

SETTLEMENT AND RELEASE

This Settlement and Release (hereinafter “Settlement” or “Agreement”) is made and entered into by and between Plaintiff LAUREN MOSLEY (hereinafter “Plaintiff Mosley”) individually and on behalf of all allegedly aggrieved employees, on the one hand, and Defendants Tender Home Health, a California Corporation, and Tender Health, LLC, a California Limited Liability Company, (hereinafter “Defendants”) on the other hand. Plaintiff and Defendants are collectively referred to herein as “the Parties.”

This Settlement shall be binding on Plaintiff, on the Aggrieved Employees (as defined below), on California’s state labor law enforcement agencies, and on Defendants and their present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, owners, members, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendants, subject to the terms and conditions hereof and the approval of the Court.

I. NATURE OF ACTION

1. On July 29, 2021, Plaintiff Mosley sent the Labor and Workforce Development Agency (“LWDA”) notice of her intent to pursue a representative action against Defendant, TENDER HOME HEALTH, pursuant to the Private Attorneys General Act of 2004 (“PAGA”), as codified in California Labor Code § 2698 *et seq.*, on behalf of herself and the State of California as well as on behalf of a group of allegedly aggrieved employees.

2. After a minimum of 65 days passed without a response from the LWDA to any of Plaintiff Mosley’s written notice to the LWDA listed *supra*, Plaintiff Mosley commenced a representative action under the PAGA for alleged Labor Code violations (as further explained herein) on behalf of herself and other allegedly aggrieved employees.

3. On April 18, 2022, Plaintiff Mosley sent the LWDA an amended notice of her intent to pursue a representative action against Defendants, TENDER HOME HEALTH and TENDER HEALTH, LLC pursuant to the Private Attorneys General Act of 2004 (“PAGA”), as codified in California Labor Code § 2698 *et seq.*, on behalf of herself and the State of California as well as on behalf of a group of allegedly aggrieved employees. On April 20, 2022, Plaintiff filed a First Amended Complaint against TENDER HOME HEALTH and TENDER HEALTH, LLC.

II. RERESENTATION AND DEFINITIONS

4. “Lawsuit” refers to the civil action filed by Plaintiff Mosley on October 4, 2021 entitled *LAUREN MOSLEY, individually and on behalf of all other Aggrieved Employees, v. TENDER HOME HEALTH, a California Corporation, and DOES 1 through 50, inclusive, Superior Court of the State of California for the County of Los Angeles, Case No. 21CHCV00773*, as well as the First Amended Complaint filed on April 20, 2022, that added TENDER HEALTH, LLC as a defendant in the case and included allegations regarding Labor Code section 226.8.

5. “PAGA Counsel” shall refer to Haig B. Kazandjian of HAIG B. KAZANDJIAN LAWYERS, APC.

6. “Counsel for Defendant” and “Defense Counsel” shall refer to David L. Martin and Shelly Song of MARTIN LAW FIRM, P.C.

7. “Covered Period” shall mean the period from July 29, 2020 through July 31, 2022.

8. “PAGA Representative” or “Plaintiff” shall refer to Named Plaintiff LAUREN MOSLEY.

9. “Court” refers to the Superior Court of the State of California for the County of Los Angeles.

10. “Covered Claims” means claims brought or that could have been brought in the Lawsuit based on the factual allegations alleged therein, whether known or unknown, pursuant to Labor Code sections 2699, *et seq.*, for PAGA penalties only based on alleged violations of the California Labor Code and applicable wage laws, including but not limited to: California Labor Code sections 201, 202, 203, 204, 206, 226(a), 226.3, 226.7, 226.8, 246, 432, 510, 512(a), 515, 558(a), 1174(d), 1174.5, 1182.12, 1194, 1197, 1197.1, 1198, 1198.5, 2753, 2800, 2802, and 2810.5, which Plaintiff and/or any of the Aggrieved Employees have or had during the Covered Period against any of the Releasees. Except as otherwise stated in Paragraphs 27(a) and 31(b) of this Agreement, this release does not extend to any potential claims of the Aggrieved Employees seeking relief other than for PAGA penalties.

