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20 Attorneys for Plaintiffs JEFF SMITH and JULIE SMITH,
21 on behalf of themselves and all others similarly situated

22 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
23 **FOR THE COUNTY OF ORANGE**

24 JEFF SMITH, an individual; JULIE SMITH, an
25 individual; on behalf of themselves and all others
26 similarly situated,

27 Plaintiffs,

28 vs.

PULTE HOME CORPORATION; and DOES 1-
100,

Defendants.

AND RELATED CROSS-CLAIM.

CASE NO. 30-2015-00808112-CU-CD-CXC

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

Judge: Hon. Peter Wilson
Dept: CX-101
Complaint Filed: 9/14/15

STIPULATION OF SETTLEMENT AND RELEASE

1
2 Plaintiffs and Class Representatives Jeff and Julie Smith (“Plaintiffs”), Defendant Pulte Home
3 Corporation (“Defendant”) collectively hereinafter referred to as the “Parties,” by and through their
4 respective counsel of record, agree to resolve the above-captioned case through this Class Action
5 Settlement and Release Agreement, dated December 14, 2022, which is being entered into by the Parties
6 for settlement purposes only.

I. DEFINITIONS

7
8 **1.1 Action.** “Action” shall mean the above-captioned lawsuit.

9 **1.2 Administrative Costs.** “Administrative Costs” means the costs of administering
10 the settlement by the Class Administrator, including, but not limited to, the costs of mailing the
11 Settlement Class Notice and related documents to Settlement Class Members, and the Class
12 Administrator’s costs in administering the portion of the Settlement Fund to be distributed to Settlement
13 Class Members.

14 **1.3 Agreement.** “Agreement” means this Class Settlement Agreement and Release,
15 including all exhibits hereto.

16 **1.4 Attorney Fee Award.** “Attorney Fee Award” means the amount awarded by the
17 Court to Plaintiffs’ Counsel as attorneys’ fees, costs, expenses, disbursements or other compensation,
18 such amount to be in full and complete satisfaction of Plaintiffs’ Counsel’s claim or request (and any
19 claim or request made by any other attorneys) for payment of attorneys’ fees, costs, disbursements and
20 compensation in the Action.

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

23 **1.6 Class.** “Class” shall mean:

24 *(1) All present owners of residential homes in Talega whose copper pipe systems*
25 *have not been replaced with PEX or epoxy coating by prior owners of the homes, or (2)*
26 *prior owners of homes in Talega, California who replaced their copper pipe systems with*
27 *PEX or epoxy coating, provided that: (a) the homes were constructed by Pulte Home*
28 *Corporation and substantially completed within ten (10) years of the filing of the original*
complaint in this action (or September 14, 2005), (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 **1.7 Class Administrator.** “Class Administrator” shall mean ILYM Group, Inc.,
2 14751 Plaza Dr., Suite J, Tustin CA 92780. The Class Administrator shall receive and administer the
3 Settlement Funds.

4 **1.8 Class Counsel.** “Class Counsel” shall mean: Bridgford, Gleason & Artinian,
5 Kabateck LLP, and McNicholas & McNicholas.

6 **1.9 Class Home List.** “Class Home List” shall mean the complete list of the
7 addresses of the homes that are covered by this Settlement and is comprised of those 56 homes
8 developed by Defendant in Talega, California identified on Exhibit A hereto.

9 **1.10 Class Representatives.** “Class Representatives” means named plaintiffs and duly
10 appointed class representatives Jeff and Julie Smith.

11 **1.11 Court.** “Court” means the Superior Court of California for the County of Orange,
12 Complex Division.

13 **1.12 Cross-Defendants.** “Cross-Defendants” means Ace American Insurance
14 Company and Arch Specialty Insurance, Intervenor for RCR Plumbing; Copper & Brass International
15 Corp., and Nacobre USA, LLC, formerly known as Copper & Brass International Corp.

16 **1.13 Defendant.** “Defendant” means Pulte Home Corporation.

17 **1.14 Defendant’s Counsel.** “Defendant’s Counsel” means Joseph A. Ferrentino and
18 Jeffrey R. Brower of Newmeyer & Dillion LLP and Anna S. McLean of Sheppard Mullin Richter &
19 Hampton LLP.

20 **1.15 Eligible Share.** “Eligible Share” shall mean each individual Settlement Class
21 Member’s share of the Net Settlement Fund, which will be determined by dividing the Net Settlement
22 Fund by the 56 homes included in the Settlement Class.

23 **1.16 Final Approval Hearing.** “Final Approval Hearing” shall mean the hearing
24 conducted by the Court to determine the fairness, adequacy and reasonableness of this Agreement and
25 the settlement of the Action, including Plaintiff’s Counsel’s application for the Attorney Fee Award and
26 the Representative Plaintiff’s Award, and to enter the Final Approval Order and Judgment.

27 **1.17 Final Approval Order and Judgment.** “Final Approval Order and Judgment”
28 shall mean the Court’s Order pursuant to Rule of Court 3.769 granting final approval of this Settlement

1 Agreement and providing for the orderly performance and enforcement of the terms and conditions of
2 this Settlement Agreement, as well as the Judgment rendered by the Court pursuant to Rule of Court
3 3.769(h).

4 **1.18 Motion for Preliminary Approval.** “Motion for Preliminary Approval” shall
5 mean the Motion for Preliminary Approval of the Settlement to be filed in this Action pursuant to
6 California Rule of Court 3.769(c).

