

## SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS

THIS SETTLEMENT AGREEMENT AND RELEASE OF CLAIMS ("Agreement") is made this 19 day of April, 2021, by and between (1) Plaintiffs Jake Miller and Doreen Miller ("Plaintiffs"), on behalf of all others similarly situated ("Settlement Class Members"), and (2) Defendant Guenther Management, LLC ("Guenther") (Plaintiffs, Settlement Class Members, and Guenther are collectively the "Settling Parties"), who are all parties in the lawsuit filed in Spokane County Superior Court as cause number 20-2-02604-32 ("Lawsuit").

This Agreement contains all material terms of the settlement in this action, and the Settling Parties intend for it to be binding to the fullest extent of the law, and it shall remain so unless superseded by a more detailed written agreement signed by all parties to this agreement, as contemplated below. The Agreement shall be subject only to the terms set forth below, binding court approval, and class notice.

### I. RECITALS

1. Plaintiffs submitted applications for tenancy to Guenther. Plaintiffs are proposed class representatives of a class of all prospective tenants who provided Guenther with information and paid a screening fee without receiving adequate disclosures under RCW 59.18.257.

2. Plaintiffs alleged Guenther violated RCW 59.18.257 by failing to provide prospective tenants with all required disclosures prior to receiving information and a screening fee from prospective tenants. Guenther denied Plaintiffs' claims and asserted affirmative defenses that it would pursue if this case were to proceed in litigation.

3. Counsel for Plaintiffs and Guenther engaged in arm's-length negotiations to resolve the case without the need for further litigation. As part of the negotiation process, Plaintiffs' Counsel requested and Guenther provided data and other information, and Plaintiffs' Counsel has investigated the information provided. Based on the information in Plaintiffs' possession, Plaintiffs have concluded that it would be in the best interests of Plaintiffs and the Settlement Class Members to enter into this Agreement to avoid the uncertainties of litigation, and to provide to Plaintiffs and the Settlement Class Members a benefit that is fair and reasonable. Similarly, Guenther has concluded that, despite its belief that it is not liable for the claims asserted and has good defenses thereto, and without admission of any wrongdoing of any kind, it will enter into this Agreement in order to avoid the time, expense and uncertainty of protracted litigation.

4. While Guenther believes that the Agreement can and should be approved to avoid the time, expense, and uncertainty of protracted litigation, in the event that the Agreement does not receive final and binding approval from the Court or is terminated according to its terms, Guenther expressly reserves the right to challenge class certification and reserves all other defenses.

5. In light of the investigations undertaken and conclusions reached by the Settling Parties and discussed above, Plaintiffs and Guenther have agreed, pursuant to the terms set forth

below, and subject to approval by the Court, to fully and finally compromise, settle, extinguish, and to dismiss with prejudice all claims asserted in the Lawsuit.

6. This Agreement is for settlement purposes only, and neither the fact of, nor any provision contained in, this Agreement, nor any negotiations or proceedings related thereto, nor any action taken hereunder shall constitute, or be construed as, any admission of the validity of any claim or any fact alleged by Plaintiffs or of any wrongdoing, fault, violation of law, or liability of any kind on the part of Guenther or any admission by Guenther of any claim or allegation made in any action or proceeding against Guenther or as a waiver of any applicable defense, including, without limitation, any applicable statute of limitations. This Agreement and its exhibits shall not be offered or be admissible in evidence in any action or proceeding in any forum for any purpose whatsoever, except any action or proceeding brought to enforce its terms.

7. Should the Court determine that any additional settlement memorandum is required, Plaintiffs and Guenther agree to take steps to finalize such an agreement within 30 days or as otherwise ordered by the Court.

