

Robert Drexler (SBN 119119)
Robert.Drexler@CapstoneLawyers.com
Molly DeSario (SBN 230763)
Molly.DeSario@CapstoneLawyers.com
Jonathan Lee (SBN 267146)
Jonathan.Lee@CapstoneLawyers.com
Capstone Law APC
1875 Century Park East, Suite 1000
Los Angeles, California 90067
Telephone: (310) 556-4811
Facsimile: (310) 943-0396

Attorneys for Plaintiff
MARIO CORDERO

SEYFARTH SHAW LLP
Andrew M. McNaught (SBN 209093)
amcnaught@seyfarth.com
Elizabeth J. MacGregor (SBN 267326)
emacgregor@seyfarth.com
560 Mission Street, 31st Floor
San Francisco, California 94105
Telephone: (415) 397-2823
Facsimile: (415) 397-8549

Attorneys for Defendants
SPIRE HOSPITALITY, LLC and AWH BURBANK
HOTEL, LLC

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

MARIO CORDERO, individually, and on behalf
of other members of the general public similarly
situated,

Plaintiff,

v.

SPIRE HOSPITALITY, LLC, a Delaware limited
liability company; AWH BURBANK HOTEL,
LLC, a Delaware limited liability company; and
DOES 1 through 10, inclusive,

Defendants.

Case No. 20STCV49475

**CLASS ACTION SETTLEMENT
AGREEMENT AND RELEASE OF
CLAIMS**

1 This Class Action Settlement Agreement and Release of Claims (“Agreement”) is between (1)
2 Plaintiff Mario Cordero, (2) Defendant Spire Hospitality, LLC, and (3) AWH Burbank Hotel, LLC
3 (collectively, the “Parties”), subject to judicial approval, as provided below.

4 By this Agreement the Parties intend to settle the Action (defined below) and to fully, finally,
5 and forever resolve, discharge, and settle the Released Claims (defined below), subject to judicial
6 approval of the terms set forth herein. If this Agreement is not finally approved, or is otherwise
7 nullified, then the Parties shall return to their positions preceding this Agreement and Defendants shall
8 retain all rights to challenge Plaintiff’s claims and the certification of any class.

9 **1. DEFINITIONS**

10 For the purposes of this Agreement, the Parties define the following terms. Each defined term
11 appears throughout in initial capital letters.

12 **1.1. “Action”** refers to the Class Action brought by Mario Cordero, filed in the
13 Superior Court of California, County of Los Angeles (Case No. 20STCV49475).

14 **1.2. “Administrative Costs”** refers to all costs associated with administration of the
15 settlement contemplated by this Agreement. Administrative Costs include all fees and costs for, among
16 other things, printing, copying, formatting, postage, envelopes, computer searches to locate addresses,
17 calculation of payments to individual class members, calculation of applicable payroll withholdings and
18 payroll taxes, preparation and filing of appropriate IRS Forms, any cost associated with the process for
19 any uncashed settlement checks, and any other expenses the Settlement Administrator incurs to
20 complete the settlement process according to the terms of this Agreement. Administrative Costs are
21 borne in the first instance by the Settlement Administrator.

22 **1.3. “Agreement”** refers to this Class Action Settlement Agreement and Release of
23 Claims, which includes all its Recitals herein and all the attached Exhibits.

24 **1.4. “Complaint”** refers to the operative complaint in the Action, filed in the Superior
25 Court of California, County of Los Angeles (Case No. 20STCV49475).

26 **1.5. “Class Counsel”** refers to Capstone Law APC. For purposes of providing any
27 notices required under this Agreement, Class Counsel shall refer to Robert J. Drexler, Jr., Molly
28 DeSario, and Jonathan Lee at Capstone Law APC, Robert.Drexler@CapstoneLawyers.com,

Molly.DeSario@CapstoneLawyers.com, Jonathan.Lee@CapstoneLawyers.com, 1875 Century Park East, Suite 1000, Los Angeles, California 90067, telephone: (310) 556-4811, facsimile: (310) 943-0396.

