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20 Attorneys for Plaintiffs and Class Representatives KAMAL ALI and ZAINAB ALI,
21 JOHN TORPHY and ELIZABETH TORPHY (as Trustees
22 of the JOHN C. TORPHY AND ELIZABETH M. TORPHY
23 TRUST DATED 5/5/2004) on behalf of themselves and all others similarly situated

24 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
25 **FOR THE COUNTY OF ORANGE**

26 J KAMAL ALI, an individual; and ZAINAB ALI,
27 an individual; JOHN TORPHY, an individual, and
28 ELIZABETH TORPHY, an individual (as Trustees
of the JOHN C. TORPHY AND ELIZABETH M.
TORPHY TRUST DATED 5/5/2004); on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

WARMINGTON RESIDENTIAL CALIFORNIA,
INC., a Corporation; REBCO COMMUNITIES,
INC. f/k/a WARMINGTON HOMES
CALIFORNIA, INC., a Corporation; PLUMBING
CONCEPTS, INC., a Corporation; MUELLER
INDUSTRIES, INC., a Corporation; and DOES 1-
100,

Defendants.

AND RELATED CROSS-CLAIMS.

CASE NO. 30-2013-00689593-CU-CD-CXC

**CLASS ACTION SETTLEMENT AND
RELEASE BETWEEN PLAINTIFFS AND
DEFENDANTS FOR SETTLEMENT
PURPOSES ONLY**

Judge: Hon. Glenda Sanders

Dept: CX-101

Complaint Filed: November 21, 2013

STIPULATION OF SETTLEMENT AND RELEASE

1
2 Plaintiffs and Class Representatives Kamal Ali and Zainab Ali, and John Torphy and Elizabeth
3 Torphy (as Trustees of the John C. Torphy and Elizabeth M. Torphy Trust Dated 5/5/2004 (“Plaintiffs”),
4 Defendants Warmington Residential California, Inc. and REBCO Communities, Inc. f/k/a Warmington
5 Homes California, Inc. (“Defendants”) collectively hereinafter referred to as the “Parties,” by and
6 through their respective counsel of record, agree to resolve the above-captioned case through this Class
7 Action Settlement and Release Agreement, dated November 3, 2022, which is being entered into by the
8 Parties for settlement purposes only.

9 **I. DEFINITIONS**

10 **1.1 Action.** “Action” shall mean the above-captioned lawsuit.

11 **1.2 Administrative Costs.** “Administrative Costs” means the costs of administering the
12 settlement by the Class Administrator, including, but not limited to, the costs of mailing the Class Notice
13 and related documents to Class Members, and administering the portion of the Settlement Fund by the
14 Class Administrator.

15 **1.3 Agreement.** “Agreement” means this Class Settlement Agreement and Release,
16 including all exhibits hereto.

17 **1.4 Attorney Fee Award.** “Attorney Fee Award” means the amount awarded by the Court
18 to Plaintiffs’ Counsel as attorneys’ fees, such amount to be in full and complete satisfaction of Plaintiffs’
19 Counsel’s claim or request (and any request made by any other attorneys) for payment of attorneys’
20 fees, costs, disbursements and compensation in the Action.

21 **1.5 Award.** “Award” means the *pro rata* benefit to be paid on behalf of each Class
22 Member from the “Net Settlement Fund.”

23 **1.6 Class.** “Class” shall mean:

24 *(1) All present owners of residential homes in the Class Area whose copper pipe*
25 *systems have not been replaced with PEX or epoxy coating by prior owners of the homes, or*
26 *(2) prior owners of homes in the Class Area who replaced their copper pipe systems with*
27 *PEX or epoxy coating, provided that: (a) the homes were constructed by Warmington and*
28 *substantially completed within ten (10) years of the filing of the original complaint in this*
action, (b) the original purchase agreements were signed by the builder on or after January
1, 2003, and (c) their SB 800 claims were not released.

1.7 Class Administrator. “Class Administrator” shall mean ILYM Group, Inc., 14751

1 Plaza Dr., Suite J, Tustin CA 92780. The Class Administrator shall receive and administer the
2 Settlement Funds.

3 **1.8 Class Counsel.** "Class Counsel" shall mean: Bridgford, Gleason & Artinian, Kabateck
4 LLP, and McNicholas & McNicholas.

5 **1.9 Class Home List.** "Class Home List" shall mean the complete list of the addresses of
6 the homes that are covered by this Settlement and is comprised of those 123 homes developed by
7 Defendants in Ladera Ranch, California identified on Exhibit A hereto.

8 **1.10 Class Members.** "Class Members" shall mean each and all of the members of the
9 Class, estimated to be either the present or former homeowner of the 123 homes listed on Exhibit A.

10 **1.11 Class Notice.** "Class Notice" means the notice of this settlement contemplated by this
11 Agreement, substantially in the forms attached hereto collectively as Exhibit B, or as otherwise
12 approved by the Court.

13 **1.12 Class Representatives.** "Class Representatives" means named plaintiffs and duly
14 appointed class representatives Kamal Ali and Zainab Ali, and John Torphy and Elizabeth Torphy (as
15 Trustees of the John C. Torphy and Elizabeth M. Torphy Trust Dated 5/5/2004.

