

PAGA SETTLEMENT AGREEMENT

This Settlement Agreement ("Settlement" or "Agreement") is made and entered into between Plaintiff Felix De La Rosa Fuentes ("Plaintiff"), acting in a Private Attorney General capacity and on behalf of the State of California, and Defendant La Jolla Beach and Tennis Club Partners, L.P. ("Defendant").

I. DEFINITIONS

The following terms, when used in this Settlement, shall have the following meanings:

1. "Action" means Plaintiff's sole remaining Cause of Action under the Private Attorneys' General Act of 2004 ("PAGA") pursuant to California Labor Code section 2699, *et seq.* alleged in the case entitled *Felix De La Rosa Fuentes v. La Jolla Beach and Tennis Club Partners L.P.*, San Diego County Superior Court, Case No. 37-2020-0045980-CU-OE-CTL.

2. "Aggrieved Employees" means all current and former hourly, non-exempt employees of Defendant La Jolla Beach and Tennis Club Partners L.P. who worked in California at any time from December 15, 2019 through December 31, 2021.

3. "Defendant" means La Jolla Beach & Tennis Club Partners, L.P.

4. "Complaint" means the Complaint entitled *Felix De La Rosa Fuentes v. La Jolla Beach and Tennis Club Partners L.P.*, San Diego County Superior Court, Case No. 37-2020-0045980-CU-OE-CTL, filed on December 15, 2020.

5. "Court" means the Superior Court of California for the County of San Diego.

6. "Effective Date" means the date upon entry of an Order and Judgment by the Court approving this Settlement.

7. "Individual PAGA Payment" means the amount to be paid to each Aggrieved Employee based on the formula described herein.

8. "LWDA" means the California Labor and Workforce Development Agency.

9. "Gross Settlement Amount" is the non-reversionary sum of Two Hundred Seventy Thousand Dollars and Zero Cents (\$270,000.00), which represents the total amount payable under this Settlement by Defendant (unless the Gross Settlement Amount is increased pursuant to Paragraph III.3. below), including, without limitation, payments to all Aggrieved Employees, payment to the LWDA, payment of Plaintiff's Counsel's fees and costs, payment of Plaintiff's enhancement award and payment to the Settlement Administrator for administration costs.

10. "Net Settlement Amount" is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts (if approved by the Court) are subtracted from the Gross Settlement Amount: (a) Plaintiff's Counsel's fees up to one-third of the Gross Settlement Amount [(currently estimated at Ninety Thousand Dollars and Zero Cents (\$90,000.00))] including one-third of any increase to the Gross Settlement Amount pursuant to Paragraph III.3 below; (b)

Plaintiff's verified costs up to \$30,000.00; (c) Plaintiff's enhancement award in an amount not to exceed \$5,000.00; and (d) administration costs in an amount not to exceed \$4,000.00.

11. "PAGA" means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

12. "PAGA Period" means the time period from December 15, 2019 through December 31, 2021.

13. "Released Parties" means Defendant and its former, present and future owners, parents, subsidiaries, and all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns, accountants, insurers, or legal representatives.

14. "PAGA Released Claims" means any and all claims, rights, demands, liabilities and causes of action for civil penalties under Plaintiff's Cause of Action for violations of the Labor Code Private Attorneys General Act ("PAGA"), Labor Code § 2698 *et seq.* pled in the operative Complaint in the Action, or civil penalties under Plaintiff's Cause of Action for PAGA that could be brought based on the factual allegations in the operative Complaint in the Action, that arose during the PAGA Period, including any related claims for attorneys' fees, costs, or interest resulting therefrom ("Released Claims"). The Released Claims herein does not release the Released Parties from any underlying Labor Code violations upon which Plaintiff's Cause of Action for PAGA is based.

15. "Parties" mean Plaintiff and Defendant, collectively.

16. "Plaintiff" means Felix De La Rosa Fuentes.

17. "Plaintiff's Counsel" means Scott M. Lidman, Elizabeth Nguyen, and Milan Moore of Lidman Law, APC; and Paul K. Haines of Haines Law Group, APC.

18. "Settlement Administrator" means Simpluris.

II. RECITALS

1. On December 15, 2020, Plaintiff filed the Action a class action complaint against Defendant alleging claims for: (1) failure to pay all overtime wages owed; (2) failure to pay all minimum wages owed; (3) failure to provide meal periods; (4) failure to authorize and permit rest periods; (5) failure to provide accurate, itemized wage statements; (6) failure to pay all wages upon termination of employment; and (7) unfair competition.