11. “Aggrieved Employees” shall mean all current and former non-exempt employees who worked at Tender Home Health or Tender Health, LLC in California during the Covered Period. As of April 26, 2022, the date the Memorandum of Understanding was fully executed, there were approximately 146 Aggrieved Employees. Should the number of Aggrieved Employees increase as of July 31, 2022 by more than 11.25% , then Defendants agree to increase the Settlement Payment on a pro rata basis for 50% of the amount above the 11.25% threshold (i.e. if the number of Aggrieved Employees increases by more than 17 ($.1125 \times 146 = 16.4$) employees). For example, if the total number of Aggrieved Employees increases by 20 employees, the Settlement Payment would be increased by \$608.61 (number of employees over 17 = $3 \div 166$ (total number of employees $146 + 20$) = .0181 or 1.81%) or $(.0181 \times \$67,250) = \$1,217.22 \times 0.5 = \$608.61$. If the total number of Aggrieved Employees increases by 30 employees, the Settlement Payment would be increased by \$2,481.52 ($13 \div 176 = .0738$) or $(.0738 \times \$67,250) = \$4,963.05 \times 0.5 = \$2,481.52$. However, should the Settlement Payment increase by any amount over \$6,005.42

as result of the Escalator Clause, then Defendants will be responsible for paying one hundred percent of any amount over \$6,005.42.

12. “Eligible Pay Periods” shall mean the total number of pay periods that Aggrieved Employees worked during the Covered Period.

13. “Settlement” shall mean this Settlement and Release Agreement.

14. “Effective Date” means the date the Court enters the order approving the settlement of the PAGA penalties as described in this Agreement.

15. “Releasees” shall mean Defendants, and all of their present and former parent companies, subsidiaries, divisions, related or affiliated companies, shareholders, owners, members, officers, directors, employees, agents, attorneys, insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendants.

16. After the case was at issue, the Parties engaged in informal discovery and began to engage in arm’s length settlement discussions. Through the exchange of information and attendant discussions between the Parties, Plaintiff learned that the number of Aggrieved Employees at the time the Parties began discussing potential settlement was approximately 98 (including Plaintiff Mosley).

17. PAGA Counsel considered the following facts and arguments in determining that the Settlement was fair and reasonable:

a. Defendants’ Legal Defenses:

- i. Defendants have cited case law for the proposition that PAGA is not applicable to the nature of violations alleged here and that judges have discretion to not award any penalties under PAGA.
- ii. Defendants also argued that Plaintiff’s PAGA claims are unmanageable and would be dismissed on that basis.

b. Defendants' Factual Defenses:

- i. Defendants argued that there were no violations. Defendants argued that they had compliant wage and hour policies. Defendants also argued they had no knowledge of any off the clock work. Defendants further argued that to the extent any meal or rest breaks were short or late or not taken at all, it was based on the employee's voluntary choice and there was no violation.
 - ii. In accordance with the PAGA (Labor Code § 2699(e)(1) and (e)(2)), the court in a PAGA action has the same discretion "to assess a civil penalty" that the Labor Commissioner would have, as well as complete discretion to "award a lesser amount than the maximum civil penalty amount specified [by PAGA] if, based on the facts and circumstances of the particular case, to do otherwise would result in an award that is unjust, arbitrary and oppressive, or confiscatory." Defendants argued the PAGA penalties should be reduced based on Defendants' good faith efforts to comply with wage and hour laws. Defendants also argued that after receiving notice of Plaintiff's allegations, Defendants made changes to wage statements provided to non-exempt employees on a going-forward basis.
- c. Defendants produced a sampling of time and payroll records for purposes of settlement. Defendants argued that the time and payroll records demonstrated that Defendants generally complied with meal period laws. Moreover, Defendants argued that under California law (*See Brinker*) they were not obligated to police breaks to ensure they were taken and that any potential meal or rest period violations would be subject to the affirmative defense of waiver.

18. Consequently, while PAGA Counsel disagreed with Defendants' legal analysis above, PAGA Counsel anticipated that, at trial, Defendants could make a potentially persuasive argument that the Court could exercise its discretion under PAGA to significantly reduce or altogether waive any penalties under PAGA. In consideration of the foregoing facts and arguments and how they might impact any judgment ultimately awarded to Aggrieved Employees if the Court was persuaded by them, PAGA counsel determined that the Settlement was fair and reasonable.

19. The Parties recognize that the issues presented in the Lawsuit are likely only to be resolved with extensive and costly pretrial and trial proceedings, and that further litigation will cause inconvenience, distraction, disruption, delay, and expense disproportionate to the potential benefits of litigation. The Parties have considered the risk and uncertainty of the outcome inherent in any litigation.

20. Plaintiff Mosley and PAGA Counsel contend that they have diligently pursued an investigation of the Aggrieved Employees' claims against Defendants through informal discovery.

21. Based on their own independent investigations and evaluations, Plaintiff and her counsel are of the opinion that the settlement for the consideration and on the terms set forth in this Settlement Agreement is fair, reasonable, and adequate and is in the best interests of the Plaintiff and the Aggrieved Employees, in light of all known facts and circumstances and the risks inherent in litigation, including the potential appellate issues. Further, PAGA Counsel believes that the settlement amount entered into is in the best interests of the Aggrieved Employees and that the settlement for each Aggrieved Employee is fair, reasonable, and adequate, given the inherent risk of litigation and the remedial steps Defendants allege.