1.6. “Class Counsel Payment” refers to the amount of attorney’s fees and costs that the Court awards to Class Counsel in connection with the resolution of the Action in accordance with this Agreement.

1.7. “Class Member” or “Settlement Class Member” refers to all current and former California non-exempt hourly employees of Defendants who worked at any time during the Class Period.

1.8. “Class Period” refers to the period from December 28, 2016 through the date of preliminary approval.

1.9. “Class Representative” refers to Plaintiff Mario Cordero.

1.10. “Class Representative Service Award” refers to any payment that the Court awards to the Class Representative for efforts in prosecuting the Actions on behalf of the Class Members.

1.11. “Consideration Period” refers to the 45 calendar days following the date when the Settlement Administrator mails the Notice of Class Action Settlement. The Consideration Period is the period in which a Class Member can submit an Objection or a Request for Exclusion.

1.12. “Court” refers to the Los Angeles County Superior Court.

1.13. “Defendants” refers to Spire Hospitality, LLC, and AWH Burbank Hotel, LLC.

1.14. “Defense Counsel” refers to Seyfarth Shaw LLP. For purposes of providing any notices required under this Agreement, Defense Counsel shall refer to Andrew McNaught and Elizabeth MacGregor, Seyfarth Shaw LLP, 560 Mission Street, Suite 3100, San Francisco, California 94105.

1.15. “Effective Date” means the date by which all of the following have occurred:

(a) This Agreement receives final approval by the Court; and

(b) The Judgment becomes Final. “Final” means the last of the following dates, as applicable:

(c) If no objection to the Settlement is made, ten (10) calendar days after the Parties receive Notice of Entry of Judgment.

1 (d) If an objection to the Settlement is made and Judgment is entered, but no appeal is
2 filed, forty-five (45) calendar days after the Parties receive Notice of Entry of Judgment.

3 (e) If Judgment is entered and a timely appeal from the Judgment is filed, thirty (30)
4 calendar days after the appeal is withdrawn or after an appellate decision affirming the final approval
5 decision.

6 **1.16. “Eligible Workweek”** refers to a workweek in which a Settlement Class Member
7 was employed by Defendant Spire Hospitality, LLC during the period of December 28, 2016, through
8 the date of preliminary approval and received any regular pay. Any workweek in which the Settlement
9 Class Member did not receive any regular pay will not be an Eligible Workweek, even if the Class
10 Member received other pay (such as PTO, for example). For the avoidance of doubt, all Settlement
11 Class Members will be deemed to have worked during one Eligible Workweek.

12 **1.17. “Fairness Hearing”** refers to the hearing at which the Court decides whether the
13 terms of the Agreement are fair, reasonable, and adequate for the Class Members and meet all
14 requirements for final approval.

15 **1.18. “Final Approval Order”** refers to the final order by the Court approving the
16 Settlement following the Fairness Hearing.

17 **1.19. “Gross Settlement Amount”** refers to the payment Defendants are obligated to
18 make in connection with the Agreement: Five Hundred Thousand Dollars And No Cents (\$500,000.00),
19 plus any employer-side payroll taxes. In no event shall Defendants be obligated to pay more than this
20 amount, except as provided in Section 5.5.1, below. This sum includes all Individual Settlement
21 Payments (including any employee share of payroll taxes), any Class Representative Service Award, the
22 PAGA Payment, Administrative Costs, and the Class Counsel Payment. Defendants shall be responsible
23 for paying any appropriate and legally-required employer payroll taxes.

24 **1.20. “Individual Settlement Payment”** refers to the amount calculated by the
25 Settlement Administrator to distribute to each Settlement Class Member. The Individual Settlement
26 Payment shall be paid from the Net Settlement Amount.

27 **1.21. “Judgment”** refers to the final judgment entered by the Court in this Action
28 following the Fairness Hearing.