16 **1.13 Court.** "Court" means the Superior Court of California for the County of Orange,
17 Complex Division.

18 **1.14 Cross-Defendant.** "Cross-Defendant" shall mean Robbins Plumbing and Heating
19 Contractors, a dissolved California corporation.

20 **1.15 Defendants.** "Defendants" means Warmington Residential California, Inc. and
21 REBCO Communities, Inc. f/k/a Warmington Homes California, Inc.

22 **1.16 Defendants' Counsel.** "Defendants' Counsel" means Peter K. Pritchard and Corey M.
23 Timpson of Sellar Hazard & Lucia.

24 **1.17 Eligible Share.** "Eligible Share" shall mean each individual Class Member's share of
25 the Net Settlement Fund, which will be determined by dividing the Net Settlement Fund by the 123
26 homes included in the Class.

27 **1.18 Final Approval Hearing.** "Final Approval Hearing" shall mean the hearing conducted
28 by the Court in connection with the determination of the fairness, adequacy and reasonableness of this

1 Agreement and the proposed settlement of the Action, including Plaintiff's Counsel's application for the
2 Attorney Fee Award and the Representative Plaintiff's Award.

3 **1.19 Final Approval Order.** "Final Approval Order" means the Court's Order approving
4 this Agreement, finding the settlement is fair, adequate and reasonable.

5 **1.20 Final Approval Order and Judgment.** "Final Approval Order and Judgment" shall
6 mean the Order pursuant to Rule of Court 3.769 that gives final approval of this Settlement Agreement
7 and provides for the orderly performance and enforcement of the terms and conditions of this Settlement
8 Agreement, as well as the Judgment rendered by the Court pursuant to Rule of Court 3.769(h). The
9 Order shall be in substantially the same form as is agreed by the Parties.

10 **1.21 Motion for Preliminary Approval.** "Motion for Preliminary Approval" shall mean
11 the Motion for Preliminary Approval of the Settlement to be filed in this Action pursuant to California
12 Rule of Court 3.769(c).

13 **1.22 Net Settlement Fund.** "Net Settlement Fund" means the Settlement Fund (including
14 accrued interest) minus (a) Administrative Fees and Costs, (b) the total attorneys' fees and costs
15 awarded to Class Counsel by the Court; and (c) any incentive payments awarded to the Class
16 Representative by the Court.

17 **1.23 Notice Date.** "Notice Date" shall mean the date on which the Class Administrator shall
18 send the Class Notice. The Notice Date shall be no more than thirty (30) business days after entry of the
19 Preliminary Approval Order.

20 **1.24 Objection Deadline.** "Objection Deadline" means sixty (60) calendar days from the
21 Notice Date.

22 **1.25 Opt-Out.** "Opt-Out" means a Class Member (i) who timely submits a properly
23 completed and executed Request for Exclusion, and (ii) who does not rescind that Request for Exclusion
24 before the end of the Opt-Out Period.

25 **1.26 Opt-Out Period.** "Opt-Out Period" means the period commencing on the Notice Date
26 and ending sixty (60) calendar days thereafter during which Class Members may submit a timely
27 Request for Exclusion. The last day of the Opt-Out Period shall be specifically set forth in the Class
28 Notice.

1 **1.27 Participating Class Member.** “Participating Class Member” shall mean the Class
2 Member who was sent Notice that was not returned as undeliverable (after all reasonable attempts have
3 been made by the Class Administrator) who have not Opted Out.

4 **1.28 Parties.** “Parties” shall mean the Plaintiffs, the Class Members and Defendants.

5 **1.29 Plaintiffs.** “Plaintiffs” shall mean the Class Representatives and the Class Members.

6 **1.30 Plaintiffs’ Released Parties.** “Plaintiffs’ Released Parties” shall mean Defendants,
7 and each and all of their past, present, and future parents, subsidiaries, subcontractors, affiliated
8 companies and corporations, and each and all of their respective past, present, and future directors,
9 officers, managers, employees, general partners, limited partners, principals, agents, insurers, reinsurers,
10 shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, joint ventures,
11 assigns, or related entities, and each and all of their respective executors, successors, assigns, and legal
12 representatives, and any subcontractors hired by Defendants to construct or work on the Class Members’
13 homes and each and all of their past, present, and future parents, subsidiaries, subcontractors, affiliated
14 companies and corporations, and each and all of their respective past, present, and future directors,
15 officers, managers, employees, general partners, limited partners, principals, agents, insurers, reinsurers,
16 shareholders, attorneys, advisors, representatives, predecessors, successors, divisions, joint ventures,
17 assigns, or related entities, and each and all of their respective executors, successors, assigns, and legal
18 representatives (including but not limited to Cross-Defendant Robbins Plumbing and Heating
19 Contractors), as well as any supplier manufacturer or distributor of copper pipe for potable water
20 systems in the Class Members’ homes and each and all of their past, present, and future parents,
21 subsidiaries, subcontractors, affiliated companies and corporations, and each and all of their respective
22 past, present, and future directors, officers, managers, employees, general partners, limited partners,
23 principals, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors,
24 successors, divisions, joint ventures, assigns, or related entities, and each and all of their respective
25 executors, successors, assigns, and legal representatives.