22. The purpose of this Settlement is to settle and compromise the Lawsuit and all Covered Claims that Plaintiff Mosley and the Aggrieved Employees have or may have against Defendants and the Releasees (as defined above) based on the factual allegations alleged in the Lawsuit.

23. Defendants deny, and continue to deny, each and every claim and contention alleged in the Lawsuit and have always maintained that Defendants never engaged in any unlawful acts regarding any of the matters alleged in the Lawsuit.

24. Neither the existence of this Settlement nor anything contained in this Settlement shall be construed or deemed as an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants. Nothing herein shall constitute an admission by Defendants that the Lawsuit was properly brought as a representative action other than for settlement purposes. Settlement of the Lawsuit, the negotiation and execution of this Settlement, and all acts performed or documents executed pursuant to or in furtherance of this Settlement or the settlement of the Lawsuit: (a) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any wrongdoing or liability on the part of either Defendants or of the truth of any of the factual allegations in the operative Complaint in the Lawsuit; (b) are not, shall not be deemed to be, and may not be used as, an admission or evidence of any fault or omissions on the part of Defendants in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal; (c) are not, shall not be deemed to be, and may not be used as, an admission or evidence of the appropriateness of these or similar claims for representative treatment, class certification, or administration other than for purposes of administering this Settlement; and (d) shall not constitute or be deemed a waiver of any right to compel arbitration of any dispute with an Aggrieved Employee that is not the subject of the releases detailed in this Settlement.

25. The Parties agree that upon full execution of this Settlement, the matter is stayed in its entirety except for any filings and/or motion work necessary to attain Court approval of the Settlement. Should the Court not grant approval of the Motion For Approval of PAGA Representative Action Settlement, or of the Stipulation For Approval Of The PAGA Representative Action Settlement, the stay will be lifted five (5) business days thereafter and the

Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

III. TERMS OF SETTLEMENT

26. In consideration of the mutual covenants, promises and representations set forth in this Settlement, Plaintiff, on behalf of herself and the Aggrieved Employees, agree to settle and compromise the Lawsuit and the Covered Claims, subject to the terms and conditions set forth in this Settlement.

27. The Amount of the PAGA Settlement: As consideration for the settlement described herein and the release contained in this Settlement, Defendants agree to pay a maximum settlement amount of \$67,250.00 (“Settlement Payment”), which Defendants shall pay in four equal monthly installments starting thirty (30) days after the Court approves the Settlement Agreement and enters judgment. The Settlement Payment will be allocated as follows:

(a) \$6,250.00 to Plaintiff LAUREN MOSLEY, allocated for resolution of her individual claims and her execution of a general release (the “Enhancement Payment”);

(b) PAGA Counsel’s attorney fees in the amount of \$22,416.67 subject to Court Approval;

(c) PAGA Counsel’s request for cost reimbursements in the amount up to \$2,500.00.

(d) Administrative costs, for an amount not exceeding \$2,950.00, to distribute monies to Aggrieved Employees;

(e) the remainder of the Settlement Payment in the amount after deducting the items (a), (b), (c) and (d) herein shall be designated as PAGA Penalties to be allocated 75% to the LWDA and the remaining 25% to the Aggrieved Employees pursuant to Labor Code section 2699(i) as outlined below.

28. Allocation and Calculation of the PAGA Penalties: Each Aggrieved Employee shall receive a portion of the PAGA Penalties on a pro-rata basis. The anticipated total PAGA Penalty Fund will be \$33,583.33. Seventy-Five percent (75%) of the PAGA Penalty Fund (\$25,187.50) will be paid to the LWDA as required by Labor Code section 2699(i). The remaining Twenty-Five percent (25%) of the PAGA Penalty Fund (\$8,395.83) will be distributed to Aggrieved Employees on a pro-rata basis based on the formula set forth below. Each Aggrieved Employee's pro-rata share of the PAGA Penalty Fund represents their Individual Settlement Payment.

(a) Individual Settlement Calculation. The Aggrieved Employees shall receive a pro rata share of the PAGA Penalty Fund allocated to Aggrieved Employees (\$8,395.83). Each Aggrieved Employee shall receive a pro rata value equal to the ratio of (a) the number of Eligible Pay Periods worked by that employee to (b) the total number of Eligible Pay Periods worked by all employees included in the Aggrieved Employee group. All Individual Settlement Payments made to Aggrieved Employees will be reported on an IRS Form 1099.

(b) Fair Formula. The Parties recognize and agree that the precise value of each Aggrieved Employee's Individual Settlement Payment is subject to a variety of differing calculations and formulas. The Parties hereby agree that the formula for allocating payments as provided herein is reasonable and designed to provide a fair settlement to the Aggrieved Employees.

