this Dispute.

b. Good Faith Resolution. This settlement is based upon a good faith determination of the Parties to resolve a disputed claim. The Parties have not shifted responsibility of medical treatment to Medicare in contravention of 42 U.S.C. Section 1395y(b). The Parties resolved this matter in compliance with both state and federal law. The Parties made every effort to adequately protect Medicare's interest and incorporate such in the settlement terms.

c. Representation that Plaintiff is Not a Medicare Beneficiary. Plaintiff warrants that she is not a Medicare Beneficiary as of the date of this Settlement Agreement. Because Plaintiff is not a Medicare recipient as of the date of this Settlement Agreement, no conditional payments have been made by Medicare.

d. Representation that No Medicare Conditional Payments Exist; Best Efforts to Obtain Confirmation. Plaintiff further represents and warrants that she is aware of no Medicare conditional payments that have been made on her behalf.

e. Agreement to Indemnify, Defend, and Hold Harmless. Plaintiff will indemnify, defend and hold Released Persons harmless from any and all claims, liens, Medicare conditional payments and rights to payment, resulting from this Dispute only. If any governmental entity, or anyone acting on behalf of any governmental entity, seeks damages including multiple damages from Released Persons relating to payment to such governmental entity, or to anyone acting on behalf of such governmental entity, relating to Plaintiff's alleged injuries, and/or claims resulting from this Dispute only, Plaintiff will defend and indemnify Released Persons and hold Released Persons harmless from any and all such damages, claims, liens, Medicare conditional payments and rights to payment, including any attorneys' fees sought by such entities.

17. Plaintiff declares that Plaintiff's decision to execute, and execution of, this Settlement Agreement is knowing, free and voluntary, and that Plaintiff's decision to enter into this Settlement Agreement was not based on or influenced by any declaration or representation of Defendants or their attorneys or agents which is not expressly set forth in this Settlement Agreement.

18. Each of the Parties to this Settlement Agreement shall bear all of their own costs, expenses and attorneys' fees incurred in connection with this Settlement Agreement, except to the extent that an award of attorneys' fees and/or costs is available to Plaintiff's Counsel under the PAGA Settlement Agreement attached hereto as "Exhibit A."

19. No part of this Settlement Agreement may be amended, modified or waived in any way unless such amendment, modification or waiver is set forth in a later writing signed by both Plaintiff and

Defendants. A modification, amendment or waiver of any one provision of this Settlement Agreement shall not be deemed to be a modification, amendment or waiver of any other provision of this Settlement Agreement.

20. The provisions of this Settlement Agreement shall be binding upon and inure to the benefit of each of the Parties and their respective successors and assigns.

21. Plaintiff and Defendants, and each of them, acknowledge and agree that this Settlement Agreement is a complete expression of all of their agreements and understandings concerning the subject matter hereof, and that any prior or contemporaneous agreements, understandings or representations of the Parties, whether express or implied, are no longer of any force and effect.

22. If a court of competent jurisdiction finally holds that any provision of this Settlement Agreement is invalid, illegal, or unenforceable, that holding shall not affect the validity of the other provisions of this Settlement Agreement, which shall remain in full force and effect, and this Settlement Agreement shall be construed as if the offending provision(s) had not been contained herein.

23. The laws of the State of California, without giving effect to its conflict of law provisions, shall govern any dispute, claim, action, or proceeding relating to or arising out of this Settlement Agreement.

24. To the extent that a dispute arises related to any breach of this Settlement Agreement or to enforce this Settlement Agreement, the prevailing party in such a dispute will be entitled to recovery of her or their reasonable costs and attorneys' fees.

25. The Parties agree that the San Luis Obispo County Superior Court shall retain jurisdiction of this matter to enforce the terms of the Settlement Agreement pursuant to California Code of Civil Procedure section 664.6 or to seek damages for breach of this Settlement. This document shall be admissible evidence, without any objection, to enforce it, and it is admissible pursuant to Evidence Code section 1123.

26. This Settlement Agreement may be executed in counterparts and each counterpart, when executed, shall have the efficacy of a second original. Electronic or facsimile copies of any such signed counterparts may be used in lieu of the original for any purpose.

AGREED:

Dated: 1/11/2022, 2021

By: SYDNEY RANGEL

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Sydney Rangel

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Dated: 1/12/2022
_____, 2021

By: WESTMONT LIVING, INC.

DocuSigned by:

Andy Plant

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Name: Andy Plant

Title: Co-Manager of GP

Dated: 1/12/2022
_____, 2021

By: FRESNO OPERATIONS, LP

DocuSigned by:

Andy Plant

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Name: Andy Plant

Title: Co-Manager of GP