7 **1.19 Net Settlement Fund.** “Net Settlement Fund” means the Settlement Fund
8 (including accrued interest) minus (a) Administrative Fees and Costs, (b) the total attorneys’ fees and
9 costs awarded to Settlement Class Counsel by the Court; and (c) any incentive payments awarded to the
10 Class Representatives by the Court.

11 **1.20 Notice Date.** “Notice Date” shall mean the date on which the Class
12 Administrator shall send the Settlement Class Notice to all members of the Settlement Class who are not
13 Original Class Members. The Notice Date shall be no more than ten (10) business days after entry of
14 the Preliminary Approval Order.

15 **1.21 Objection Deadline.** “Objection Deadline” means sixty (60) calendar days from
16 the Settlement Class Notice Date.

17 **1.22 Opt-Out.** “Opt-Out” means a Settlement Class Member who timely submits a
18 properly completed and executed Request for Exclusion.

19 **1.23 Opt-Out Period.** “Opt-Out Period” means the period commencing on the
20 Settlement Class Notice Date and ending sixty (60) calendar days thereafter during which Settlement
21 Class Members may submit a timely Request for Exclusion. The last day of the Opt-Out Period shall be
22 specifically set forth in the Settlement Class Notice.

23 **1.24 Original Class Members.** All members of the Class to whom Class Notice was
24 sent not later than July 21, 2022.

25 **1.25 Participating Settlement Class Member.** “Participating Settlement Class
26 Member” shall mean the Settlement Class Member who is the current owner(s) of each home on the
27 Class Home List, unless (a) a prior owner re-piped the home with PEX or an epoxy coating and submits
28 a Prior Owner Re-Piping Form as provided in Section 4.4 of this Settlement Agreement; or (b) the

1 Settlement Class Member Opted Out.

2 **1.26 Parties.** "Parties" shall mean the Class Representatives, the Settlement Class
3 Members, and Defendant.

4 **1.27 Plaintiffs.** "Plaintiffs" shall mean the Class Representatives and the Settlement
5 Class Members.

6 **1.28 Plaintiffs' Released Parties.** "Plaintiffs' Released Parties" shall mean
7 Defendant-Defendants, and each and all of their past, present, and future parents, subsidiaries,
8 subcontractors, affiliated companies and corporations, and each and all of its respective past, present,
9 and future directors, officers, managers, employees, general partners, limited partners, principals, agents,
10 insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors, successors,
11 divisions, joint ventures, assigns, or related entities, and each and all of its respective executors,
12 successors, assigns, and legal representatives, and any subcontractors hired by Defendant to construct or
13 work on the homes listed on the Class Home List and each and all of its past, present, and future parents,
14 subsidiaries, subcontractors, affiliated companies and corporations, and each and all of its respective
15 past, present, and future directors, officers, managers, employees, general partners, limited partners,
16 principals, agents, insurers, reinsurers, shareholders, attorneys, advisors, representatives, predecessors,
17 successors, divisions, joint ventures, assigns, or related entities, and each and all of its respective
18 executors, successors, assigns, and legal representatives, as well as any supplier, manufacturer or
19 distributor of copper pipe for potable water systems in the Settlement Class Members' homes and each
20 and all of their past, present, and future parents, subsidiaries, subcontractors, affiliated companies and
21 corporations, and each and all of its respective past, present, and future directors, officers, managers,
22 employees, general partners, limited partners, principals, agents, insurers, reinsurers, shareholders,
23 attorneys, advisors, representatives, predecessors, successors, divisions, joint ventures, assigns, or
24 related entities, and each and all of its respective executors, successors, assigns, and legal
25 representatives.

26 **1.29 Preliminary Approval.** "Preliminary Approval" shall mean that the Court has
27 entered the Preliminary Approval Order.

28 **1.30 Preliminary Approval Date.** "Preliminary Approval Date" means the date on

1 which the Preliminary Approval Order is entered by the Court.

2 **1.31 Preliminary Approval Order.** “Preliminary Approval Order” shall mean the
3 order entered by the Court that grants Preliminary Approval of this Settlement including, among other
4 things, preliminary approval of the terms of the settlement, provisional certification of the Settlement
5 Class, and approval of the form and method of Settlement Class Notice. The Preliminary Approval
6 Order shall be in substantially the form attached hereto as Exhibit D, subject to non-material
7 modifications made by the Court.

8 **1.32 Release by Class Representatives.** “Release by Class Representatives” means
9 the release set forth in Paragraph 5.1 of this Agreement.

10 **1.33 Release by Settlement Class Members.** “Release by Settlement Class
11 Members” means the release set forth in Paragraph 5.2 of this Agreement.

12 **1.34 Related Actions.** “Related Actions” means *Del Rivero, et al. v. Centex Homes of*
13 *California, LLC, et al.* Orange County Superior Court Case No. 30-2013-00649338; *Shah, et. al. v. Pulte*
14 *Home Corporation*, Orange County Superior Court Case No. 30-2014-00731604; the claims pending
15 with the American Arbitration Association filed by the owners of the homes that were the subject of the
16 Court's July 9, 2021 order granting Defendants' motion to compel arbitration in the *Del Rivero v. Centex*
17 action; and the claims pending with the American Arbitration Association filed by the owners of the
18 homes that were the subject of the Court's November 15, 2021 order requiring certain homeowners to
19 arbitration in this action.

