

PRIVATE ATTORNEYS GENERAL ACT SETTLEMENT AGREEMENT AND RELEASE

This Private Attorneys General Act Settlement Agreement and Release (“Agreement”) is made by and between CALIFORNIA DREAMS HOSTEL, LLC, and its parent, subsidiary, affiliated entities, employees, and owners, including but not limited to PEDRO MOREIRA, ALEJANDRO JAIME, and PLINIO FRANCA (collectively, “CDH”), on the one hand, and JEREMIAH ROJAS and DANIEL MAAKESTAD (“Plaintiffs”), on the other hand. Plaintiffs and CDH are referred to collectively herein as the “Parties.”

I. **RECITALS**

A. **WHEREAS**, Plaintiffs formerly performed work for CDH.

B. **WHEREAS**, on or around March 15, 2023, Plaintiffs filed a lawsuit in the Superior Court of California, County of San Diego, captioned *Jeremiah Rojas and Daniel Maakestad v. CDH*, Case No. 37-2023-00010705-CU-OE-CTL (the “Action”). In their original Complaint, Plaintiffs asserted causes of action against CDH on an individual basis for: (1) failure to pay wages; (2) failure to pay minimum wages, (3) failure to pay overtime, (4) failure to provide meal periods, (5) failure to provide rest breaks, (6) failure to furnish accurate wage statements, (7) illegal offset against wages, (8) failure to indemnify for business expenses, (9) waiting time penalties, (10) wrongful termination in violation of public policy, and (11) unlawful retaliation and discrimination.

C. **WHEREAS**, shortly after the Action was commenced, on March 16, 2023, Plaintiffs provided notice to the California Labor and Workforce Development Agency of their intention to pursue representative claims for penalties under the Private Attorney General Act, California Labor Code section 2698, *et seq.* (the “PAGA”). Plaintiffs’ counsel notified CDH of its intention to amend the complaint to add the aforementioned PAGA claims, however, the Parties reached a global settlement before the Complaint was amended.

D. **WHEREAS**, Plaintiffs’ PAGA claims seek penalties based on alleged violations of California Labor Code §§ 201, 202, 203, 204, 221, 224, 226, 226.7, 226.8, 510, 512, 1182.12, 1174, 1194, 1194.2, 1197, 1198, and 2802. (the “Released PAGA Claims”);

E. **WHEREAS**, the Parties negotiated at arm’s length through experienced wage and hour counsel. Through those discussions, the Parties have now reached an agreement to settle and resolve Plaintiffs’ pending PAGA representative claims.

F. **WHEREAS**, CDH denies any wrongdoing, liability, or obligation as to the claims asserted or which could have been asserted in the Action. Further, nothing contained herein should be construed as an admission by CDH of any liability of any kind or form to Plaintiffs, any allegedly “aggrieved” employees, or any entity or person.

G. **WHEREAS**, the Parties desire to resolve the Representative PAGA Claims and have entered into this Agreement for that purpose. The Parties understand, acknowledge, and agree that it is the desire and intention of the Parties to affect a final and complete resolution of the Representative PAGA Claims which Plaintiffs and the PAGA Group have, or may have had, against CDH or any

persons or companies affiliated with CDH. The Parties further acknowledge that this Agreement is a compromise of disputed claims, and that nothing in this Agreement shall be construed as an admission by CDH of any liability or wrongdoing;

H. **WHEREAS**, given the very strong defenses that CDH has to Plaintiffs' PAGA claims, the limited number of aggrieved employees (approximately 15), and CDH's limited resources, the Parties believe and agree that this Agreement provides for a fair, adequate, and reasonable resolution of the PAGA Representative Claims, and have arrived at the settlement through extensive, arms-length negotiations, taking into account all relevant factors, present and potential;

I. **WHEREAS**, under California Law, the State may assess and collect civil penalties from "employers" for violations of certain provisions of the Labor Code. (*See* Cal. Lab. Code §§ 2699(a), et seq.) Under PAGA, however, if an "aggrieved employee" "give[s] written notice by certified mail to the [State] and the employer of the specific provision of the [Labor Code] alleged to have been violated," and the State thereafter decides not to investigate, or does investigate and determines that a citation against the employer should not issue, the employee may, "as an alternative" to enforcement by the State, bring a civil action under PAGA to recover the civil penalties "on behalf of himself or herself and other current or former employees." (*Id.*) "[C]ivil penalties recovered by aggrieved employees shall be distributed as follows: 75 percent to the state and 25 percent to the aggrieved employees." (*Id.*)

J. **WHEREAS**, California Labor Code section 2699(l) requires that the Court approve any penalties sought as part of a proposed settlement of a PAGA claim.

II. TERMS

NOW, THEREFORE, in consideration of the promises and mutual agreements contained herein, the adequacy of which is hereby acknowledged, the Parties hereby agree and covenant as follows:

1. **Recitals Incorporated.** The Recitals set forth above are incorporated herein by this reference, and are hereby made part of this Agreement.