26 **1.31 Preliminary Approval.** “Preliminary Approval” shall mean that the Court has entered
27 the Preliminary Approval Order.

28 **1.32 Preliminary Approval Date.** “Preliminary Approval Date” means the date on which

1 the Preliminary Approval Order is entered by the Court.

2 **1.33 Preliminary Approval Order.** “Preliminary Approval Order” shall mean the order
3 entered by the Court that grants Preliminary Approval of this Settlement including, among other things,
4 preliminary approval of the terms of the settlement, and approval of the form and method of Class
5 Notice. The Preliminary Approval Order shall be in substantially the form attached hereto as Exhibit C,
6 subject to non-material modifications made by the Court.

7 **1.34 Release.** “Release” means the release set forth in Paragraph 5.1 of this Agreement.

8 **1.35 Releasing Parties.** “Releasing Parties” shall mean the Class Representatives and all
9 Class Members who did not opt out during the Opt-Out Period.

10 **1.36 Representative Plaintiffs’ Award.** “Representative Plaintiffs’ Award” means the
11 amount, if any, that is approved by the Court for payment to Class Representatives for acting as class
12 representatives in the Action.

13 **1.37 Request for Exclusion.** “Request for Exclusion” means the submission by Class
14 Members to the Class Administrator requesting to opt out of the settlement. A form Request for
15 Exclusion is Exhibit D.

16 **1.38 Settled Class Claims.** “Settled Class Claims” means collectively any and all claims,
17 demands, rights, liabilities, suits, matters, obligations, damages, losses, costs, actions and causes of
18 action of every nature and description whatsoever, in law or equity, known or unknown, by the
19 Releasing Parties against Defendants and Cross-Defendant as well as any supplier, manufacturer or
20 distributor of copper pipe for potable water systems in the Class Members’ homes and their insurers,
21 including claims for penalties, attorneys’ fees and costs of such, that arise from the installation or use of
22 copper pipes in the Homes and any alleged violations of California Civil Code § 895 et seq. arising from
23 the installation of copper pipes. Without limiting the foregoing, and for clarification, excluded from the
24 Settled Class Claims are any *other* construction defects or *other* claims relating to the construction of the
25 homes identified in Exhibit A, against any parties, including Defendants, which are not alleged in the
26 Action.

27 **1.39 Settlement or Settlement Agreement.** “Settlement” or “Settlement Agreement” shall
28 mean the terms and conditions of this Class Action Settlement and Release Agreement, which is being

1 work with a common water chemist expert.

2 **2.1.1 Discovery in the Action.** The Parties have engaged in extensive discovery and
3 motion practice in connection with this action.

4 **2.1.2 Class Certification.** On July 26, 2022, the Court granted class certification in
5 this action and appointed Plaintiffs as class representatives.

6 **2.2 Settlement Efforts.** Subsequent to certification of this class action, the Parties have
7 engaged in arms-length negotiations before Hon. Nancy Wieben Stock (ret.) JAMS ADR. As a result of
8 this mediation, the parties were able to reach agreement on settlement. The terms of that negotiated
9 settlement are reflected in this Agreement.

10 **2.3 Plaintiffs' Reasons for Entering Into Settlement.** Class Counsel and Plaintiffs
11 believe that the claims asserted in this Action have merit. Class Counsel and Plaintiffs, however,
12 recognize the uncertain outcome and the risk of any litigation, especially in complex actions such as this,
13 as well as the difficulties and delays inherent in such litigation and in particular the limitations on
14 recovery given the primary defendant's bankruptcy and the potential limitation of recovery from their
15 insurers. Class Counsel and Plaintiffs are also mindful of the inherent problems of proof and defenses to
16 the claims asserted in this Action. In light of the above, Class Counsel and Plaintiffs believe that the
17 Settlement set forth in this Settlement Agreement confers substantial benefits upon the Class, and its and
18 each of the Class Members and is fair, just, equitable, reasonable, adequate and in the best interests of all
19 Class Members.

20 **2.4 Defendants' Reasons for Entering into Settlement.** Defendants have denied, and
21 continue to deny, liability for any of the claims asserted in this Action. Defendants, however, desire to
22 settle the Action, on the terms and conditions set forth in this Settlement Agreement, in order to:
23 (a) avoid the burden, expense, and uncertainty of continuing the Action; (b) avoid the diversion of its
24 resources and personnel required by continuing the Action; and (c) put to rest any and all claims that are,
25 or could have been, brought or asserted in this Action, or any similar litigation, in this or any other
26 court's jurisdiction, which are based upon any of the facts, circumstances or conduct alleged in the
27 Action. Defendants have therefore determined that it is desirable and beneficial that the Action be
28 settled upon the terms and conditions set forth in this Settlement Agreement. This Settlement

1 Agreement is based on the express understanding that nothing contained in this Settlement Agreement
2 shall be construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the
3 part of any of Defendants or any of Plaintiffs' Released Parties, all of whom deny liability therefor.