1 **1.22. “LWDA”** refers to the California Labor & Workforce Development Agency,
2 which helps to enforce the Private Attorney General Act (“PAGA”), and which will receive the LWDA
3 portion of the PAGA Payment.

4 **1.23. “Net Settlement Amount”** refers to the portion of the Gross Settlement Amount
5 that remains after accounting for any Class Representative Service Award, the PAGA Payment,
6 Administrative Costs, and the Class Counsel Payment. The Net Settlement Amount shall include all
7 Individual Settlement Payments, including each Class Member’s share of payroll taxes.

8 **1.24. “Notice of Class Action Settlement”** refers to the Notice of Class Action
9 Settlement, substantially in the form attached as Exhibit A.

10 **1.25. “Objection”** refers to a written statement submitted timely by a Class Member to
11 the Settlement Administrator that contains (1) the name and case number of the Action (or reasonable
12 portion thereof), (2) the full name, last four digits of their social security number, and current address of
13 the Class Member making the Objection, (3) the specific reason(s) for the Objection, and (4) all
14 evidence and supporting papers (including, without limitation, all briefs, written evidence, and
15 declarations) for the Court to consider.

16 **1.26. “Objector”** refers to a Settlement Class Member who has submitted an
17 Objection.

18 **1.27. “PAGA Payment”** refers to a Ten Thousand Dollars And No Cents (\$10,000.00)
19 payment that shall be set aside from the Gross Settlement Amount in settlement of claims for civil
20 penalties under the Private Attorneys General Act of 2004. Of the PAGA Payment, Seven Thousand
21 Five Hundred Dollars And No Cents (\$7,500.00), representing 75% of the PAGA Payment, shall be
22 payable to the LWDA. The remaining Two Thousand Five Hundred Dollars And No Cents (\$2,500.00),
23 representing 25% of the PAGA Payment (“PAGA Fund”), shall be payable to Settlement Class
24 Members who worked during the period from December 28, 2019 through the date of preliminary
25 approval.

26 **1.28. “PAGA Period”** refers to the period from December 28, 2019 through the date of
27 preliminary approval.
28

1 **1.29. “Parties”** refers collectively to (1) Plaintiff Mario Cordero, individually and on
2 behalf of the Class (“Class Representative”), (2) Spire Hospitality, LLC (“Spire”), and (3) AWH
3 Burbank Hotel, LLC (“AWH”).

4 **1.30. “Plaintiff”** refers to Class Representative Mario Cordero, individually and on
5 behalf of the Class.

6 **1.31. “Preliminary Approval Order”** refers to the order entered by the Court
7 following a Motion for Preliminary Approval of the Agreement.

8 **1.32. “Qualified Settlement Fund (QSF)”** refers to a Qualified Settlement Fund
9 pursuant to U.S. Treasury Regulation Section 468B-1.

10 **1.33. “Released Claims”** refers to all claims that will be extinguished by operation of
11 this Agreement and the events for which it provides. The Released Claims shall apply to all Class
12 Members who do not timely file a Request for Exclusion.

13 **1.34. “Released Parties”** refers to Spire Hospitality, LLC, and AWH Burbank Hotel,
14 LLC, and their predecessors, successors, subsidiaries, parent companies, other corporate affiliates, and
15 assigns, including but limited to AWH Burbank Hotel II and AWH Partners, LLC, and each and all of
16 their current or former subsidiaries, parents, affiliates, members, managers, owners, predecessors,
17 insurers, agents, servants, employees, successors, assigns, officers, officials, directors, attorneys,
18 personal representatives, registered representatives, lenders, franchisors, executors, and shareholders,
19 including their respective pension, profit sharing, savings, health, and other employee benefits plans of
20 any nature, the successors of such plans, and those plans’ respective current or former trustees and
21 administrators, agents, employees, and fiduciaries, and any other persons acting by, through, under or in
22 concert with any of them.