## II. AGREEMENT

In consideration of the foregoing and the mutual promises, terms, conditions, payments, covenants, and agreements hereinafter set forth, the Parties agree as follows:

1. **Settlement Payment.** Plaintiffs and Guenther have agreed on a total settlement amount of one hundred thirty thousand fifteen dollars (\$130,015.00) ("Settlement Amount"). Upon preliminary approval of the settlement, Guenther or its insurance carriers shall pay the Settlement Amount to the Settlement Administrator pursuant to paragraph 3 below. The Settlement Administrator shall then pay to the Plaintiffs and the Settlement Class Members the Settlement Amount less attorneys' fees, costs (including costs of providing notice to the class members), and service awards. Guenther shall not be liable for any payment of any kind beyond the Settlement Amount.

2. **Court Approval.** Within 30 days of the execution of this Agreement, Plaintiffs will move the Court to preliminarily approve this settlement. This Agreement is subject to court approval. If the Court does not preliminarily approve this settlement, this Agreement will terminate and have no legal force or effect.

3. **Escrow.** Within 21 days of preliminary approval of the settlement, Guenther shall pay to the Settlement Administrator the Settlement Amount of \$130,015.00.

4. **Class Settlement Administration.** Plaintiffs' Counsel has the right to choose the class Settlement Administrator, which shall be a professional firm with experience in this field. Guenther shall have the right to approve Plaintiffs' choice of Settlement Administrator. Such approval shall not be withheld unreasonably.

5. **Distribution of Monies to Plaintiffs.** The Settlement Administrator will distribute monies to the Plaintiffs and the Settlement Class Members approximately pro rata based on a reasonable and fair formula approved by the Court.

6. **Other Material Terms.** Plaintiffs and Guenther have agreed that Plaintiffs will seek approval for an opt-out class. Any unclaimed payment by Settlement Class Members (cy pres) shall be split evenly between the Legal Foundation of Washington and Northwest Justice Project. Guenther agrees that Plaintiffs are entitled to their attorneys' fees, subtracted from the Settlement Amount, and will not contest a claim for attorneys' fees of \$50,000.00 or less. Guenther also agrees that it will not contest class representative incentive fees of \$2,500.00 per Plaintiff, with the awards to be subtracted from the Settlement Amount.

7. **Scope of Release.** As of the Effective Date of this Agreement, Plaintiffs and the Settlement Class Members hereby expressly agree that they shall fully and irrevocably release and discharge all Settled Claims, as defined below in this paragraph. Plaintiffs and the Settlement Class Members settle and forever release all actions, claims, demands, rights, suits, or causes of action, including without limitation all claims that arise from, involve, or in any way relate to Guenther and its related entities, or that arise from or relate to the allegations made or conduct described in the Lawsuit including but not limited to allegations related to violations of RCW 59.18.257 (the "Settled Claims"). Plaintiffs and the Settlement Class Members shall dismiss with prejudice the class action Lawsuit. Plaintiffs and the Settlement Class Members release and discharge Guenther, and all affiliates, parents, subsidiaries, insurers, agents, lawyers, officers and directors, members, managers, servants, employees, and marital communities of any such released persons (collectively "Defendant Releasees") in regard to any claim that relates in any way to Guenther. This release covers, without limitation, any and all claims for attorneys' fees, costs, or disbursements incurred by Counsel for Plaintiff and the Settlement Class Members or any other counsel representing Plaintiffs or Settlement Class Members in connection with or related in any manner to this Agreement or the Lawsuit, the settlement of the Lawsuit, the administration of this Agreement and the settlement contemplated thereunder, Settlement and/or the Settled Claims. Plaintiffs and the Settlement Class Members expressly waive and fully, finally, and forever settle and release any known or unknown, suspected or unsuspected, contingent or non-contingent claims with respect to the Settled Claims, whether or not concealed or hidden, without regard to any subsequent discovery or existence of different or additional facts.