20 **1.35 Representative Plaintiffs' Award.** “Representative Plaintiffs' Award” means
21 the amount, if any, that is approved by the Court for payment to the Class Representatives for acting as
22 class representatives in the Action.

23 **1.36 Request for Exclusion.** “Request for Exclusion” means the submission by
24 Settlement Class Members to the Class Administrator requesting to opt out of the settlement. A form
25 Request for Exclusion is Exhibit E.

26 **1.37 Settled Claims of the Class Representatives.** “Settled Claims of the Class
27 Representatives” means collectively any and all claims, demands, rights, liabilities, suits, matters,
28 obligations, damages, losses, costs, actions and causes of action of every nature and description

1 whatsoever, in law or equity, known or unknown, that the Class Representatives ever had against
2 Defendant, Cross-Defendants, as well as any other supplier, manufacturer, distributor, or installer of
3 copper plumbing lines or systems in the Class Representatives' homes and their insurers, including
4 claims for penalties, attorneys' fees and costs of such, that arise from the design, installation, repair, or
5 use of copper plumbing lines and systems in the homes and any alleged violations of California Civil
6 Code § 895 et seq. arising from the design, installation, repair, or use of copper plumbing lines and
7 systems. The Settled Claims of the Class Representatives specifically extend to claims that the Class
8 Representatives do not know or suspect to exist in their favor at the time of settlement. The foregoing
9 releases constitute a waiver of, without limitation, section 1542 of the California Civil Code, which
10 provides:

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

15 The Class Representatives understand and acknowledge the significance of these waivers of Civil Code
16 section 1542 and/or of any other applicable law relating to limitations on releases. In connection with
17 such waivers and relinquishments, the Class Representatives acknowledge that they are aware that they
18 may hereafter discover facts in addition to, or different from, those facts they now know or believe to be
19 true with respect to the subject matter of the settlement, but that it is their intention to release finally,
20 fully, and forever, all Settled Claims of the Class Representatives, and in furtherance of such intention,
21 the release of the Settled Claims of the Class Representatives will be and remain in effect
22 notwithstanding the discovery or existence of any such additional or different facts.

23 **1.38 Settled Class Claims.** "Settled Class Claims" means collectively any and all
24 claims, demands, rights, liabilities, suits, matters, obligations, damages, losses, costs, actions and causes
25 of action of every nature and description whatsoever, in law or equity, known or unknown, that the
26 Settlement Class Members ever had against Defendant, Cross-Defendants, or any other supplier,
27 manufacturer, distributor, or installer of copper plumbing lines or systems in the Settlement Class
28 Members' homes and their insurers, including claims for penalties, attorneys' fees and costs of such, that

1 arise from or in any way relate to the design, installation, repair, or use of copper plumbing lines and
2 systems in the homes and any alleged violations of California Civil Code § 895 et seq. arising from or in
3 any way relating to the design, installation, repair, or use of copper plumbing lines and systems.

4 Without limiting the foregoing, and for clarification, excluded from the Settled Class Claims are
5 any *other* alleged construction defects or *other* claims relating to the construction of the homes identified
6 in Exhibit A, against any parties, including Defendant, which are not alleged in the Action.

7 **1.39 Settlement or Settlement Agreement.** “Settlement” or “Settlement Agreement”
8 shall mean the terms and conditions of this Class Action Settlement and Release Agreement, which is
9 being entered into by the Parties for settlement purposes only.

10 **1.40 Settlement Class Members.** “Settlement Class Members” shall mean (1) the
11 Original Class Members, and (2) either the present homeowner(s) of the 56 homes listed on Exhibit A,
12 or the former owners of such homes who have provided information acceptable to the Parties that they
13 repiped the home with PEX or an epoxy coating before selling. Settlement Class Members shall exclude
14 Opt-Outs. The Settlement Class Members comprise the “Settlement Class.”

15 **1.41 Settlement Class Notices.** “Settlement Class Notices” means the notices of
16 provisional certification of a Settlement Class and proposed settlement contemplated by this Agreement,
17 substantially in the forms attached hereto collectively as Exhibit B and Exhibit C, more fully described
18 in Section IV of this Agreement..

19 **1.42 Settlement Fund.** “Settlement Fund” shall mean the total amount of \$375,200.00
20 that shall be funded by Defendant and wired to Class Administrator’s account within 30 days of Final
21 Approval. The Settlement Fund shall be the exclusive source for: (a) the benefits to the Settlement Class
22 Members (*i.e.*, the Award); (b) the Attorney Fee Award; (c) Class Administrator’s Costs; and (d) the
23 Class Representatives’ Awards.

24 **1.43 Settlement Effective Date.** “Settlement Effective Date” shall mean the first day
25 following the last of the following occurrences:

26 (a) The time to appeal or seek permission to appeal or seek other judicial
27 review of the Final Approval Order and Judgment has expired with no appeal or other judicial review
28 having been taken or sought in this Action and all of the Related Actions; or

1 (b) If an appeal or other judicial review of the Final Approval Order and
2 Judgment has been taken or sought in this Action and all of the Related Actions, the date the Final
3 Approval Order and Judgment in this Action and all of the Related Actions is finally affirmed by an
4 appellate court with no possibility of subsequent appeal or other judicial review therefrom, or the date
5 the appeal(s) or other judicial review therefrom are finally dismissed with no possibility of subsequent
6 appeal or other judicial review in this Action and all of the Related Actions.