23 **1.35. “Request for Exclusion”** refers to a timely, written, opt-out request signed by a
24 Class Member who thereby elects to be excluded from this Agreement.

25 **1.36. “Settlement Administrator”** refers to CPT Group, the third-party administrator
26 the Parties have selected, subject to Court approval.

27 **1.37. “Settlement Class”** refers to all Class Members who do not file a timely and
28 valid Request for Exclusion.

1 **2. 2.1. RECITALS AND PROCEDURAL HISTORY**

2 **2.2. Allegations in Class Action Complaint.** On December 29, 2020,
3 Plaintiff filed a class action complaint in the Superior Court of the State of California for the County of
4 Los Angeles, individually and on behalf of a purported class of similarly-situated employees. On May
5 18, 2021, Plaintiff filed a First Amended Complaint. In the First Amended Class Action Complaint,
6 Plaintiff asserted claims for: (1) unpaid overtime (Cal Lab. Code §§ 510 and 1198); (2) unpaid minimum
7 wage (Cal Lab. Code §§ 1182.12, 1194, 1197, 1197.1, and 1198); (3) failure to provide meal periods
8 (Cal Lab. Code §§ 226.7, 512(a), 516, and 1198); (4) failure to authorize and permit rest breaks (Cal
9 Lab. Code §§ 226.7, 516, and 1198); (5) non-compliant wage statements and failure to maintain payroll
10 records (Cal Lab. Code §§ 226(a), 1174(d), and 1198); (6) failure to pay wages timely upon termination
11 (Cal Lab. Code §§ 201 and 202); (7) failure to timely pay wages during employment (Cal Lab. Code §
12 204); (8) failure to provide one day of rest in seven (Cal Lab. Code §§ 551, 552, and 558); (9) failure to
13 provide reporting time pay (Cal Lab. Code §§ 1198 and Cal. Code Regs. Title 8, Section 11050
14 Subdivision 5(A)); (10) unreimbursed business expenses (Cal Lab. Code § 2802); (11) seeking civil
15 penalties pursuant to the Private Attorneys General Act (“PAGA”) (Cal. Lab. Code § 2698, *et seq.*); (12)
16 unlawful business practices (Cal. Bus. & Prof. Code, § 17200, *et seq.*); and (13) unfair business practices
17 (Cal. Bus. & Prof. Code, § 17200, *et seq.*).

18 **2.3. Defendants’ Denials.** Defendants deny (1) all the material allegations in
19 the Action, (2) that they violated any applicable laws, (3) that they are liable for damages, penalties,
20 interest, restitution, attorneys’ fees, or costs, or for any other compensation or remedy with respect to
21 anyone on account of the claims asserted in the Action, and (4) that class certification or representative
22 treatment is appropriate as to any claim in the Action. Defendants contend that their policies,
23 procedures, and practices comply with all applicable laws asserted in the Action. Nonetheless, without
24 admitting any liability or wrongdoing whatsoever and without admitting that class certification or
25 representative treatment is appropriate for any purpose other than for settlement purposes alone,
26 Defendants have agreed to settle the Action on the terms set forth in this Agreement, to avoid the
27 burden, expense, and uncertainty of litigation. Any statements by Defendants in this Agreement are
28 made for settlement purposes only.

1 **2.4. Class Counsel's Investigation.** Class Counsel have conducted a
2 sufficiently thorough investigation into the claims of the Plaintiff Class. Based on their own
3 independent investigation and evaluation and all known facts and circumstances, including the risk of
4 significant defenses asserted by Defendants, Class Counsel are of the opinion that the Settlement is fair,
5 reasonable, and adequate and is in the best interests of the Settlement Class.