29. PAGA Counsel's Fees and Costs: As part of the request for approval of this Settlement, PAGA Counsel will request Court approval of up to one third (1/3) of the Settlement Payment, which is \$22,416.67 in attorneys' fees. PAGA Counsel will request cost reimbursement in the amount up to \$2,500.00 for costs incurred by PAGA Counsel. If the Court

approves a lesser amount for attorneys' fees and/or costs, the difference shall be allocated to the PAGA Penalty Fund and distributed pro rata accordingly. Any attorneys' fees and costs awarded to PAGA Counsel, hereinafter referred to as "PAGA Counsel Fees & Costs," shall fully compensate and reimburse PAGA Counsel for any and all of the work already performed in connection with the litigation of Covered Claims and all work remaining to be performed in fully and finally resolving the litigation of Covered Claims, including but not limited to securing Court approval of the settlement, appearing at hearings, making sure that the settlement is fairly and properly administered, appearing at any post-approval matter, all other work that PAGA Counsel has performed or will perform, and all costs that PAGA Counsel has incurred or will incur. Defendants agree not to oppose the PAGA Counsel Fees & Costs in the amounts listed herein, or in lesser amounts.

No Aggrieved Employee (including, but not limited to, Plaintiff) or Plaintiff's Counsel or any other attorney acting for any Aggrieved Employee may recover or seek to recover any amounts for fees, costs, or disbursements from the Releasees or the Settlement Amount in relation to the subject matter of this Agreement except as expressly provided herein.

30. Tax Treatment of Settlement Amounts: With regard to settlement payments to Aggrieved Employees and Plaintiff, IRS Form 1099 will be issued. Nothing in this Settlement is intended to constitute legal advice regarding federal, state, and/or local tax obligations. Plaintiff acknowledges that she has obtained no tax advice from Defendants and that neither Defendants nor their attorneys have made any representation concerning the tax consequences, if any, of the Settlement Amount in this Agreement or any payment to be made pursuant to this Agreement. To the extent that this Settlement or any of its attachments is interpreted to contain or constitute advice regarding any state or federal tax issue, such advice is not intended or written to be used, and cannot be used, by any person for the purpose of avoiding penalties under the Internal Revenue Code. Defendants are not responsible for any employee tax obligations regarding the allocation of the settlement payments. Payment of PAGA Counsel Fees & Costs will be reflected in a Form 1099 to PAGA Counsel who shall assume full responsibility

and liability for the payment of taxes due on such payments.

IV. RELEASE

31. Release of All Claims:

(a) Release of All Claims by All Aggrieved Employees. Upon the approval by the Court and non-objection by the LWDA of this Settlement, each Aggrieved Employee (including Plaintiff Mosley), shall, for the Covered Period, fully release and forever discharge Defendants and their present and former parent companies, subsidiaries, divisions, related or affiliated companies, joint venturers, shareholders, owners, members, officers, directors, employees, agents, attorneys, insurers, re-insurers, successors and assigns, and any individual or entity which could be jointly liable with Defendants (“Releasees”) from any and all PAGA penalty claims for the time period of July 29, 2020 through the Effective Date as defined herein.

(b) General Release of All Claims by Plaintiff Mosley. Except as otherwise provided herein, in exchange for the consideration described herein, Plaintiff, on her own behalf and on behalf of her descendants, dependents, heirs, executors, administrators, agents, assigns, and successors (collectively, “Plaintiff’s Releasors”), hereby covenants not to sue and fully and unconditionally forever releases and discharges Defendants and Defendants’ Releasees including their past, present, and future representatives, directors, officers, employees, agents, attorneys, affiliates, members, owners, and shareholders, as well as all parent companies, affiliated companies, subsidiary companies, affiliates, clients, clients facilities, consultants, agents, attorneys, insurers, re-insurers, joint venturers, predecessors, assignors, and/or assigns from and against any and all claims, causes of action, judgments, liens, demands, damages, obligations, suits, contracts, liabilities, losses, costs, and expenses, including, but not limited to, attorneys’ fees and disbursements, or offsets of any nature whatsoever (collectively, “Claims”) that Plaintiff’s Releasors now have, have had, or may hereafter have against Defendants and/or Defendants’ Releasees arising out of the Parties’ relationship, and/or the cessation of this relationship, including but not limited to those claims arising out of or relating to (i) Plaintiff’s performance and reputation, (ii) harassment, (iii) discrimination, (iv) retaliation, (v) rights arising