7 II. RECITALS

8 **2.1 Description of the Action.** Plaintiffs filed this Action on May 9, 2013 on behalf
9 of themselves and other allegedly similarly situated persons whose homes were built by Defendant and
10 contained copper plumbing lines and systems that purportedly were inadequate and defective for the
11 water conditions in Talega, California.

12 **2.1.0 Litigation of the Action.** Class Counsel assert that they have, for close to
13 nine years, vigorously litigated this Action and the other related actions against other developers for the
14 same claim that the chemical interaction between the water supplied in Talega and the copper pipes
15 installed by developers lessened the reasonably-expected useful life of the copper pipes and resulted or
16 would result in pinhole leaks. This has included extensive motion practice on the issue of whether the
17 cases can proceed as class actions (which were litigated on two separate occasions before the Court of
18 Appeal) and extensive work with a common water chemist expert.

19 **2.1.1 Discovery in the Action.** The Parties have engaged in extensive
20 discovery and motion practice in connection with this action.

21 **2.2 Class Certification.** On August 19, 2021, the Court certified the Class as defined
22 in Section 1.6 of this Settlement Agreement.

23 **2.3 Settlement Efforts.** Subsequent to certification of this class action and extensive
24 litigation of this case, the Parties have engaged in arms-length negotiations before Hon. Stephen J.
25 Sundvold (ret.) JAMS ADR. As a result of this mediation, the parties were able to reach agreement on
26 settlement. The terms of that negotiated settlement are reflected in this Agreement.

27 **2.4 Plaintiffs' Reasons for Entering Into Settlement.** Class Counsel and Plaintiffs
28 believe that the claims asserted in this Action have merit. Class Counsel and Plaintiffs, however,

1 recognize the uncertain outcome and the risk of any litigation, especially in complex actions such as this,
2 as well as the difficulties and delays inherent in such litigation. Class Counsel and Plaintiffs are also
3 mindful of the inherent problems of proof and defenses to the claims asserted in this Action. In light of
4 the above, Class Counsel and Plaintiffs believe that the Settlement set forth in this Settlement
5 Agreement confers substantial benefits upon the Settlement Class, and each of the Class Members and is
6 fair, just, equitable, reasonable, adequate and in the best interests of all Settlement Class Members.

7 **2.5 Defendant's Reasons for Entering into Settlement.** Defendant has denied, and
8 continues to deny, liability for any of the claims asserted in this Action. Defendant, however, desires to
9 settle the Action, on the terms and conditions set forth in this Settlement Agreement, in order to:
10 (a) avoid the burden, expense, and uncertainty of continuing the Action; (b) avoid the diversion of its
11 resources and personnel required by continuing the Action; and (c) put to rest any and all claims that are,
12 or could have been, brought or asserted in this Action, or any similar litigation, in this or any other
13 court's jurisdiction, which are based upon any of the facts, circumstances or conduct alleged in the
14 Action. Defendant has therefore determined that it is desirable and beneficial that the Action be settled
15 upon the terms and conditions set forth in this Settlement Agreement. This Settlement Agreement is
16 based on the express understanding that nothing contained in this Settlement Agreement shall be
17 construed or deemed an admission of liability, culpability, negligence, or wrongdoing on the part of
18 Defendant or any of Plaintiffs' Released Parties, all of whom deny any liability.

19 **2.6 Conditional Settlement.** Subject to Court approval as provided herein, the
20 Parties stipulate and agree that, in consideration of the promises and covenants set forth in this
21 Agreement and upon the entry by the Court of a Final Approval Order and the occurrence of the
22 Effective Date, the Action shall be fully settled and compromised as to the Settlement Class Members
23 upon the terms and conditions set forth below. Further, this Settlement has been entered into in concert
24 with settlements reached in the Related Actions and is conditioned upon final execution and final Court
25 approvals of the settlements in the Related Actions.

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

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III. TERMS OF SETTLEMENT

3.1 Contributions to the Settlement Fund. Defendant and Cross-Defendants shall pay the total sum of \$375,200.00 to fund the Settlement Fund. Allocation of the payment of this sum among Defendant and Cross-Defendants is set forth separate settlement agreements between them. Defendant and Cross-Defendants shall be responsible only for their agreed-upon shares of the total Settlement Fund. Any Net Settlement Funds allocated to homes on the Class Home List whose eligible Settlement Class Member Opt-Out of this Settlement shall revert back to Defendant and Cross-Defendants according to their agreements.

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

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

3.1.2 Calculation of Eligible Shares to each Class Member. Within five (5) business days of the Settlement Effective Date, the Class Administrator shall calculate the Eligible Share of the Net Settlement Fund attributable to each Settlement Class Member by dividing the Net Settlement Fund by 56 (*i.e.*, the number of homes on the Class Homes List).

3.1.3 Claims Paid. This is a claims-paid settlement, and, except for prior owners as provided in Section 4.4 of this Settlement, no Participating Settlement Class Member shall be required to submit any claim form in order to be eligible to obtain an Eligible Share. Every Participating Settlement Class Member who does not file a valid Request for Exclusion shall automatically be eligible for to an Eligible Share.

1 **3.1.4 Payment of Claims to the Participating Settlement Class Members.**

2 Within (30) days after the Settlement Effective Date, the Class Administrator shall mail individual
3 Settlement Checks to each Participating Settlement Class Member.