6 **2.5. Negotiation of Settlement.** Class Counsel engaged in intensive
7 negotiations with Defendants with a view toward achieving substantial benefits for the Class Members,
8 while avoiding the cost, delay, and uncertainty of further litigation. Plaintiff and Class Counsel request
9 approval of this Agreement after considering (1) the factual and legal defenses to the claims asserted,
10 which render uncertain the ultimate outcome of the Action and class certification, (2) the potential
11 difficulties Plaintiff and Class Members would encounter in establishing their claims and maintaining
12 class or representative treatment, (3) the substantial benefits that Class Members would receive under
13 this Agreement, (4) that this Agreement provides Class Members relief in an expeditious and efficient
14 manner, compared to any manner of recovery possible after litigation and potential appeal, and (5) that
15 this Agreement allows Class Members to opt out of the settlement and individually pursue the claims
16 alleged in the Class Action.

17 **2.6. Certification of Settlement Class.** This Agreement is contingent upon
18 the Court's certification of the Settlement Class under California Code of Civil Procedure Section 382
19 for settlement purposes only. Defendants do not waive, and instead expressly reserves, the right to
20 challenge the propriety of class certification or representative treatment for any other purpose should the
21 Court not approve the Agreement.

22 Now therefore, in consideration of the agreements set forth herein, and of the release of all
23 Released Claims, the Parties agree to the terms of this Agreement, subject to the approval of the Court.

24 **3. NOTICE TO CLASS MEMBERS**

25 **3.1. Content of Class Notice.** The Class Notice shall be substantially in the
26 form attached as Exhibit A and include the amount of the Settlement, a calculation of the Class
27 Members' anticipated share of the Net Settlement Amount and PAGA Fund, and the full amounts of the
28 Class Counsel Payment, Class Representative Service Award, and Administrative Costs to be awarded,

1 the terms of the release, the procedure to opt out of the Settlement through a Request for Exclusion, the
2 procedure to Object to the Settlement, and the date of the Fairness Hearing. No claim form will be
3 required to participate in the Settlement or to receive an Individual Settlement Payment.

4 **3.2. Settlement Administrator.** The Parties select CPT Group as the
5 Settlement Administrator. The duties of the Settlement Administrator shall include, without limitation,
6 mailing notices to Class Members, establishing a QSF, obtaining appropriate tax identification
7 number(s), calculating Individual Settlement Payments (including all required tax withholdings and
8 payments), mailing Individual Settlement Payments and tax forms to Settlement Class Members,
9 remitting all tax payments and requisite reporting documentation to taxing authorities, and the other
10 duties associated with settlement administration, including specified in this Agreement. Any dispute
11 relating to the settlement administration will, after good-faith efforts by the Parties to resolve the
12 dispute, be referred to the Court.

13 **3.3. Class List for the Settlement Administrator.** Within 14 calendar days
14 of the later of preliminary approval of this Settlement or court approval of the Settlement notice to the
15 Class, Defendants shall provide to the Settlement Administrator a confidential class list ("Class List")
16 containing: (1) the names; (2) employee ID numbers; (3) last known address and telephone number(s);
17 (4) number of Eligible Workweeks worked during the Class Period and PAGA Period; and (5) social
18 security numbers. This information shall be used to facilitate the administration of this Agreement. The
19 Settlement Administrator shall keep the class data provided by Defendants strictly confidential and shall
20 use the class data only for the purposes described in this Agreement, and shall return the class data to
21 Defendants or confirm the destruction of same upon completing the settlement administration called for
22 by this Agreement. Under no circumstances will the Class List be provided to Class Counsel. To the
23 extent any Settlement Class Member disputes a workweek calculation, the Parties shall meet and confer
24 on the issue in good faith. However, Defendants' records will be conclusive in determining resolution
25 of the dispute.