out of alleged violations of any contracts, express or implied; (vi) any covenant of good faith and fair dealing, express or implied; (vii) any tort; (viii) any legal restrictions on Defendants' right to terminate employees; (ix) failure to pay minimum wages, regular wages, overtime, meals and rest breaks, meal and rest break premiums, penalties, interest, severance pay, expense reimbursement, commissions, bonuses, sick leave, holiday pay, and vacation pay, either individually or as part of a class action; and (x) any Claims arising under any federal, state or other governmental statute, regulation or ordinance, including, without limitation: Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Federal Rehabilitation Act, the Employee Retirement Income Security Act, the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), the Family and Medical Leave Act, the Fair Labor Standards Act, the California Fair Employment and Housing Act, the California Family Rights Act, the California Labor Code, Industrial Welfare Commission Wage Orders, California Business and Professions Code, §§ 17200 et seq., Genetic Information Nondiscrimination Act, Uniformed Services Employment and Reemployment Rights Act, Lilly Ledbetter Fair Pay Act of 2009, Equal Pay Act, as amended, 29 USC Section 206(d), Immigration Reform and Control Act, California Occupational Safety and Health Act, the California Constitution, and any other applicable state, federal, or local law which took place prior and up to and including the Effective Date. Except for any rights created by this Agreement, this General Release is intended to be interpreted as broadly as possible and to apply to any and all claims known and unknown available to Plaintiff Mosley in any forum, including, but not limited to, any claims for unpaid wages, expense reimbursement, unpaid penalties or premiums, liquidated damages, class or representative actions governing employment (to the fullest extent allowed by applicable law), constructive termination, negligent or intentional infliction of emotional distress, harassment, discrimination, wrongful termination, negligent or intentional infliction of emotional distress, harassment, discrimination, wrongful termination, negligence, breach of contract, breach of the covenant of good faith and fair dealing, promissory estoppel, fraud, negligent or intentional misrepresentation, negligent or intentional interference with contract or prospective economic

advantage, unfair business practices, defamation, libel, slander, personal injury; assault, battery, invasion of privacy, false imprisonment, conversion, disability benefits, claims under Labor Code section 132(a) or 4553, violation of any provision of federal or state law governing employment, and any claim for attorneys' fees or costs. All such claims are forever barred and by this Agreement and Plaintiff Mosley acknowledges her familiarity with California Civil Code § 1542, which is expressly waived by Plaintiff Mosley. California Civil Code § 1542 reads as follows:

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.

However, this release shall not apply to claims for workers' compensation benefits, except for any claim brought under Labor Code section 132a or 4553, or unemployment insurance benefits or any other claims that Plaintiff cannot, by statute, lawfully waive by this agreement. To the extent Plaintiff Mosley brings any claims under Labor Code section 132a or 4553, Plaintiff Mosley agrees she will not seek damages or remuneration arising from any such claims and releases Defendants and Defendants' Releasees from any and all damages, injuries, or liabilities arising from any such claims.

V. APPROVAL STIPULATION

32. The Parties recognize that in accordance with Labor Code Section 2699(l) Court approval is required in the event of a settlement of a PAGA action on a representative basis. However, as explained in *Arias v. Superior Court* (2009) 46 Cal.4th 969, the Parties are not obligated to follow the class action procedural rules in PAGA cases and therefore need not obtain approval of the PAGA settlement through a motion for preliminary or final approval. Instead, in order to comply with the requirements of Labor Code Section 2699(l), the Parties shall submit a joint stipulation, or if the Court rejects the joint stipulation, then a motion to the Court, identifying

the key terms of this Settlement and Release agreement and requesting that the Court approve the amount of PAGA penalties provided for in the Settlement (“Approval Stipulation”). The Settlement is contingent upon the approval by the Court. If the Court should fail to approve this Settlement in the form agreed to by the Parties, the Parties agree to coordinate efforts to address the Court’s questions or concerns and resubmit the Approval Stipulation or motion. If, after the Parties are unable to obtain approval of the terms of the Settlement, or (b) the Court’s approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Settlement shall be considered null and void; (ii) neither this Settlement nor any of the related negotiations or proceedings shall have any force or effect; and (iii) all Parties to this Settlement shall stand in the same position, without prejudice, as if the Settlement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Settlement, except for the amount of attorneys’ fees and costs, Enhancement Payment, or administrative costs, shall invalidate this Settlement in its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect.

VI. ADMINISTERING THE SETTLEMENT

33. Subject to the Court approval of this Settlement, the Settlement Payment shall be paid as follows:

34. PAGA Counsel shall provide timely notice to the LWDA of the Settlement.

35. Defendant will fund the settlement by depositing into a Qualified Settlement Fund (“QSF”) established by the settlement administrator the total amount of \$67,250.00 (“Settlement Payment”), by making four equal monthly payments starting thirty (30) days after the Court approves the Stipulation for Settlement of this PAGA action and enters judgment. The Settlement Administrator shall establish, designate, and maintain a QSF under Internal Revenue Code section 468B and Treasury Regulation section 1.468B-1 into which the settlement funds shall be deposited for the purpose of resolving the claims in the Action on behalf of the LWDA and the Aggrieved Employees. The Settlement Administrator shall maintain the funds until distribution in an account(s) segregated from the assets of Defendant and any person related to Defendant. ***All***

accrued interest shall be paid and distributed to the Aggrieved Employees as part of their respective share of the Aggrieved Employee Payment.