4 **3.1.5 Disposition of Uncashed Settlement Checks.** Each Settlement Check

5 mailed by the Class Administrator to Participating Settlement Class Members shall be valid for 180 days
6 from the date shown on the Settlement Check. Any checks not cashed within that time shall be treated
7 as uncashed checks under California's Unclaimed Property Law and forwarded to the appropriate
8 government authority.

9 **3.1.6 Attorneys' Fees, Costs and Expenses.** Defendant takes no position as to

10 the proper amount of any attorneys' fee award to Class Counsel, and agree that they will not oppose an
11 application by Class Counsel for attorneys' fees. Class Counsel represent and warrant that they will not
12 seek an attorneys' fees award of more than one-third of the Settlement Fund, which equates to One
13 Hundred Twenty-Five Thousand Sixty-Six Dollars (\$125,066.00) and reimbursement of legal costs up to
14 \$25,000.00, and that these amounts are inclusive of all fees, costs, and expenses of Class Counsel, past
15 and future, in connection with the Action. The fees shall be divided among Class Counsel based upon
16 their agreement. The attorneys' fees and costs in the amount awarded by the Court shall be paid directly
17 to Class Counsel from the Settlement Fund within two court days after the Settlement Effective Date.
18 The effectiveness of this Settlement is not conditioned upon nor will it be delayed in the event that the
19 Court fails to approve Class Counsel's request for attorneys' fees and costs in whole or in part.
20 Defendant shall have no obligation to pay any attorneys' fees or costs to Class Counsel other than such
21 amount awarded by the Court to Class Counsel from the Settlement Fund. Any fees not awarded shall
22 be included within the Net Settlement Fund for distribution to the Participating Settlement Class
23 Members. The Class Representatives have reviewed and approved the aforesaid division of attorneys'
24 fees.

25 **3.1.7 Incentive Payments to the Class Representatives.** Plaintiffs intend to

26 apply to the Court for one incentive payments collectively for the Class Representatives of \$10,000.00.
27 Defendant takes no position as to the proper amount of any incentive payments to the Class
28 Representatives and agree that they will not oppose an application by Class Counsel for the Class

1 Representatives' Incentive Payments. The effectiveness of this Settlement will not be conditioned upon
2 or delayed by the Court's failure to approve any incentive payments to either Class Representatives,
3 and/or the Court's award of incentive payments in an amount less than that sought by either Class
4 Representatives. Defendant shall have no obligation to pay any incentive payments to the Class
5 Representatives, separate from any amount awarded by the Court to the Class Representatives from the
6 Settlement Fund. Any fees not awarded shall be included within the Net Settlement Fund for
7 distribution to the Participating Settlement Class Members.

8 **3.1.8 Costs of Notice and Claims Administration.** Within ten (10) business
9 days of the Settlement Effective Date, the Class Administrator shall be reimbursed from the Settlement
10 Fund for its costs associated with the preparation and mailing of the Notice described in Section 4.2, and
11 the costs for distributing settlement checks to Class Members.

12 **IV. NOTICE TO THE CLASS**

13 **4.1 Contact Information of Potential Class Members.** Within ten (10) business
14 days of Preliminary Approval, Class Counsel shall provide the Class Administrator with the Class
15 Home List. The Class Administrator shall then determine the identity of all potential Settlement Class
16 Members by conducting a "chain of title" search for the names and addresses of all individuals who had
17 an ownership interest in the subject homes from the date of construction to the present date. The "chain
18 of title" search shall be supplemented with other information as set forth in Sections 4.3 and 4.4, below,
19 to arrive at address lists for the Settlement Class Members defined in Section 1.40 of this Settlement
20 Agreement.

21 **4.2 Notice to the Settlement Class.**

22 **4.2.0** Notice to the potential Settlement Class Members who were not Original
23 Class Members shall be substantially in the form attached hereto as Exhibit C.

24 **4.2.1** Notice to the Original Class Members shall be substantially in the form
25 attached hereto as Exhibit B.

26 **4.3 Notice by Mail is the Best, Most Fair and Most Reasonable Form of Notice**
27 **Practicable under the Circumstances.** The Parties agree that providing direct mailed notice to all
28 potential Settlement Class Members is the best, most fair and most reasonable form of notice practicable

1 under the circumstances.

2 **4.3.0** The Notices shall be mailed to all Settlement Class Members by the Class
3 Administrator within thirty (30) days of Preliminary Approval, in envelopes marked "Personal and
4 Confidential."

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

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

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

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

4 **4.5 Requests for Exclusion.** The Notice attached as Exhibit B shall provide
5 Settlement Class Members who were not Original Class Members an opportunity to Opt Out. In order
6 to request exclusion, such Settlement Class Members must mail a written Request for Exclusion to the
7 Class Administrator (Exh E). The Request for Exclusion must be signed by the Settlement Class
8 Member, and postmarked no later than the deadline for filing a Request for Exclusion set forth in the
9 Preliminary Approval Order entered by the Court. The Parties agree that they will propose to the Court
10 that the deadline for submitting a Request for Exclusion set forth in the Preliminary Approval Order be
11 sixty (60) days after the date Notice was last mailed. All Settlement Class Members who do not timely
12 and properly file a Request for Exclusion from the Settlement Class shall be bound by all proceedings,
13 orders, and judgments in the Action, even if the Settlement Class Member has pending, or subsequently
14 initiates, litigation against the Defendant relating to the release of Settled Class Claims. A Settlement
15 Class Member who chooses to be excluded from the Settlement Class will be excluded entirely
16 therefrom and, therefore, from participation in the Settlement. The Class Administrator shall timely
17 provide the Parties with copies of all Requests for Exclusion within seven days after receipt of said
18 Requests. In the event that in excess of 10% of the Participating Settlement Class Members opt out,
19 Defendant, at its sole discretion, may terminate this Settlement, but Defendant must give notice of its
20 intent to terminate the Settlement within 15 days after the deadline to submit a Request for Exclusion.