4 **2.5 Conditional Settlement.** Subject to Court approval as provided herein, the Parties
5 stipulate and agree that, in consideration of the promises and covenants set forth in this Agreement and
6 upon the entry by the Court of a Final Approval Order and the occurrence of the Effective Date, the
7 Action shall be fully settled and compromised as to the Class Members upon the terms and conditions
8 set forth below.

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

12 **III. TERMS OF SETTLEMENT**

13 **3.1 Contributions to the Settlement Fund.** Defendants shall pay the sum of
14 \$1,537,500.00 to fund the Settlement. Any Net Settlement Funds allocated to Class Homes that Opt-Out
15 of this Settlement shall revert back to Defendants.

16 **3.1.0 Funding of The Settlement Fund.** Within 30 days of the Court's entry of the
17 Preliminary Approval of the Settlement, Defendant shall wire to the Class Administrator's account to be
18 established the amounts listed in Section 3.1 to be used as the Settlement Fund, consistent with the terms
19 of this Settlement Agreement, and shall be maintained in the Class Administrator's account until
20 distributions are made.

21 **3.1.1 Calculation of Net Settlement Fund.** Within five (5) business days of the
22 Settlement Effective Date, the Class Administrator shall calculate the Net Settlement Fund by deducting
23 from the Settlement Fund the anticipated Administrative Costs for the Settlement, attorneys' fees and
24 costs awarded by the Court, any incentive payments awarded to the Class Representatives by the Court,
25 and any other payments agreed to by the Parties and approved by the Court.

26 **3.1.2 Calculation of Eligible Shares to each Class Member.** Within five (5) business
27 days of the Settlement Effective Date, the Class Administrator shall calculate the Eligible Share of the
28 Net Settlement Fund owed to each Class Member by dividing the Net Settlement Fund by 123 (*i.e.*, the

1 number of homes on the Class Homes List).

2 **3.1.3 Claims Paid.** This is a claims-paid settlement, and no Participating Class
3 Member shall be required to submit any claim form in order to obtain an Eligible Share. Every
4 Participating Class Member who does not file a valid Request for Exclusion shall automatically be
5 entitled to an Eligible Share.

6 **3.1.4 Payment of Claims to the Participating Class Members.** Within (30) days
7 after the Settlement Effective Date, the Class Administrator shall mail individual Settlement Checks to
8 each Participating Class Member who is not an Opt Out.

9 **3.1.5 Disposition of Uncashed Settlement Checks.** Each Settlement Check mailed by
10 the Class Administrator to Class Members shall be valid for 180 days from the date shown on the
11 Settlement Check. Any checks not cashed within that time shall be treated as uncashed checks under
12 California's Unclaimed Property Law and forwarded to the appropriate government authority.

13 **3.1.6 Attorneys' Fees, Costs and Expenses.** Defendants take no position as to the
14 proper amount of any attorneys' fee award to Class Counsel, and agree that they will not oppose an
15 application by Class Counsel for attorneys' fees. Class Counsel represent and warrant that they will not
16 seek an attorneys' fees award of more than one-third of the Settlement Fund, which equates to Five
17 Hundred and Twelve Thousand Five Hundred Dollars (\$512,500.00) and reimbursement of legal costs
18 up to \$35,000.00, and that these amounts are inclusive of all fees, costs, and expenses of Class Counsel,
19 past and future, in connection with the Action. The fees shall be divided amongst Class Counsel based
20 upon their agreement. The attorneys' fees and costs in the amount awarded by the Court shall be paid
21 directly to Class Counsel from the Settlement Fund within two court days after the Settlement Effective
22 Date. The effectiveness of this Settlement will not be conditioned upon or delayed by the Court's failure
23 to approve Class Counsel's request for attorneys' fees and costs, or the Court's award to Class Counsel
24 of attorneys' fees and costs in an amount less than that sought by Class Counsel. Defendants shall have
25 no obligation to pay any attorneys' fees or costs to Class Counsel, separate from any amount awarded by
26 the Court to Class Counsel from the Settlement Fund. Any fees not awarded shall be included within
27 the Net Settlement Fund for distribution to the Participating Class Members. The Class Representatives
28 have reviewed and approved the aforesaid division of attorneys' fees.

1 **4.3.0** The Notice shall be mailed to all potential Class Members by the Class
2 Administrator within thirty (30) days of Preliminary Approval, in envelopes marked “Personal and
3 Confidential.”

4 **4.3.1** Any Class Notices that are returned as non-deliverable with a forwarding address
5 shall promptly be re-mailed by the Class Administrator to such forwarding address. To the extent that
6 any Class Notices are returned as non-deliverable without a forwarding address, the Class Administrator
7 shall conduct a reasonable research to locate valid address information for the intended recipients of
8 such Class Notices, and shall promptly re-mail the Class Notice, as applicable, to any Potential Class
9 Members for whom new address information is identified.