2. On December 15, 2020, Plaintiff provided written notice to the LWDA and Defendant asserting claims for civil penalties pursuant to the PAGA stemming from alleged violations of the California Labor Code described in Paragraph 1 above.

3. On February 22, 2021, Plaintiff filed a First Amended Complaint adding to the Action a cause of action under the PAGA.

4. On March 5, 2021, pursuant to a request by Plaintiff, the Court dismissed without prejudice all of the class and individual claims in the Action, except for the Eighth Cause of Action seeking civil penalties. As of the date of this Agreement, the Eighth Cause of Action under the PAGA is the only remaining claim in the Action.

5. During the pendency of the Action, the Parties engaged in an informal discovery exchange prior to mediation. In response to Plaintiff's Counsel's informal discovery requests, Defendant provided Plaintiff's Counsel with information and documents pertaining to Plaintiff and other Aggrieved Employees and the claims in the Action in order for Plaintiff's Counsel to investigate Plaintiff's allegations and value the PAGA claim, including payroll data.

6. On November 30, 2021, the Parties participated in a full-day mediation before mediator Tripper Ortman, Esq., at which time the Parties were able to fully and finally resolve, subject to Court approval, the PAGA Released Claims as to Plaintiff and the Aggrieved Employees.

III. OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

1. **Non-Admission.** Nothing in this Settlement shall be construed to be an admission by Plaintiff that his claims do not have merit or by Defendant of any liability or wrongdoing as to Plaintiff, Aggrieved Employees, or any other person, and Defendant specifically disclaims any such liability or wrongdoing. The Parties have entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement and any related court documents or orders are not and may not be cited or admitted as evidence of liability.

2. **Gross Settlement Amount.** Defendant shall pay Two Hundred Seventy Thousand Dollars and Zero Cents (\$270,000.00) as the **non-reversionary** Gross Settlement Amount (unless the Gross Settlement Amount is increased pursuant to Paragraph III.3. below). Defendant shall deposit the Gross Settlement Amount with the Settlement Administrator by no later than thirty (30) calendar days of Court approval of the Settlement. The Settlement Administrator shall hold all portions of the Gross Settlement Amount in an interest-bearing account for the benefit of the Aggrieved Employees until the time for disbursement. The releases identified herein shall be null and void if Defendant fails to fully fund the Gross Settlement Amount.

3. **Escalator Clause.** Defendant represents that there are an estimated 14,472 pay periods worked by the Aggrieved Employees during the PAGA Period of December 15, 2019 through December 31, 2021. If the total number of pay periods exceeds 14,472 by more than ten percent (i.e., more than 15,919.2), then the Gross Settlement Amount shall be increased by the same percentage by which the number of pay periods exceeds 15,919.2.

4. **Net Settlement Amount.** The Parties agree that the following amounts should be subtracted from the Gross Settlement Amount, subject to Court approval, resulting in a Net Settlement Amount to distribute to the LWDA and Aggrieved Employees:

a. **Plaintiff's Attorneys' Fees and Costs.** Defendant will not oppose Plaintiff's request for attorneys' fees in the amount up to one-third (1/3) of the Gross Settlement Amount

(currently estimated to be \$90,000.00) including one-third (1/3) of any increase to the Gross Settlement Amount, if applicable, pursuant to Paragraph III.3 above. Defendant will not oppose Plaintiff's request for costs incurred in prosecuting this Action in amount not to exceed \$30,000.00. In the event the Court approves a payment of less than these amounts, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for attorneys' fees and costs). If the Court believes the attorneys' fees and/or costs should be reduced, the other terms of this Settlement will remain in effect and enforceable, and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. The Settlement Administrator will report these payments on IRS Form 1099 issued to Plaintiff's Counsel.

b. Plaintiff's Enhancement Award. Defendant will not oppose Plaintiff's request for an enhancement award in the amount of \$5,000.00 for his service to the LWDA and the Aggrieved Employees, and the risk he undertook by attaching his name to the Action. In the event the Court approves a payment of less than the requested amount, the difference will be added to the Net Settlement Amount (although Plaintiff may appeal an order granting less than the full amount sought for Plaintiff's enhancement award). If the Court believes the enhancement award should be reduced, the other terms of the Settlement will remain in effect and enforceable, and any such reduction will not affect the remaining terms, other than adjusting the Net Settlement Amount. The Settlement Administrator will report this payment on IRS Form 1099 issued to Plaintiff.

c. Administration Costs. The Parties agree that the Administration Costs shall be paid from the Gross Settlement Amount, currently estimated to be \$4,000.00, for administering the Settlement. The Settlement Administrator will report this payment on IRS Form 1099 issued to the Settlement Administrator.