21 **4.6 Objections to Settlement.** Any Settlement Class Member other than Opt Outs
22 may object to the Settlement, motions for attorneys' fees, costs and/or the proposed incentive awards,
23 and/or the proposed Final Approval Order and Judgment. Any Settlement Class Member who is not an
24 Opt Out and who wishes to file such an objection shall, by the date set forth in the Preliminary Approval
25 Order approved by the Court, mail to the Class Administrator a writing containing a clear and specific
26 statement of the objection, as well as the specific reason(s), if any, for each objection, including any
27 legal support the Settlement Class Member wishes to bring to the Court's attention and any evidence the
28 Settlement Class Member wishes to introduce in support of the objection. Any Settlement Class

1 Member who is not an Opt Out may file and serve a written objection either on his or her own or
2 through an attorney hired at his or her own expense. Any Settlement Class Member who is not an Opt
3 Out intending to make an appearance at the Final Approval Hearing must: (a) file a notice of
4 appearance with the Court no later than the date set in the Preliminary Approval Order approved by the
5 Court or as the Court may otherwise direct; and (b) mail a copy of the notice of appearance postmarked
6 by the date set forth in the Preliminary Approval Order to the Class Administrator.

7 **4.6.1** Opt Outs shall have no standing to object to the Settlement, motions for
8 attorneys' fees, costs and/or the proposed incentive awards, and/or the proposed Final Approval Order
9 and Judgment. As soon as possible after receipt of an objection, the Class Administrator shall provide a
10 copy of the objection and supporting papers (and the accompanying envelope or other packaging) to
11 Class Counsel and Defense Counsel. Any Settlement Class Member who fails to comply with the
12 provisions of this Section shall waive and forfeit any and all rights to object to the Settlement, motions
13 for attorneys' fees, costs and/or the proposed incentive awards, and/or the proposed Final Approval
14 Order and Judgment and shall be bound by all the terms of the Settlement Agreement and by all
15 proceedings, orders, and judgments in the Action.

16 **4.7 Proof of Payment.** Within ninety (90) days after the Settlement Effective Date,
17 the Class Administrator will certify to the Court that checks have been mailed to the Participating
18 Settlement Class Members. The certification required by this Section shall be by declaration(s), based
19 on the personal knowledge of the declarant(s), filed with the Court and served on Class Counsel and
20 Counsel for Defendant.

21 **V. RELEASE OF CLAIMS**

22 **5.1 Release by Class Representatives.** Upon the Settlement Effective Date, Class
23 Representatives and all of their respective heirs, executors, administrators, predecessors, successors and
24 assigns, shall and hereby do release and forever discharge Plaintiffs' Released Parties from the Settled
25 Claims of the Class Representatives.

26 **5.2 Release by Settlement Class Members.** Upon the Settlement Effective Date,
27 Settlement Class Members and all of their respective heirs, executors, administrators, predecessors,
28 successors and assigns, shall and hereby do release and forever discharge Plaintiffs' Released Parties

1 from the Settled Class Claims.

2 **5.3 Complete Defense.** The Parties shall be deemed to have agreed that the Releases
3 set forth in Sections 5.1 and 5.2 will be and may be raised by the Parties and Plaintiffs' Released Parties
4 as a complete defense to, and will preclude any action or proceeding based on the claims set forth
5 therein.

6 **5.4 Effectuation of Settlement.** None of the releases set forth herein includes
7 releases of claims to enforce the terms of the Settlement.

8 **VI. PRELIMINARY COURT APPROVAL OF THE SETTLEMENT**

9 **6.1 Motion for Preliminary Approval.** The Parties shall submit this Settlement to
10 the Court in support of the Motion for Preliminary Approval and shall request a determination by the
11 Court as to its fairness, adequacy, and reasonableness. Promptly upon execution of this Settlement,
12 Class Counsel shall apply to the Court for the entry of the Preliminary Approval Order, which shall:

- 13 (a) Preliminarily approve the Settlement as fair, reasonable, and adequate;
- 14 (b) Approve as to form and content the proposed Notices substantially in the
15 forms attached hereto as Exhibits B and C;
- 16 (c) Approve the manner of providing Notice to the Settlement Class Members
17 as described in Section IV of this Settlement Agreement and find that this manner of notice constitutes
18 the best notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all
19 Settlement Class Members in accordance with California and federal laws and the Constitution of the
20 U.S.;
- 21 (d) Approve ILYM Group, Inc. as the Class Administrator, or another
22 administrator mutually agreed to by the Parties;
- 23 (e) Schedule the Final Approval Hearing to be held by the Court to determine:
- 24 (1) Whether the proposed Settlement should be finally approved as
25 fair, reasonable, and adequate;
- 26 (2) Whether the Final Approval Order and Judgment should be
27 entered;
- 28 (3) Whether Class Counsel's application for an award of attorneys'

1 fees and costs should be approved; and

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

4 (f) Provide that the Final Approval Hearing may be continued and adjourned
5 by the Court without further notice to the Class Members;