10 **4.4 Prior Homeowners.** Under the terms of the Settlement, the current owner shall be
11 deemed to have the right to payment from the Net Settlement Fund, unless a prior owner had re-piped
12 the home with PEX or an epoxy coating. The Parties have determined that it is impracticable to inspect
13 every home in the class to determine whether there has been a replacement of the copper pipes by prior
14 owners with PEX or an epoxy coating. Accordingly, a term of this Settlement is that prior to the Final
15 Approval of the Settlement, a prior owner must submit a verification that the prior owner had re-piped
16 the home with PEX or an epoxy coating. A Prior Owner Re-Piping Form shall be served with the Class
17 Notice and be available on a Class Settlement website maintained by the Class Administrator, in the
18 form attached hereto as Exhibit E.

19 **4.4.1. Procedure Upon Prior Homeowner Submission of Prior Owners Verification**
20 **Form.** In the event a prior owner submits a Prior Owner Verification Form stating that the
21 prior owner has replaced the homes’ copper pipes with PEX or epoxy coating, then the Class
22 Administrator shall provide the present owner with written notice: (a) that a prior owner has
23 submitted a Prior Owner Verification stating that the prior owner replaced the homes’ copper
24 pipes with PEX or epoxy coating; and (b) the present owner has 30 days within which to
25 submit a written verification that the home had copper pipes (without any epoxy coating) at
26 the time the present owner obtained title to the home. In the event that there is a dispute
27 between a prior and present owner as to whether a prior owner had replaced the copper pipes
28 with PEX or epoxy coating, then the two homeowners shall submit proof supporting their

1 claims to Hon. Nancy Wieben Stock (ret.) of JAMS who: (a) shall serve as arbitrator of the
2 dispute; and (b) whose determination of those competing claims shall be binding. The costs
3 for Judge Stock's services shall be deemed a "cost" that shall be deductible from the
4 Settlement Fund.

5 **4.5 Requests for Exclusion.** In order to request exclusion from the Class, the Class
6 Member must mail a written Request for Exclusion to the Class Administrator. The Request for
7 Exclusion must be signed by the Class Member, and postmarked no later than the deadline for filing a
8 Request for Exclusion set forth in the Preliminary Approval Order entered by the Court. The Parties
9 agree that they will propose to the Court that the deadline for filing a Request for Exclusion set forth in
10 the Preliminary Approval Order be sixty (60) days after the date Notice was mailed. All Class Members
11 who do not timely and properly file a Request for Exclusion from the Class shall be bound by all
12 proceedings, orders, and judgments in the Action, even if the Class Member has pending, or
13 subsequently initiates, litigation against any of the Defendants relating to the release of Settled Class
14 Claims. A Class Member who chooses to be excluded from the Class will be excluded entirely from the
15 Class and, therefore, from participation in the Settlement.

16 **4.6 Objections to Settlement.** Any member of the Class other than Opt Outs may object
17 to the Settlement, motions for attorneys' fees, costs and/or the proposed incentive awards, and/or the
18 proposed Final Approval Order and Judgment. Any member of the Class who is not an Opt Out and
19 who wishes to file such an objection shall, by the date set forth in the Preliminary Approval Order
20 approved by the Court, mail to the Class Administrator a writing containing a clear and specific
21 statement of the objection, as well as the specific reason(s), if any, for each objection, including any
22 legal support the Class Member wishes to bring to the Court's attention and any evidence the Class
23 Member wishes to introduce in support of the objection. Any member of the Class who is not an Opt
24 Out may file and serve a written objection either on his or her own or through an attorney hired at his or
25 her own expense. Any member of the Class who is not an Opt Out intending to make an appearance at
26 the Fairness Hearing must: (a) file a notice of appearance with the Court no later than the date set in the
27 Preliminary Approval Order approved by the Court or as the Court may otherwise direct; and (b) mail a
28 copy of the notice of appearance postmarked by the date set in the Preliminary Approval Order approved

1 Court in support of the Motion for Preliminary Approval and determination by the Court as to its
2 fairness, adequacy, and reasonableness. Promptly upon execution of this Settlement, the Parties shall
3 apply to the Court for the entry of the Preliminary Approval Order, which shall:

4 (a) Preliminarily approve the Settlement as fair, reasonable, and adequate;

5 (b) Approve as to form and content the proposed Notice substantially in the
6 form attached hereto as Exhibit B;

7 (c) Approve the manner of providing Notice to the Class Members as
8 described in Section IV of this Settlement Agreement and find that this manner of notice constitutes the
9 best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all
10 Class Members in accordance with California and federal laws and the Constitution of the U.S.;

11 (d) Approve ILYM Group, Inc. as the Class Administrator, or another
12 administrator mutually agreed to by the Parties;

13 (e) Schedule the Fairness Hearing to be held by the Court to determine:

14 (1) Whether the proposed Settlement should be finally approved as
15 fair, reasonable, and adequate;

16 (2) Whether the Final Approval Order and Judgment should be
17 entered;

18 (3) Whether Class Counsel's application for an award of attorneys'
19 fees and costs should be approved; and

20 (4) Whether the incentive awards to Plaintiffs as Class
21 Representatives should be approved.