36. No later than twenty-one (21) business days after the Effective Date, Defendant shall provide the settlement administrator a list of Aggrieved Employees (“Aggrieved Employee List”) containing the (1) name; (2) last known home address; (3) the Aggrieved Employee’s social security number; and (4) the number of pay periods for each Aggrieved Employee from July 29, 2020 through the date the Agreement is fully executed. Neither the Aggrieved Employee List nor any information contained therein shall be distributed to PAGA Counsel at any time. The settlement administrator will distribute the checks to the Aggrieved Employees, at a cost not exceeding \$2,950.00, which shall come exclusively from the Settlement Payment which reduces the available PAGA Penalty Fund.

37. Defendants expressly reserve the right to object to payment to any Aggrieved Employee who has separately settled or waived any Covered Claims.

38. Provided there is no objection by the LWDA as to any material term of the Settlement Agreement prior to Court Approval of this Settlement and within five business days after the Settlement has been fully funded as set forth above, the settlement administrator will cause payment to be delivered as follows: (a) \$6,250.00 to Plaintiff as an incentive award and in exchange for a general release; (b) PAGA Counsel for the total amount of PAGA Counsel Fees & Costs, as defined herein as follows: (1) \$22,416.67 paid to PAGA Counsel for attorneys’ fees and (2) up to \$2,500.00 paid to PAGA Counsel for costs.

39. Within ten (10) calendar days after the Settlement has been fully funded as described in the paragraphs above, provided there is no objection by the LWDA as to any material term of the Settlement Agreement prior to Court Approval, the settlement administrator will cause payment of checks to the LWDA for penalties, and for all Aggrieved Employees in the Aggrieved Employee List as set forth above. Concurrently with sending each Aggrieved Employee their share of the Settlement Amount, the Claims Administrator will include a “Notice of PAGA Action Settlement” (attached hereto as Exhibit A) along with each Aggrieved Employee’s check. The

settlement administrator shall send each Aggrieved Employee their check via U.S. First Class mail to each Aggrieved Employee's address with directions to the Postmaster to return all undeliverable mail to the settlement administrator. For each returned check/notice that is returned as undeliverable, the settlement administrator shall promptly attempt to locate the Aggrieved Employees by using an address refresher database.

40. Settlement checks shall remain valid and negotiable for one hundred eighty (180) calendar days from the date of their issuance. If there are uncashed checks following this period, the settlement administrator will send the uncashed funds to the State of California Department of Industrial Relations Unclaimed Wages Fund in the name of the Aggrieved Employee who did not cash his or her check.

VII. DUTIES OF THE PARTIES PRIOR TO APPROVAL

41. Promptly upon execution of this Settlement, the Parties shall jointly apply to the Court for an Order seeking Approval of the PAGA Representative Action Settlement via Stipulation. If the Court requires a motion, then Plaintiff shall file an unopposed Motion for Approval of PAGA Representative Action Settlement, which Plaintiff shall provide to Defendants for review prior to filing. In addition, Counsel for Plaintiff shall be responsible for providing timely notice of the settlement to the LWDA in accordance Labor Code section 2699(1)(2).

42. The motion for approval, and/or the stipulation for an order will request Court approval of the following:

- a. The amount of PAGA Penalties;
- b. Dismissal of the entire Lawsuit with prejudice; and
- c. Waiver of all rights to appeal; and
- d. The Enhancement Payment; and
- e. The PAGA Counsel Attorney fees and costs; and
- f. The Claim Administration costs.

43. In conjunction with the motion for approval, and/or the stipulation for an order, the Parties will submit a proposed order requesting approval of the items provided in paragraph

42 above. The Parties will also submit a proposed judgment setting forth the scope of the release and the key terms of the settlement.

VIII. PARTIES' AUTHORITY

44. The signatories hereto hereby represent that they are fully authorized to enter into this Settlement and bind the Parties hereto to the terms and conditions hereof.

IX. MUTUAL FULL COOPERATION

45. The Parties agree to fully cooperate with each other to accomplish the terms of this Settlement, including, but not limited to, execution of such documents and to take such other action as may reasonably be necessary to implement the terms of this Settlement. The Parties to this Settlement shall use their best efforts, including all efforts contemplated by this Settlement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate this Settlement and the terms set forth herein. As soon as practicable after execution of this Settlement, PAGA Counsel shall, with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure the approval of this Settlement from the Court.