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

8 (h) Approve the procedure for Settlement Class Members who are not
9 Original Class Members to file Requests for Exclusion, substantially in the manner set forth in
10 Section 4.5 of this Settlement Agreement, and setting a deadline for such Settlement Class Members to
11 exclude themselves from the Settlement Class;

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

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

17 **VII. FINAL COURT APPROVAL OF THE SETTLEMENT**

18 **7.1 Entry of Final Approval Order and Judgment.** At the Final Approval Hearing,
19 the Parties will request that the Court, among other things, enter the Final Approval Order and
20 Judgment, in which the Court will: (a) approve the Settlement Agreement as fair, reasonable, adequate,
21 and binding on all Settlement Class Members who do not Opt Out; (b) enter the Final Approval Order
22 and Judgment in accordance with the terms of this Settlement Agreement; (c) determine the amount and
23 approve the payment of attorneys' fees and costs; (d) determine the amount of any incentive payments to
24 award to the Class Representatives; and (e) provide for the entry of judgment in the Action and for the
25 Release of all Settled Class Claims against the Plaintiffs' Released Parties by the Class Representatives
26 and all Settlement Class Members who have not submitted valid and timely Requests for Exclusion.

27 **7.1.0 Final Judgment.** The Final Approval Order and Judgment shall include a
28 final judgment, which shall:

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

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

5 (c) Approve the Class Representatives' incentive awards, insofar as said
6 incentive awards have been granted by the Court;

7 (d) Certify the Settlement Class for settlement purposes only;

8 (e) Permanently bar all Settlement Class Members (other than Opt Outs) from
9 prosecuting against Plaintiffs' Released Parties any and all of the Settled Class Claims; and

10 (f) Permanently bar the Class Representatives from prosecuting against
11 Plaintiffs' Released Parties any and all of the Settled Class Claims.

12 VIII. MISCELLANEOUS PROVISIONS

13 **8.1 Voiding the Agreement.** If the Court denies the Motion for Preliminary
14 Approval or does not enter the Final Approval Order and Judgment, or if the Court's entry of the Final
15 Approval Order and Judgment is reversed on appeal, the Settlement and all related papers including the
16 Motion for Preliminary Approval shall not be used nor be admissible in any subsequent proceedings
17 either in this Court or in any other Court or forum, and the \$375,200 Settlement Fund shall be returned
18 to Defendant, minus fifty percent (50%) of any actual Class Administrative costs incurred to a limit of
19 \$8,000 from Defendant.

20 **8.2 Signatories' Authority.** The signatories to the Settlement represent that they are
21 authorized to enter into this Settlement and bind their respective Parties to its terms and conditions.

22 **8.3 Mutual Full Cooperation.** The Parties agree to cooperate fully with each other
23 to accomplish the terms of this Settlement, including, but not limited to, execution of such documents
24 and to take such other action as may reasonably be necessary to implement the terms of this Settlement.
25 The Parties shall use their best efforts, including all efforts contemplated by this Settlement Agreement
26 and any other efforts that may become necessary by order of the Court, or otherwise, to effectuate the
27 terms of this Settlement. As soon as practicable after execution of this Settlement, Class Counsel shall,
28 with the assistance and cooperation of Defendant and its counsel, take all necessary steps to secure the

1 Court's Final Judgment.

2 **8.4 No Prior Assignments.** The Parties represent, covenant, and warrant that they
3 have not directly or indirectly, assigned, transferred, encumbered, or purported to assign, transfer, or
4 encumber to any person or entity any portion of any liability, claim, demand, action, cause of action, or
5 right released and discharged in this Settlement.

6 **8.5 Notices.** Unless otherwise provided herein, all legal notices, demands, or other
7 communications given hereunder shall be in writing and shall be deemed to have been duly given as of
8 the third business day after emailing and mailing by U.S. registered or certified mail, return receipt
9 requested, addressed as follows:

10 (a) To the Class:

11 Richard K. Bridgford, Esq.
12 Michael H. Artinian, Esq.
13 Bridgford, Gleason & Artinian
14 26 Corporate Plaza, Suite 250
15 Newport Beach, CA 92660
16 mike.artinian@bridgfordlaw.com

17 Richard L. Kellner, Esq.
18 Kabateck LLP
19 633 West Fifth Street, Suite 3200
20 Los Angeles, CA 90017
21 rlk@kbklawyers.com

22 (b) To Defendant:

23 Joseph A. Ferrentino, Esq.
24 Jeffrey R. Brower, Esq.
25 Newmeyer & Dillion LLP
26 895 Dover Street, 5th Floor
27 Newport Beach, CA 92660
28 Joe.ferrentino@ndlf.com
 Jeffrey.browner@ndlf.com

 Anna S. McLean, Esq.
 Sheppard Mullin Richter & Hampton LLP
 4 Embarcadero Center, 17th Floor
 San Francisco, CA 94111-4109
 amclean@sheppardmullin.com

8.6 Construction. The Parties agree that the terms and conditions of this Settlement
are the result of lengthy, intensive arm's-length negotiations between the Parties' counsel, and that the

1 terms of this Settlement shall not be construed in favor of or against any Party.

2 **8.7 Captions and Interpretations.** Section titles or captions contained in this
3 Settlement are a matter of convenience and for reference, and in no way define, limit, extend, or
4 describe the scope of this Settlement or any provision. Each term of this Settlement is contractual and
5 not merely a recital.