22 (f) Provide that the Fairness Hearing may be continued and adjourned by the
23 Court without further notice to the Class Members;

24 (g) Order that Notice to the Class Members, in the manner described in
25 Section IV of this Settlement Agreement, be disseminated;

26 (h) Approve the procedure for Class Members to file Requests for Exclusion,
27 substantially in the manner set forth in Section 4.5 of this Settlement Agreement, and setting a deadline
28 for Class Members to exclude themselves from the Class;

1 (i) Provide that Class Members who do not file valid and timely Requests for
2 Exclusion will be bound by the Final Approval Order and Judgment and the releases set forth in Section
3 VI of the Settlement; and

4 (j) Declare the date on which the Court preliminarily approves the Settlement
5 as the date that the Settlement is deemed filed.

6 VII. FINAL COURT APPROVAL OF THE SETTLEMENT

7 7.1 **Entry of Final Approval Order and Judgment.** At the Fairness Hearing, the Parties
8 will request that the Court, among other things, enter the Final Approval Order and Judgment, in which
9 the Court will: (a) approve the Settlement Agreement as fair, reasonable, adequate, and binding on all
10 members of the Class; (b) enter the Final Approval Order and Judgment in accordance with the terms of
11 this Settlement Agreement; (c) determine the amount and approve the payment of attorneys' fees and
12 costs; (d) determine the amount of any incentive payments to award to the Class Representative; and
13 (e) provide for the entry of judgment in the Action and for the Release of all Released Claims against the
14 Released Parties by the Class Representative and all Class Members who have not submitted valid and
15 timely Requests for Exclusion from the Class.

16 7.1.0 **Final Judgment.** The Final Approval Order and Judgment shall include a final
17 judgment, which shall:

18 (a) Approve the Settlement, adjudging the terms thereof to be fair, reasonable,
19 and adequate, and directing consummation of its terms and provisions;

20 (b) Approve Class Counsel's application for an award of attorneys' fees and
21 reimbursement of costs, insofar as said application has been granted by the Court;

22 (c) Approve the Class Representative incentive award, insofar as said
23 incentive awards have been granted by the Court;

24 (d) Certify the Class for settlement purposes only;

25 (e) Permanently bar all Class Members (other than Opt Outs) from
26 prosecuting against Plaintiffs' Released Parties any and all of Plaintiffs' Released Claims; and

27 (f) Permanently bar the Class Representative from prosecuting against
28 Plaintiffs' Released Parties any and all of Plaintiffs' Released Claims.

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VIII. MISCELLANEOUS PROVISIONS

8.1 Voiding the Agreement. If the Court denies the Motion for Preliminary Approval or does not enter the Final Approval Order and Judgment, or if the Court's entry of the Final Approval Order and Judgment is reversed on appeal, the Settlement and all related papers including the Motion for Preliminary Approval shall not be used nor be admissible in any subsequent proceedings either in this Court or in any other Court or forum, and the \$1,537,500 Settlement Fund shall be returned to Defendants, minus fifty percent (50%) of any actual Class Administrative costs incurred to a limit of \$13,500 from Defendants.

8.2 Signatories' Authority. The signatories to the Settlement represent that they are authorized to enter into this Settlement and bind their respective Parties to its terms and conditions.

8.3 Mutual Full Cooperation. The Parties agree to cooperate fully 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 shall use their best efforts, including all efforts contemplated by this Settlement Agreement and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate the terms of this Settlement. As soon as practicable after execution of this Settlement, Class Counsel shall, with the assistance and cooperation of Defendants and their counsel, take all necessary steps to secure the Court's Final Judgment.

8.4 No Prior Assignments. The Parties 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 right released and discharged in this Settlement.

8.5 Notices. Unless otherwise provided herein, all notices, demands, or other communications given hereunder shall be in writing and shall be deemed to have been duly given as of the third business day after emailing and mailing by U.S. registered or certified mail, return receipt requested, addressed as follows:

- (a) To the Class:
Richard K. Bridgford, Esq.
Michael H. Artinian, Esq.

1 Bridgford, Gleason & Artinian
2 26 Corporate Plaza, Suite 250
3 Newport Beach, CA 92660
4 mike.artinian@bridgfordlaw.com

5 Richard L. Kellner, Esq.
6 Kabateck LLP
7 633 West Fifth Street, Suite 3200
8 Los Angeles, CA 90017
9 rlk@kbklawyers.com

10 (b) To Defendants:
11 Peter K. Pritchard, Esq.
12 Corey M. Timpson, Esq.
13 Sellar Hazard & Lucia
14 2049 Century Park East, Suite 750
15 Los Angeles, CA 90067-3102
16 ppritchard@sellarlaw.com
17 ctimpson@sellarlaw.com

18 (c) To Cross-Defendant:
19 Daniel G. Pezold, Esq.
20 Murchison & Cummings
21 801 S. Grand
22 Los Angeles, CA 90017
23 dpezold@murchisonlaw.com

24 Nina D. Klawunder, Esq.
25 Grant & Associates
26 7455 Arroyo Crossing Parkway
27 Suite 220
28 Las Vegas, NV 89113
nina.klawunder@aig.com

20 **8.6 Construction.** The Parties agree that the terms and conditions of this Settlement are
21 the result of lengthy, intensive arm's-length negotiations between the Parties' counsel, and that the terms
22 of this Settlement shall not be construed in favor of or against any Party.

23 **8.7 Captions and Interpretations.** Section titles or captions contained in this Settlement
24 are a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope
25 of this Settlement or any provision. Each term of this Settlement is contractual and not merely a recital.