5. Allocation of Net Settlement Amount. The Net Settlement Amount shall be distributed pursuant to Labor Code § 2699(i) as follows:

- a. 75% of the Net Settlement Amount shall be distributed to the LWDA;
- b. 25% of the Net Settlement Amount shall be paid to Aggrieved Employees. This portion of the Net Settlement Amount shall be paid to all Aggrieved Employees pro rata based on the proportional number of pay periods worked by each Aggrieved Employee during the PAGA Period.

This paragraph regarding allocation is based on the Parties' collective understanding that all payments from the Net Settlement Amount will be considered "penalties" and that there will no employer-side tax consequence to Defendant as a result of an allocation of the penalty amount being wages. If the Parties later determine otherwise, they will meet and confer regarding changes to this allocation provision. The Parties agree that should the Court deny approval of the Settlement based on the allocation of the Net Settlement Amount, the Parties agree to re-negotiate in good faith in an effort to obtain approval of the Settlement.

6. Representative PAGA Release. In his capacity as a Private Attorney General or "aggrieved employee" acting on behalf of himself, the State of California and Aggrieved Employees, and in consideration of the enhancement award awarded to him, Plaintiff hereby

releases Defendant and Released Parties, from any and all of the PAGA Released Claims that arose during the PAGA Period.

7. **No Right to Opt-Out.** The Parties agree that there is no statutory right for any Aggrieved Employee to opt-out or otherwise exclude himself or herself from the Settlement.

8. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.**

a. Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer, to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement.

b. Plaintiff acknowledges that he has read this Settlement, that he fully understands his rights, privileges and duties under the Settlement, and enters into this Settlement freely and voluntarily, and without duress. Plaintiff further acknowledges that he had the opportunity to consult with his attorneys to explain the terms of this Settlement and the consequences of signing this Settlement.

9. **Termination of Settlement.** If the Court does not approve the Settlement, if the Court does not enter judgment, as provided for in this Settlement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or, except as otherwise set forth herein, if one or more of the terms of the Settlement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within ten (10) days of written notice thereof to elect to terminate the Settlement, in which case the Settlement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of the Settlement and prior to the execution of the Memorandum of Understanding of PAGA Settlement.

10. **Judgment.** As part of the Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement and retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement. This Settlement is expressly conditioned upon the Court entering judgment as set forth herein. The judgment will not release or bar any claims other than the PAGA Released Claims as to Plaintiff and Aggrieved Employees.

IV. ADMINISTRATION OF SETTLEMENT

1. **Settlement Administrator.** The Parties agree to use Simpluris to handle the administration of this Settlement.

2. **Provision of Information for Aggrieved Employees.** Within ten (10) business days of the court signing the approval order, Defendant shall provide the Settlement Administrator with information for Aggrieved Employees. Defendant will in good faith compile from its records a list of Aggrieved Employees that will be in a computer-readable format, such as a Microsoft Excel spreadsheet, and shall include each Aggrieved Employee's full name, last known mailing address, total number of pay periods worked during the PAGA Period or dates of employment, and Social Security number. The list shall also include the sum total of all pay periods worked by Aggrieved Employees during the PAGA Period. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in the highest of confidence, and access

shall be limited to those with a need to use the list as part of the administration of the Settlement and none of the information contained in the list shall be disclosed to third Parties or to Plaintiff's Counsel without the express written consent of counsel for Defendant.

Within seven (7) business days of receiving the Aggrieved Employees' information from Defendant, the Settlement Administrator will circulate to counsel for both Parties an anonymized spreadsheet containing the estimated individual settlement payments to each Aggrieved Employee and the data used to calculate said payments. The Settlement Administrator shall also determine whether the Escalator Clause in Section III.3 has been triggered and, if so, Defendant shall make its election as to how to proceed under said clause. The Settlement Administrator shall obtain approval from all counsel of the calculations before mailing Individual PAGA Payments.