6 **8.8 Modification.** This Settlement may not be changed, altered, or modified, except
7 in a writing signed by the Parties and their counsel, and approved by the Court. This Settlement may not
8 be discharged except by performance in accordance with its terms or by a writing signed by the Parties.

9 **8.9 Integration Clause.** Except for the settlement agreements between Defendant
10 and Cross-Defendants, this Settlement contains the entire agreement between the Parties relating to the
11 resolution of the Action, and all prior or contemporaneous agreements, understandings, representations,
12 and statements, whether oral or written and whether by a Party or such Party's legal counsel, are merged
13 in this Settlement. No rights under this Settlement may be waived except in a writing signed by the
14 Party making the waiver and its counsel. Notwithstanding the forgoing, it is understood and agreed that
15 Defendant and Cross-Defendants will execute a separate settlement agreement documenting the terms
16 and conditions of the settlement of the claims and cross-complaint against Cross-Defendants.

17 **8.10 Binding on Assigns.** This Settlement shall be binding upon and inure to the
18 benefit of the Parties, Cross-defendants, Plaintiffs' Released Parties and their respective heirs, trustees,
19 executors, administrators, successors, and assigns and, where applicable, all of their current or former
20 parent entities, corporations, subsidiaries, related and affiliated companies and entities, officers,
21 directors, agents, representatives, attorneys, insurers, predecessors, successors, assignees, employees,
22 and all individuals or entities acting by, through, under, or in concert with any of them.

23 **8.11 Class Counsel Signatories.** It is agreed that, because the Settlement Class
24 Members are so numerous, it is impossible or impractical to have each one execute this Settlement. The
25 Notice will advise all Settlement Class Members of the binding nature of the Release. Excepting only
26 the eligible Settlement Class Members who timely submit a Request for Exclusion, the Notice shall have
27 the same force and effect as if this Settlement were executed by each Settlement Class Member with
28 regard to the Settled Class Claims.

1 **8.12 Counterparts.** This Settlement may be executed in counterparts, and when each
2 Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
3 original, and, when taken together with other signed counterparts, shall constitute one Settlement, which
4 shall be binding upon and effective as to all Parties.

5 **8.13 Governing Law.** This Settlement Agreement shall be governed by the laws of
6 the State of California, without regard to choice-of-law principles.

7 **8.14 Continuing Jurisdiction.** The Court shall retain jurisdiction over the
8 interpretation and implementation of this Settlement Agreement.

9 **8.15 Venue.** Any and all actions or disputes arising out of this Settlement Agreement,
10 including without limitation the enforcement, interpretation, breach, or attempted rescission of this
11 Settlement Agreement, shall be brought exclusively in this Court.

12 **8.16 Waiver.** Any failure by any Party to insist upon the strict performance by any
13 other Party of any of the provisions of this Settlement Agreement shall not be deemed a waiver of any of
14 the provisions of this Settlement Agreement, and such Party, notwithstanding such failure, shall have the
15 right thereafter to insist upon the specific performance of any and all of the provisions of this Settlement
16 Agreement.

17 **8.17 Conflicts.** In the event of conflict between this Settlement Agreement and any
18 other prepared pursuant to the Settlement, other than any Court order, the terms of this Settlement
19 Agreement shall supersede and control. Notwithstanding the forgoing, it is understood and agreed that
20 Defendant and Cross-defendants will execute a separate settlement agreement documenting the terms
21 and conditions of the settlement of the claims and cross-complaint against Cross-defendants.

22 **8.18 Singular/Plural.** The plural of any defined term includes the singular, and the
23 singular of any defined term includes the plural, as the case may be.

24 **8.19 Reasonable Extensions of Time.** Without further order of the Court, the Parties
25 may agree to reasonable extensions of time to carry out any of the provisions of this Settlement.
26
27
28

1 **IT IS SO AGREED:**

2 Dated: 12/20/2022

DocuSigned by:
By: Julie Smith
Julie Smith
Class Representative Plaintiff

4 Dated: 12/19/2022

DocuSigned by:
By: Jeff Smith
Jeff Smith
Class Representative Plaintiff

8 Dated:

By: _____
Defendant Pulte Home Corporation

11 Dated:

By: _____
Insurer AIG Claims, Inc. *JMA*

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

16
17 By: *Michael H. Artinian*
18 Michael H. Artinian, Esq.
19 Bridgford, Gleason & Artinian
Counsel for Plaintiffs

21 By: /s/Richard L. Kellner
22 Richard L. Kellner, Esq.
23 Kabateck LLP
Counsel for Plaintiffs

24
25 By: *Joseph A. Ferrantino*
26 Joseph A. Ferrantino, Esq.
27 Newmeyer & Dillion LLP
Counsel for Defendant

1 **IT IS SO AGREED:**

2 Dated: _____ By: _____
3 Julie Smith
4 Class Representative Plaintiff

5 Dated: _____ By: _____
6 Jeff Smith
7 Class Representative Plaintiff

8 Dated: 12/23/2022 By: _____
9 
10 Defendant Pulte Home Corporation

11 ~~XXXXXX~~ ~~XX~~
12 ~~XX~~

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

15
16
17 By: _____
18 Michael H. Artinian, Esq.
19 Bridgford, Gleason & Artinian
20 Counsel for Plaintiffs

21 By: _____
22 Richard L. Kellner, Esq.
23 Kabateck LLP
24 Counsel for Plaintiffs

25 By: _____
26 Joseph A. Ferrentino, Esq.
27 Newmeyer & Dillion LLP
28 Counsel for Defendant