26 **8.8 Modification.** This Settlement may not be changed, altered, or modified, except in a
27 writing signed by the Parties and their counsel, and approved by the Court. This Settlement may not be
28 discharged except by performance in accordance with its terms or by a writing signed by the Parties.

1 **8.9 Integration Clause.** This Settlement contains the entire agreement between the Parties
2 relating to the resolution of the Action, and all prior or contemporaneous agreements, understandings,
3 representations, and statements, whether oral or written and whether by a Party or such Party's legal
4 counsel, are merged in this Settlement. No rights under this Settlement may be waived except in a
5 writing signed by the Party making the waiver and its counsel. Notwithstanding the forgoing, it is
6 understood and agreed that Defendants and Cross-defendant will execute a separate settlement
7 agreement documenting the terms and conditions of the settlement of the claims and cross-complaint
8 against Cross-defendant.

9 **8.10 Binding on Assigns.** This Settlement shall be binding upon and inure to the benefit of
10 the Parties, Cross-defendant, Plaintiffs' Released Parties and their respective heirs, trustees, executors,
11 administrators, successors, and assigns and, where applicable, all of their current or former parent
12 entities, corporations, subsidiaries, related and affiliated companies and entities, officers, directors,
13 agents, representatives, attorneys, insurers, predecessors, successors, assignees, employees, and all
14 individuals or entities acting by, through, under, or in concert with any of them.

15 **8.11 Class Counsel Signatories.** It is agreed that, because the Class Members are so
16 numerous, it is impossible or impractical to have each Class Member execute this Settlement. The
17 Notice will advise all Class Members of the binding nature of the Release. Excepting only the Class
18 Members who timely submit a Request for Exclusion, the Notice shall have the same force and effect as
19 if this Settlement were executed by each Class Member with regard to the Settled Class Claims.

20 **8.12 Counterparts.** This Settlement may be executed in counterparts, and when each Party
21 has signed and delivered at least one such counterpart, each counterpart shall be deemed an original,
22 and, when taken together with other signed counterparts, shall constitute one Settlement, which shall be
23 binding upon and effective as to all Parties.

24 **8.13 Governing Law.** This Settlement Agreement shall be governed by the laws of the
25 State of California, without regard to choice-of-law principles.

26 **8.14 Continuing Jurisdiction.** The Court shall retain jurisdiction over the interpretation
27 and implementation of this Settlement Agreement.
28

1 **8.15 Venue.** Any and all actions or disputes arising out of this Settlement Agreement,
2 including without limitation the enforcement, interpretation, breach, or attempted rescission of this
3 Settlement Agreement, shall be brought exclusively in this Court.

4 **8.16 Waiver.** Any failure by any Party to insist upon the strict performance by any other
5 Party of any of the provisions of this Settlement Agreement shall not be deemed a waiver of any of the
6 provisions of this Settlement Agreement, and such Party, notwithstanding such failure, shall have the
7 right thereafter to insist upon the specific performance of any and all of the provisions of this Settlement
8 Agreement.

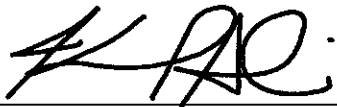
9 **8.17 Conflicts.** In the event of conflict between this Settlement Agreement and any other
10 prepared pursuant to the Settlement, other than any Court order, the terms of this Settlement Agreement
11 shall supersede and control. Notwithstanding the forgoing, it is understood and agreed that Defendants
12 and Cross-defendant will execute a separate settlement agreement documenting the terms and conditions
13 of the settlement of the claims and cross-complaint against Cross-defendant.

14 **8.18 Singular/Plural.** The plural of any defined term includes the singular, and the singular
15 of any defined term includes the plural, as the case may be.

16 **8.19 Reasonable Extensions of Time.** Without further order of the Court, the Parties may
17 agree to reasonable extensions of time to carry out any of the provisions of this Settlement.

18 **IT IS SO AGREED:**

19
20 Dated: 11-20-2022

By: 
Kamal Ali
Class Representative Plaintiff

21
22 Dated: 11-20-2022

By: 
Zainab Ali
Class Representative Plaintiff

23
24
25 Dated:

By: _____
John Torphy
Class Representative Plaintiff

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2 including without limitation the enforcement, interpretation, breach, or attempted rescission of this
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6 provisions of this Settlement Agreement, and such Party, notwithstanding such failure, shall have the
7 right thereafter to insist upon the specific performance of any and all of the provisions of this Settlement
8 Agreement.

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10 prepared pursuant to the Settlement, other than any Court order, the terms of this Settlement Agreement
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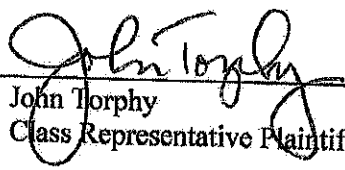
16 **8.19 Reasonable Extensions of Time.** Without further order of the Court, the Parties may
17 agree to reasonable extensions of time to carry out any of the provisions of this Settlement.