3. **Explanatory Letter and Individual PAGA Payments.** Upon receipt of the information for Aggrieved Employees, the Settlement Administrator will perform a search on the National Change of Address database to update the Aggrieved Employees' addresses.

Within two (2) business days of receiving approval from counsel of the payment calculations as provided above, the Settlement Administrator shall mail copies of the explanatory letter, which has been mutually approved by the Parties and is attached hereto as **Exhibit A**, in English, along with Individual PAGA Payments to all Aggrieved Employees via regular First-Class U.S. Mail.

The Settlement Administrator will calculate the amount to be received by each Aggrieved Employee, which will be based on the formula set forth in Section III.5., *supra*. The Settlement Administrator will send each Aggrieved Employee a check for his or her Individual PAGA Payment along with the explanatory letter. Checks will remain negotiable for 180 days. Each Individual PAGA Payment shall be deemed penalties/interest and reported using IRS Form 1099.

4. **Undeliverable Notices/Payments.** The Settlement Administrator shall exercise its best judgment to determine the current mailing address for each Aggrieved Employee. The address identified by the Settlement Administrator as the current mailing address shall be presumed to be the best mailing address for each Aggrieved Employee.

Any checks returned as non-deliverable on or before the check cashing deadline will be re-sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace or other search using the name, address or Social Security number of the Aggrieved Employee involved and will perform a single re-mailing after which any returned checks will be deemed undeliverable.

The Settlement Administrator shall maintain a list of the postmark date for the original mailing of the Individual Settlement Payment(s) to the Aggrieved Employees, the postmark date of any subsequent mailing to any the Aggrieved Employees, and a list of Aggrieved Employees who did not receive the Individual Settlement Payment due to the inability to locate a valid address using the procedures described herein or who otherwise could not be located within two attempts at mailing.

Defendant fully discharges its obligations to those Aggrieved Employees to whom they will pay an Individual PAGA Payment through the mailing of a check, regardless of whether such

checks are actually received and/or negotiated by Aggrieved Employees. Funds represented by checks returned as undeliverable after a re-mailing, and funds represented by checks remaining un-cashed for more than 180 days after issuance, will be tendered to the State Controller's Office pursuant to the Unclaimed Property Law, California Civil Code § 1500, *et. seq.* for the benefit of and in the name(s) of the Aggrieved Employees to whom the checks were issued but whom did not cash the checks. The unclaimed checks shall remain in the unclaimed property fund in the name of the Aggrieved Employee until such time that they claim their property (the Individual Settlement Payment), or the property is otherwise disposed of pursuant the Unclaimed Property Laws.

5. **Payment of Remainder.** Within two (2) business days of receiving approval from counsel of the payment calculations, the Settlement Administrator will distribute the following additional payments: (1) the 75% share of the Net Settlement Amount to the LWDA; (2) Court-approved attorneys' fees and costs to Plaintiff's Counsel; (3) Court-approved enhancement award to Plaintiff; and (4) Court-approved administration costs to the Settlement Administrator.

6. **Accounting.** Within fifteen (15) business days of receiving approval from counsel of the payment calculations, the Settlement Administrator will provide an accounting under oath to the Parties of the amounts paid from the Settlement. The Settlement Administrator shall provide a further such accounting under oath, upon request, after the conclusion of the 180-day check cashing period.

7. **Tax Consequences.** Individual PAGA Payments made under this Settlement will be attributed 100% as penalties and interest and paid via IRS Form 1099 issued to each Aggrieved Employee. No later than January 31 of the year following payment of their individual portion of the PAGA Payment, the Settlement Administrator will prepare and issue IRS Form 1099s to Aggrieved Employees who received a payment. Neither Plaintiff nor Defendant, nor counsel for either of the Parties, makes any representations or warranties with respect to tax consequences of any payment under this Settlement.

V. MISCELLANEOUS PROVISIONS

1. **Mutual Preparation and Drafting.** The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement. The Parties agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arm's-length negotiations between the Parties and that neither Plaintiff nor Defendant shall be considered the "drafter" of this Settlement for purposes of having terms construed against that Party. This Settlement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement.

2. **Successors.** This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, assigns, administrators and successors.