8. **Entire Agreement.** This Agreement constitutes the entire agreement between the Settling Parties hereto with respect to settlement of the Lawsuit and release of the Defendant Releasees, and supersedes all prior agreements, understandings, negotiations, and/or discussions, whether oral or written, of the Settling Parties. There are no representations or agreements between the Settling Parties in connection with settlement of the Lawsuit and release of the Defendant Releasees except as specifically set forth herein. No supplement, modification, waiver, or termination of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No delay or omission on the part of either party in exercising any right in this Agreement shall operate as a waiver of such right or any other right. A waiver on one occasion shall not be construed as a bar to or waiver of any right on any further occasion.

9. **Governing Law.** The Settling Parties hereby agree that the validity, construction, and interpretation of this Agreement shall be governed by the laws of the State of Washington.

10. **Binding Agreement.** This Agreement shall be binding upon and shall inure to the benefit of the Settling Parties and the Defendant Releasees and their representatives, parents, affiliates, subsidiaries, servants, attorneys, agents, insurers, experts, consultants, heirs, successors, officers, directors, partners, administrators, trustees, receivers, employees, executors, and assigns, and any legal or personal representative, whether past, present or future.

11. **Warranty of Authorization.** The undersigned persons warrant and represent that they have authority to enter into this Agreement and to bind the party who is represented by the signing person

12. **Benefit of Counsel.** The Settling Parties acknowledge that they have consulted with their respective attorneys of record herein concerning the terms of this Agreement, and have been fully advised by their respective attorneys with respect to the rights and obligations contained herein. The settlement which forms the basis of the Agreement has been arrived at after thorough bargaining and negotiation and represents a final agreement.

13. **Construction.** All Settling Parties have been represented in the negotiation and preparation of this Agreement, and each party has had an opportunity to participate in the drafting to the extent that she or it desires. Accordingly, this Agreement shall be construed according to its plain meaning and not strictly for or against any party.

14. **Execution in Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Facsimile or photocopy signatures shall be binding as though original.

15. **Attorneys' Fees for Breach.** In any action that is brought upon to enforce this Agreement, the prevailing party shall be entitled to recover its reasonable costs, including attorney fees, incurred to enforce the Agreement.

I HAVE COMPLETELY READ THIS RELEASE AND FULLY UNDERSTAND AND VOLUNTARILY ACCEPT IT FOR THE PURPOSE OF FINAL RESOLUTION AND SETTLEMENT OF ANY AND ALL CLAIMS, DISPUTED OR OTHERWISE, MADE AGAINST THE SETTLING PARTIES BEING RELEASED FOR THE EXPRESS PURPOSE OF PRECLUDING FOREVER ANY OTHER CLAIMS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE LAWSUIT ABOVE-MENTIONED, INsofar AS SUCH CLAIMS MAY BE MADE AGAINST THE RELEASED SETTLING PARTIES, THEIR EMPLOYEES, AGENTS OR REPRESENTATIVES.

I ACKNOWLEDGE THAT MY INFORMATION REGARDING THE CLAIM MADE IN THIS MATTER IS SUFFICIENT TO ENTER INTO THIS RELEASE AND EXPRESSLY WAIVE ANY CLAIM THAT THIS RELEASE IS NOT FAIRLY AND KNOWINGLY MADE.

**[SIGNATURE PAGE FOLLOWS]**

**SO AGREED:**

I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge. IN WITNESS WHEREOF, I have caused this Settlement Agreement and Mutual Release to be executed at Spokane, WA.

Dated: 5/20/21

Jake Miller  
Jake Miller, plaintiff

I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge. IN WITNESS WHEREOF, I have caused this Settlement Agreement and Mutual Release to be executed at \_\_\_\_\_, WA.

Dated: 5/20/21

Doreen Miller  
Doreen Miller, plaintiff

I declare under penalty of perjury under the laws of the State of Washington, that the foregoing is true and correct to the best of my knowledge. IN WITNESS WHEREOF, I have caused this Settlement Agreement and Mutual Release to be executed at Spokane, WA.

Dated: 4-19-2021

Sergey Kholostov  
Sergey Kholostov  
On behalf of Guenther Management, LLC