18 **IT IS SO AGREED:**

19
20
21
22
23
24
25
26
27
28

Dated: _____ By: _____
Kamal Ali
Class Representative Plaintiff

Dated: _____ By: _____
Zainab Ali
Class Representative Plaintiff

Dated: 11-17-2022 By: 
John Torphy
Class Representative Plaintiff

1 Dated: 11-17-2022

By: Elizabeth Torphy
Elizabeth Torphy
Class Representative Plaintiff

2
3 Dated:

By: _____

4
5 Defendant Warmington Residential
6 California, Inc. and REBCO Communities,
7 Inc. f/k/a Warmington Homes California,
8 Inc.

9 Dated:

By: _____

10 Cross-Defendant Robbins Plumbing and
11 Heating Contractors, Inc., a dissolved
12 California corporation

13 **APPROVED AS TO FORM AND CONTENT:**

14 By: _____
15 Michael H. Artinian, Esq.
16 Bridgford, Gleason & Artinian
17 *Counsel for Plaintiffs*

18 By: _____
19 Richard L. Kellner, Esq.
20 Kabateck LLP
21 *Counsel for Plaintiffs*

22 By: _____
23 Peter K. Pritchard, Esq.
24 Sellar Hazard & Lucia
25 *Counsel for Defendants*

26 By: _____
27 Daniel G. Pezold, Esq.
28 Murchison & Cummings LLP
Counsel for Cross-Defendant

By: _____
Nina D. Klawunder, Esq.
Grant & Associates
Counsel for Cross-Defendant

1 Dated:

By: _____

Elizabeth Torphy
Class Representative Plaintiff

2
3 Dated: 11-17-2022

4 By:  _____

5 Defendant Warmington Residential
6 California, Inc. and REBCO Communities,
7 Inc. f/k/a Warmington Homes California,
8 Inc.

9 Dated:

By: _____

10 Cross-Defendant Robbins Plumbing and
11 Heating Contractors, Inc., a dissolved
12 California corporation

13 **APPROVED AS TO FORM AND CONTENT:**

14 By: _____

15 Michael H. Artinian, Esq.
16 Bridgford, Gleason & Artinian
17 Counsel for Plaintiffs

18 By: _____

19 Richard L. Kellner, Esq.
20 Kabateck LLP
21 Counsel for Plaintiffs

22 By: _____

23 Peter K. Pritchard, Esq.
24 Sellar Hazard & Lucia
25 Counsel for Defendants

26 By:  _____

27 Daniel G. Pezold, Esq
28 Murchison & Cummings LLP
Counsel for Cross-Defendant

By: _____

Nina D. Klawunder, Esq
Grant & Associates
Counsel for Cross-Defendant

1 Dated:

By: _____
Elizabeth Torphy
Class Representative Plaintiff

3 Dated:

By: _____
Defendant Warmington Residential
California, Inc. and REBCO Communities,
Inc. f/k/a Warmington Homes California,
Inc.

7 Dated: November 21, 2022

By: _____
Cross-Defendant Robbins Plumbing and
Heating Contractors, Inc., a dissolved
California corporation, executed on their
behalf pursuant to C.C.P. 664.7 by their
insurer retained Counsel of Record, Daniel G.
Pezold, Esq.

11 **APPROVED AS TO FORM AND CONTENT:**

12 By: _____
13 Michael H. Artinian, Esq.
14 Bridgford, Gleason & Artinian
15 *Counsel for Plaintiffs*

16 By: _____
17 Richard L. Kellner, Esq.
18 Kabateck LLP
19 *Counsel for Plaintiffs*

19 By: _____ For Peter Pritchard
20 Peter K. Pritchard, Esq.
21 Sellar Hazard & Lucia
22 *Counsel for Defendants*

22 By: _____
23 Daniel G. Pezold, Esq
24 Murchison & Cummings LLP
25 *Counsel for Cross-Defendant*

26 By: *Nina D. Klawunder*
27 Nina D. Klawunder, Esq
28 Grant & Associates
Counsel for Cross-Defendant

1 Dated:

By: _____

Elizabeth Torphy
Class Representative Plaintiff

2
3 Dated:

By: _____

Defendant Warmington Residential
California, Inc. and REBCO Communities,
Inc. f/k/a Warmington Homes California,
Inc.

4
5
6
7 Dated:

By: _____

Cross-Defendant Robbins Plumbing and
Heating Contractors, Inc., a dissolved
California corporation

8
9
10 **APPROVED AS TO FORM AND CONTENT:**

11
12 By: Michael H. Artinian

13 Michael H. Artinian, Esq.
14 Bridgford, Gleason & Artinian
15 Counsel for Plaintiffs

16 By: Richard L. Kellner

17 Richard L. Kellner, Esq.
18 Kabateck LLP
19 Counsel for Plaintiffs

20 By: Peter K. Fritchard For Peter Pritchard

21 Peter K. Fritchard, Esq.
22 Sellar Hazard & Lucia
23 Counsel for Defendants

24 By: Daniel G. Pezold

25 Daniel G. Pezold, Esq
26 Murchison & Cummings LLP
27 Counsel for Cross-Defendant

28 By: Nina D. Klawunder

Nina D. Klawunder, Esq
Grant & Associates
Counsel for Cross-Defendant