X. NO PRIOR ASSIGNMENTS

46. The Parties hereto represent, covenant, and warrant that they have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or rights herein released and discharged except as set forth herein. None of the rights, commitments, or obligations recognized under this Agreement may be assigned by any Party, Aggrieved Employee, PAGA Counsel (which includes Plaintiff's Counsel), or Defense Counsel without the express written consent of each other Party and their respective counsel. The representations, warranties, covenants, and agreements contained in this Agreement are for the sole benefit of the Parties under this Agreement, and shall not be construed to confer any right or to avail any remedy to any other person, except as expressly stated in this Agreement.

XI. NO ADMISSION

47. Nothing contained herein nor is the consummation of this Settlement to be

construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of Defendants or any of the Releasees. Each of the Parties hereto has entered into this Settlement with the intention to avoid further disputes and litigation with the attendant inconvenience and expense. Defendants deny that they have engaged in any unlawful activity, that they failed to comply with the law in any respect, or that they have any liability to anyone under the claims asserted in the Lawsuit. This Agreement is entered into solely for the purpose of compromising highly disputed claims. Nothing in this Agreement is intended or shall be construed as an admission of liability or wrongdoing by Defendants or Releasees.

XII. NON-EVIDENTIARY USE

48. Whether or not the Effective Date occurs, neither this Agreement nor any of its terms nor the Settlement itself shall be: (a) construed as, offered, or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to Defendants or any Releasees, including but not limited to, evidence of a presumption, concession, indication, or admission by any of the Releasees of any liability, fault, wrongdoing, omission, concession, or damage, or (b) disclosed, referred to, or offered in evidence against any of the Releasees in any further proceeding in the Lawsuit, or any other civil, criminal, or administrative action or proceeding except for the purposes of effectuating the Settlement pursuant to this Agreement or for Defendants to establish that an Aggrieved Employee has resolved any of his/her claims released through this Agreement.

XIII. NULLIFICATION

49. If (a) the LWDA objects or (b) the Court should for any reason fail to approve this Settlement in the form agreed to by the Parties (except for the amount of attorneys' fees or costs), or (c) the Court's approval of this Settlement is reversed, modified, or declared or rendered void, then (i) this Agreement shall be considered null and void; (ii) neither this Agreement nor any of the related negotiations or proceedings shall be of any force or effect; and (iii) all Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had been neither entered into nor filed with the Court. Invalidation of any material portion of this Agreement, except for the amount of attorneys' fees and costs, shall invalidate this Agreement in

its entirety unless the Parties shall subsequently agree in writing that the remaining provisions shall remain in full force and effect. Any stay previously agreed upon will be lifted five (5) days thereafter and the Parties will be restored to their positions prior to the Settlement and the Settlement shall be null and void.

XIV. ATTORNEYS' FEES, COSTS AND EXPENSES

50. Except as specifically set forth herein, each Party shall bear its/his/her own attorneys' fees, costs, and expenses, taxable or otherwise, incurred by him/her/it arising out of the Lawsuit, and shall not seek reimbursement thereof from any other party to this Agreement.

XV. CONSTRUCTION

51. The Parties hereto agree that the terms and conditions of this Settlement are the result of lengthy, intensive, arms-length negotiations between the Parties and that this Agreement constitutes the entire agreement between Plaintiff (on behalf of herself and all other Aggrieved Employees) and Defendants regarding actual or potential claims asserted by Plaintiff against Releasees. Excluding any arbitration, class action waiver or confidentiality agreement executed by Plaintiff or any Aggrieved Employee with Defendants, all of which will remain in full force and effect, this Agreement supersedes all prior agreements, written or oral, between or among the Parties regarding those claims or potential claims and the resolution of those claims. Consequently, no other agreement, statement, or promise made by one Party to another as to any matter addressed in this Agreement shall be binding or valid.

XVI. CAPTIONS AND INTERPRETATIONS

52. Paragraph titles or captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Settlement or any provision hereof. Each term of this Settlement is contractual and not merely a recital.

XVII. MODIFICATION

53. This Settlement may not be amended, changed, altered, or modified, except in writing and signed by the Parties (or their successors-in-interest) hereto. This Settlement may not

be discharged except by performance in accordance with its terms or by a writing signed by the Parties hereto.

XVIII. REPRESENTATION

54. Plaintiff and her counsel represent and warrant that they are not currently aware of any: (a) unalleged claims against Defendants in addition to, or different from, those which are finally and forever settled and released against Defendants by this settlement; or (b) unalleged facts or legal theories upon which any claims or causes of action could be brought against Defendants, except such facts and theories specifically alleged in the operative complaint in this action. Plaintiff and her counsel further represent that, other than this action, they have no current intention of asserting any other claims against Defendants in any judicial or administrative forum, including but limited to any class claims. Plaintiff and her counsel represent that they do not currently know of or represent any persons who have expressed any interest in pursuing litigation or seeking any recovery against Defendants. Plaintiff waives any right or ability to be a class representative. In addition, Plaintiff waives any right or ability to otherwise participate or receive any individual recovery in any putative or certified class action in which Defendant or any other Released Party identified in this agreement is a party.