2. **Effective Date.** The effective date of the release of Plaintiffs and the PAGA Group's Representative PAGA Claim shall be the date the Court enters its final order approving the PAGA Settlement Agreement (the "Effective Date").

3. **Release.** Upon the Effective Date, each member of the PAGA Group (i.e., all non-exempt employees of CDH who were employed between March 16, 2022 and the present) shall fully and finally release and forever discharge any and all claims for civil penalties under PAGA predicated on the alleged California Labor Code violations asserted in the Action (which include the Released PAGA Claims), or which could have been asserted in the Action, covering the period of March 16, 2022 through the Effective Date (the "PAGA Period"), against CDH and/or its past or present parents, subsidiaries, and affiliated corporations, directors, employees, partners, agents, insurers, and/or any other individual or entity which could be liable for the acts of omissions of CDH (the "Released Parties").

4. PAGA Settlement Payment Procedures. In exchange for the PAGA Groups' dismissal of the PAGA Representative Claims and release, as set forth above, CDH agrees to pay five thousand dollars (\$5,000.00) (the "PAGA Penalty Payment") to Kased Law Group, Client Trust Account within 14-days of the Effective Date.

a. A total of \$3,750.00 (i.e., Seventy-Five percent [75%] of the PAGA Penalty Payment) shall be paid to the California Labor & Workforce Development Agency in satisfaction of the Representative PAGA Claim asserted in the Action (the "LWDA Payment"). Plaintiffs shall pay the LWDA Payment from the PAGA Penalty Payment within sixty (60) days of the Effective Date.

b. A total of \$1,250.00 (i.e., Twenty-Five percent [25%] of the PAGA Penalty Fund), less any costs and fees incurred by Plaintiffs in this Action pursuant to Labor Code section 2699 subd. (i), shall be distributed to the members of the PAGA Group based on the number of workweeks each PAGA Group member worked during the PAGA Period ("Individual PAGA Payments"). Specific calculations of Individual PAGA Payments, if any, will be made as follows:

i. CDH will calculate the number of workweeks worked by each member of the PAGA Group ("Individual Workweeks"), and the number of workweeks worked by all of the members of the PAGA Group ("Total PAGA Workweeks"), during the PAGA Period.

ii. To determine the Individual Settlement Payment for the members of the PAGA Group, CDH shall use the following formula: Individual PAGA Payment = Individual Workweeks ÷ Total PAGA Workweeks × \$1,250.00.

c. The Individual Settlement Payments are allocated as 100% penalties, and will be reported by CDH on IRS Form 1099s to each member of the PAGA Group.

d. All checks issued to the PAGA Group pursuant to this Agreement, if any, shall be valid for a period of one hundred and eighty (180) days from the date they are issued by CDH. Any unclaimed funds after the 180-day period shall be returned to CDH.

5. Court Approval. Plaintiffs shall file a Motion or Stipulation for Court Approval of the PAGA Settlement Agreement pursuant to Labor Code section 2699(l) within 14 days after the PAGA Settlement Agreement is signed by all Parties. Should the Court not approve the Motion or Stipulation for procedural reasons, Plaintiffs shall file additional Motions of Stipulations for Court Approval. In this process, the gross Settlement Funds will never be increased CDH. In no event shall CDH pay, or ever be obligated to pay, any sums exceeding the gross Settlement Funds presently called for under this Agreement.

If the Court does not approve the Agreement, if the Court does not enter judgment as provided for in this Agreement, or if appellate review regarding the Court's decision regarding approval of the settlement is sought by an aggrieved employee and, on such review, the Court's decision is materially modified or reversed, or if one or more of the material terms of the Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within 10 days of written notice thereof to elect to terminate the Agreement, in which case the Agreement 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 this Agreement. Before either Party elects to terminate the settlement, the Parties agree to and work jointly to make reasonable efforts to remedy the settlement in order to obtain the Court's approval.

As part of their Motion to approve the Agreement, Plaintiffs' Counsel shall submit a proposed judgment which enters judgment in the Action in accordance with the terms of the MOU and this Agreement, retains jurisdiction over the Action under Code of Civil Procedure § 664.6 for the purpose of enforcing the terms of the Agreement following approval of the settlement, and enjoins the prosecution of any of the PAGA Released Claims against any of the Released Parties upon the judgment being entered and the Settlement being fully funded. This Agreement 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 Plaintiffs and the Aggrieved Employees.

6. Attorneys' Fees and Costs. The Parties to the Action agree that they shall each bear their own attorneys' fees and costs incurred in connection with the PAGA Representative Claims and the Action, and warrant that they shall not pursue any claim or action against any other Party to seek reimbursement of any attorneys' fees or costs incurred in connection with the PAGA Representative Claims and the Action. Plaintiffs agree and warrant they are not prevailing employees within the meaning of PAGA or the California Labor Code.