3. **Costs and Fees.** The Parties shall each bear their own costs, attorneys' fees, expert fees, mediator fees, and other fees incurred in connection with this Settlement, the Action and Plaintiff's claims, except as otherwise set forth specifically herein.

4. **Governing Law.** This Settlement shall be construed under and governed by the laws of the State of California. This Settlement shall be deemed to have been entered into in the County of San Diego, California, and all questions of validity, interpretation or performance of any of its terms or of any rights or obligations of the Parties to this Settlement shall be governed by California law. If any legal or equitable action is necessary to enforce the terms of this Settlement, it shall be brought in the State of California, County of San Diego.

5. **Complete Agreement.** The Parties each acknowledge and represent that no promise or representation not contained in this Settlement has been made to them and acknowledge and represent that this Settlement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the PAGA Released Claims in the Action. This Settlement cannot be amended or modified except by a writing signed by the Parties hereto.

6. **Nullification of Settlement.** In the event that: (i) after good faith efforts to amend or modify the Agreement for Court approval the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions unless otherwise required under this Agreement.

7. **Judgment and Continued Jurisdiction.** After approval of this Settlement, the Court will have continuing jurisdiction solely for purposes of addressing: (i) the interpretation and enforcement of the terms of the Settlement, (ii) settlement administration matters, and (iii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement. Plaintiff will submit a proposed judgment in conformity with this Agreement to be entered by the Court, which shall constitute a final and binding resolution of the claims in the Action.

8. **Authorization to Enter into Settlement.** The signatories hereto represent that they are fully authorized to enter into this Settlement. The Parties and their counsel will cooperate with each other and use their best efforts to effect the implementation of the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

9. **Execution and Counterparts.** This Settlement is subject only to its execution by all Parties. However, the Settlement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile, electronic signatures, and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange a fully executed Agreement. The Parties also agree that a facsimile, electronic, or scanned copy of the fully executed Agreement shall have the same force and effect as an original signed Agreement.

10. **Acknowledgement that the Settlement is Fair and Reasonable.** The Parties believe this Settlement is a fair, adequate and reasonable settlement of the Action, and have arrived at this Settlement after arm's-length negotiations by experienced counsel and with the assistance of an experienced mediator. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

11. **Invalidity of Any Provision.** Before declaring any provision of this Settlement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement valid and enforceable.

12. **Severability.** If any term or provision of this Settlement is held to be invalid or unenforceable, the remaining portions of this Settlement will continue to be valid and will be performed, construed and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

13. **Waiver.** No waiver of any condition or covenant contained in this Settlement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right or remedy.

14. **Representation by Counsel.** The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement, and this Settlement has been executed with the consent and advice of counsel and reviewed in full.

15. **Enforcement Action.** The Parties hereby agree this Agreement is enforceable under Code of Civil Procedure section 664.6, so as to allow the Parties to enforce the terms of their settlement until performance has been made in full. In the event that one more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement Agreement or to declare rights and/or obligations under this Settlement Agreement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness fees incurred in connection with any enforcement actions

IN WITNESS THEREOF, the Parties each acknowledge that they have read the foregoing Settlement, accept and agree to the provisions contained in this Settlement and hereby execute it voluntarily and with full understanding of its consequences.

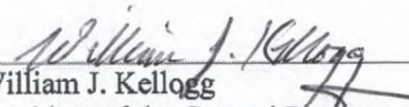
APPROVED AS TO FORM AND CONTENT:

Dated: January 9, 2022


Felix Delarosa Fuentes (Jan 9, 2022 12:47 PST)
Felix De La Rosa Fuentes, Plaintiff

Dated: January 3, 2022

**LA JOLLA BEACH AND TENNIS CLUB
PARTNERS, L.P.**

By: 
William J. Kellogg
President of the General Partner

APPROVED AS TO FORM:

Dated: January 10, 2022

LIDMAN LAW, APC

By: 

Scott M. Lidman

Attorneys for Plaintiff, Felix De La Rosa Fuentes

Dated: January 10, 2022

HAINES LAW GROUP, APC

By: 

Paul K. Haines

Attorneys for Plaintiff, Felix De La Rosa Fuentes

Dated: January 3, 2022

**PAUL, PLEVIN, SULLIVAN &
CONNAUGHTON LLP**

By: 

Aaron A. Buckley

Attorneys for Defendant, La Jolla Beach and
Tennis Club Partners, L.P.