XIVIV. MISCELLANEOUS

55. Except as otherwise expressly set forth in this Agreement, this Settlement contains the entire Agreement between the Parties relating to the Settlement of the Covered Claims and Plaintiff's Released Claims, and all prior or contemporaneous agreements, understandings, representations, and statements, whether oral or written and whether by a party or such Party's legal counsel, are merged herein. No rights hereunder may be waived except in writing. The Parties have made such investigation of the facts and the law pertaining to the matters described herein and to this Settlement as they deem necessary, and have not relied, and do not rely, on any statement, promise, or representation of fact or law, made by any of the other parties, or any of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted rights, or with regard to the advisability of making and executing this Settlement, or with respect

to any such matters that would alter or change the terms of this Settlement. No representations, warranties, or inducements have been made to any party concerning this Settlement other than those expressly set forth or referred to herein.

56. This Settlement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, trustees, executors, administrators, successors, and assigns. This Settlement shall be binding on all Aggrieved Employees and the State of California who will be barred from relitigating the claims released in this Settlement.

57. This Settlement may be executed in counterparts, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be binding upon and effective as to all Parties. The counterparts may be transmitted electronically (PDF) or by facsimile.

58. This Settlement shall be governed, construed, and interpreted, and the rights of the Parties shall be determined, in accordance with the laws of the State of California, irrespective of the State of California's choice of law principles.

59. The Parties have cooperated in the negotiation and preparation of this Settlement. This Settlement shall not be construed against any Party on the basis that the Party, or the Party's counsel, was the drafter or participated in the drafting of this Settlement.

60. The Los Angeles County Superior Court shall retain jurisdiction to enforce this Settlement pursuant to California Code of Civil Procedure section 664.6. The Court shall retain continuing jurisdiction over this Lawsuit and over all Parties and Aggrieved Employees, to the fullest extent to enforce and effectuate the terms and intent of this Settlement.

61. This Settlement shall not be subject to collateral attack by any Aggrieved Employee. Such prohibited collateral attack shall include, but not be limited to, claims that the Aggrieved Employee failed, for any reason, to timely receive his or her Individual Settlement Payment.

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

IN WITNESS THEREOFF, the Parties have executed this Settlement Agreement on the dates set forth below.

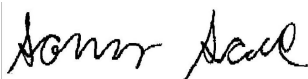
APPROVED, AGREED, and ACCEPTED:

DATED: _____

LAUREN MOSLEY, Plaintiff, individually and on
behalf of all other Aggrieved Employees

DATED: 9/22/2022

TENDER HOME HEALTH

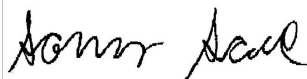


By: Sonny Sandel

Title: CEO

DATED: 9/22/2022

TENDER HEALTH, LLC



By: Sonny Sandel

Title: CEO

DATED: _____

HAIG B. KAZANDJIAN LAWYERS, APC

By: _____
Haig B. Kazandjian, Esq.
Attorney for Plaintiff, LAUREN MOSLEY,
individually and on behalf of all other
Aggrieved Employees

DATED: September 22, 2022

MARTIN LAW FIRM, PC

By: 

David L. Martin, Esq.
Shelly Song, Esq.
Attorneys for Defendants
TENDER HOME HEALTH and TENDER
HEALTH, LLC

THE PARTIES HAVE READ THE FOREGOING AGREEMENT. THEY HAVE CONSULTED WITH LEGAL COUNSEL REGARDING THE FOREGOING AGREEMENT AND KNOW THE CONTENTS THEREOF AND SIGN THE SAME AS THEIR FREE, KNOWING, AND VOLUNTARY ACT AND DEED, BEING FULLY AWARE OF ITS CONSEQUENCES AND ITS FINAL AND BINDING EFFECT.

IN WITNESS THEREOFF, the Parties have executed this Settlement Agreement on the dates set forth below.

APPROVED, AGREED, and ACCEPTED:

DATED: 09 / 21 / 2022



LAUREN MOSLEY, Plaintiff, individually and on behalf of all other Aggrieved Employees

DATED: _____

TENDER HOME HEALTH

By: _____

Title: _____

DATED: _____

TENDER HEALTH, LLC

By: _____

Title: _____

DATED: 9/22/22

HAIG B. KAZANDJIAN LAWYERS, APC

By: _____



Haig B. Kazandjian, Esq.
Attorney for Plaintiff, LAUREN MOSLEY,
individually and on behalf of all other
Aggrieved Employees