III. **ADDITIONAL TERMS**

1. Subsequent Attorneys' Fees. Should any action, arbitration, or proceeding be initiated by any Party for the purpose of enforcing, interpreting or construing this Agreement, the prevailing party (as defined by California law) in such action, arbitration or proceeding shall be entitled to recover their reasonable attorneys' fees and costs.

2. Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and fully supersedes any and all prior understandings, representations, warranties and agreements between the Parties pertaining to the subject matter hereof.

3. Governing Law. This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of California in effect at the time of execution of this Agreement by the Parties, and without regard to choice of law principles.

4. Independent Advice of Counsel. The undersigned, in executing this Agreement, represent and acknowledge that they have been represented by independent counsel in the negotiation, preparation, drafting, and execution of this Agreement, that each Party has read this Agreement and has had it fully explained to it by its independent counsel prior to execution, and fully understands the Agreement's contents and legal effect.

5. Non-Assignment of Released Claims. The Parties represent and warrant to one another that they have not assigned or transferred to any third party any of the rights, claims, causes of action or items to be released, which they are obligated to release as part of this Agreement.

6. **Voluntary Agreement.** The undersigned represent and acknowledge they have signed the Agreement freely and voluntarily, without duress or coercion. Each Party, by executing this Agreement, represents that they shall not deny the validity of this Agreement on the ground they executed the same under duress, fraud or without capacity.

7. **Written Modifications.** The provisions of this Agreement may not be waived, altered, amended, modified, assigned or repealed, in whole or in part, without the express prior written consent of the Parties hereto. This Agreement may not be modified and/or amended except by written agreement signed by the Parties.

8. **Mutual Participation in Drafting Agreement.** Each Party represents it has fully participated in drafting the terms and provisions of this Agreement. Accordingly, should any later construction or interpretation of the Agreement find a purported ambiguity therein, the Agreement shall not be construed against any one Party on account of their having allegedly drafted this Agreement.

9. **Severability.** Should any provision of this Agreement be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions, conditions or covenants not so declared shall be deemed severable from the remainder of this Agreement, and shall in no way affect any other provision, covenant, condition, or promise contained herein. If any provision is deemed invalid due to scope or breadth, the provision(s) shall be deemed valid to the full extent of scope and breadth permitted by law.

10. **Waiver.** No breach of any provision of this Agreement may be waived unless done in writing. Waiver of any one breach shall not be deemed to be a waiver of any other breach of the same or any other provision.

11. **Gender and Tense.** Whenever required by the context of this Agreement, the singular shall include the plural, and the plural shall include the singular, and the masculine, feminine and neutral genders shall each include the other.

12. **Counterparts.** This Agreement may be executed in counterparts. Any such executed counterparts shall constitute one Agreement, which shall be binding on the Parties, even though not all Parties may have signed the original or same counterpart. Duplicates of this Agreement, or counterparts thereof, showing the execution of all Parties, shall be of the same validity, force and effect as the original. Fax and electronically transmitted signatures shall have the same force and effect as original signatures.

13. **Taxability.** It is expressly agreed and understood that the Parties have not relied upon any advice, representations or warranties from the other Party whatsoever as to the tax consequences of this Agreement. Plaintiffs and his counsel are solely responsible for any and all tax consequences arising out of the payments made pursuant to this Agreement.

14. **Compromise Not Admission.** This Agreement is intended to and does compromise disputed claims and shall not be construed as an admission of liability by any Party of any claim made by any other Party. CDH, on the one hand, and Plaintiffs, on the other hand, deny any and all

wrongdoing, liability, or obligation to each other as to the various claims and damages asserted in the Action, or which could have been asserted in the Action, and all such claims are denied and contested.

15. Headings. The headings used in this Agreement are for informational purposes only and shall not be used to construe the intent of this Agreement.

16. Admissibility. The Parties acknowledge and hereby agree that this Agreement—redacted to cover monetary amounts—shall be admissible in any subsequent proceeding initiated to enforce its provisions. Plaintiffs hereby waives any objection to the Agreement’s admissibility under California Evidence Code section 1152 or Federal Rule of Evidence 408, or any other provision of law.

17. Jurisdiction. The Parties acknowledge and hereby agree that the San Diego Superior Court shall have exclusive jurisdiction to enforce the terms and conditions of this Agreement, and neither Party shall deny the same or claim a lack of such jurisdiction.

18. No Prevailing Party. Neither Plaintiffs nor CDH shall be considered a prevailing party in the Action, for any purpose.

IN WITNESS WHEREOF, the Parties hereto have each approved and executed this Agreement on the dates set forth opposite their respective signatures.

Dated: May 20, 2023 Jeremiah Rojas
JEREMIAH ROJAS

Dated: May 23, 2023 Dan
DANIEL MAAKESTAD

Dated: May 31, 2023 CALIFORNIA DREAMS HOSTEL, LLC
By: Alejandro Jaime
Its: Partner

Dated: May 31, 2023 PEDRO MOREIRA

Dated: May 31, 2023 ALEJANDRO JAIME

Dated: May 31, 2023 PLINIO FRANCA