EXHIBIT A

NOTICE OF PAGA SETTLEMENT AND RELEASE OF CLAIMS

Felix De La Rosa Fuentes v. La Jolla Beach and Tennis Club Partners L.P.
San Diego County Superior Court Case No. 37-2020-0045980-CU-OE-CTL

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I. NOTICE OF PAGA SETTLEMENT

The San Diego County Superior Court (the "Court") has approved a settlement in the above-captioned action filed by Felix De La Rosa Fuentes ("Plaintiff") on behalf of himself and all other aggrieved employees.

In this lawsuit, Plaintiff is seeking to recover civil penalties for alleged violations of the California Labor Code on behalf of the California Labor and Workforce Development Agency ("LWDA") and other aggrieved employees under the California Private Attorneys General Act (the "PAGA"). These civil penalties are based on Plaintiff's allegations that La Jolla Beach and Tennis Club Partners, L.P. ("LJBT"): (i) failed to pay all overtime wages owed; (ii) failed to pay all minimum wages owed; (iii) failed to provide legally compliant meal periods; (iv) failed to provide accurate, itemized wage statements; and (v) failed to timely pay upon termination of employment; and as a result is liable for civil penalties under the PAGA.

The Court has **not** made a determination about the merits of Plaintiff's claims. This Notice is not to be understood as an expression of any opinion by the Court as to the merits of Plaintiff's claims.

LJBT denies Plaintiff's allegations. It maintains that it was in compliance with the California Labor Code at all times and enters into this Settlement with no admission of liability and solely for the purposes of compromising and settling the action to avoid the cost and operational burden of continued litigation.

You are receiving this Notice because you are in the group of employees referred to as "Aggrieved Employees," which is defined as: "all current and former hourly, non-exempt employees of Defendant La Jolla Beach and Tennis Club Partners L.P. who worked in California at any time from December 15, 2019 through December 31, 2021."

II. INDIVIDUAL PAGA PAYMENT

Each individual PAGA payment was calculated on a pro rata basis (*i.e.*, proportional) based on the number of pay periods worked by each Aggrieved Employee in the PAGA Period (defined as December 15, 2019 through December 31, 2021). Your individual PAGA payment has been calculated at \$[AMOUNT PAID TO THIS EMPLOYEE]. Your payment is enclosed with this Notice.

Please Note: One hundred percent (100%) of your Individual PAGA Payment under this Settlement will be considered penalties reported on an IRS Form 1099, and may be subject to local, state, or federal tax withholdings and will be reported to the IRS and state tax authorities. You should rely on your own tax advisors as to the tax consequences, if any, of your individual PAGA payment. Neither Plaintiff nor LJBT has made any representations or warranties regarding the taxation of your Individual PAGA payment. Nothing within this

notice or any other communication shall constitute or be construed or relied upon as tax advice within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended).

III. RELEASE

The Court has approved the Parties' Settlement Agreement ("Settlement"). By operation of the Settlement's terms, all Aggrieved Employees including you will release LJBT and its former, present and future owners, parents, subsidiaries, and all of their current, former and future officers, directors, members, managers, employees, consultants, partners, shareholders, joint venturers, agents, successors, assigns, accountants, insurers, or legal representatives ("Released Parties") from any and all claims, rights, demands, liabilities and causes of action for civil penalties under Plaintiff's Cause of Action for violations of the Labor Code Private Attorneys General Act ("PAGA"), Labor Code § 2698 *et seq.* pled in the operative Complaint in the Action, or civil penalties under Plaintiff's Cause of Action for violations of the PAGA that could be brought based on the factual allegations in the operative Complaint in the Action that arose during the PAGA Period, including any related claims for attorneys' fees, costs, or interest resulting therefrom, ("PAGA Released Claims").

Upon entry of the Order approving the Settlement, any Aggrieved Employee covered by this Agreement (including you) will be barred from proceeding with any of the PAGA Released Claims released by this Settlement, which means claims for civil penalties for the Labor Code and Wage Order violations alleged in this Lawsuit.

IV. SETTLEMENT ADMINISTRATOR

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

You may call the Settlement Administrator, Simpluris, at [\[ADMINISTRATOR INFO\]](#) with any questions.

Settlement checks will be void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall direct all unclaimed funds to the California State Controller's Office under the unclaimed property laws in the name of the Aggrieved Employee to whom the check was issued. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.