26 **3.4. Mailing Materials to Class Members.** Within 14 calendar days of the
27 receipt of the class data discussed immediately above in Section 3.3, the Settlement Administrator shall
28 send the Notice of Class Action Settlement to Class Members to their last known address via First Class

1 U.S. Mail. Any mailing returned to the Settlement Administrator as undeliverable shall be sent within
2 five calendar days via First Class U.S. Mail to any available forwarding address. If no forwarding
3 address is available, then the Settlement Administrator shall attempt to determine the correct address by
4 using a computer-based skip-trace search, and shall then perform, if feasible, a re-mailing via First Class
5 U.S. Mail within ten (10) calendar days. If the last known address is not available for a Class Member,
6 then the Notice of Class Action Settlement for that Class Member will be deemed undeliverable. Only
7 one re-mailing is required. If a Class Member cannot be located within two attempts at mailing, then the
8 Notice of Class Action Settlement for that Class Member will be deemed undeliverable. It is the intent
9 of the Parties that reasonable means be used to locate Class Members.

10 **3.5. Proof of Mailing.** At least twenty (20) calendar days prior to the Fairness
11 Hearing, the Settlement Administrator shall provide a declaration of due diligence and proof of mailing
12 with regard to mailing of the Notice of Class Action Settlement to Class Counsel and Defense Counsel,
13 which they shall in turn provide to the Court.

14 **4. CLASS MEMBERS' OPTIONS TO RESPOND**

15 **4.1. Consideration Period.**

16 **4.1.1. Submission of Objections and Requests for Exclusion.** Class Members
17 will have forty-five (45) calendar days from the later of the date of the mailing or re-mailing of the
18 Notices to postmark their objections or written requests for exclusion to the Settlement Administrator.
19 Requests for exclusion must state, in effect, that the Class Member does not wish to participate in the
20 settlement of this action. In addition, any request must include the Class Member's first and last name,
21 signature, address, phone number, and last four digits of the Class Member's Social Security number for
22 verification purposes. A Class Member who excludes himself or herself from the Settlement shall lose
23 standing to object. Except as specifically provided herein, no Class Member response of any kind that is
24 postmarked after the Consideration Period shall be considered absent agreement of the Parties.

25 **4.1.2. Deficiency Notices.** Within ten (10) days after receipt by the Settlement
26 Administrator of each timely-submitted request for exclusion, the Settlement Administrator will send a
27 deficiency notice to the Class Members addressing any irregularities in the request for exclusion (such
28 as failure to sign or include last four digits of Social Security Number). The deficiency notice will

1 provide the Class Members fourteen (14) days from the mailing of the deficiency notice to postmark a
2 written response to cure all deficiencies. The failure of a Class Member to cure all deficiencies in a
3 timely manner shall invalidate a request for exclusion and will not be subject to cure.

4 **4.2. Requests for Exclusion and Opt Out Rights.** Class Members shall be
5 given the opportunity to opt out of the Settlement, except that Settlement Class Members who opt out of
6 the Settlement Class will still receive their PAGA Payment and will release the PAGA claim.

7 **4.2.1. Opt Out Procedure.** Class Members may opt out of this Agreement by
8 mailing the Settlement Administrator a Request for Exclusion. A Request for Exclusion, to be valid,
9 must include the Class Member's name, current address, current telephone number, and the last four
10 digits of the Class Member's Social Security number. Any Request for Exclusion that does not include
11 all of the required information or that is not submitted in a timely manner will be deemed ineffective. If
12 there is a dispute regarding the timeliness or validity of a Request for Exclusion, then the Settlement
13 Administrator shall make the determination, after consultation with Class Counsel and Defense Counsel.

14 **4.2.2. Effect of Exclusion Through Opting Out.** Any Class Member who opts
15 out of this Agreement may not submit an Objection and shall not receive any Individual Settlement
16 Payment, and shall not be bound by the releases set forth in this Agreement, except that Settlement Class
17 Members who opt out of the Settlement Class will still receive their PAGA Payment and will release the
18 PAGA claim. If a Class Member submits both a Request for Exclusion and an Objection, then the
19 Request for Exclusion will be valid and will invalidate the Objection. Each Class Member who does not
20 submit a timely, valid Request for Exclusion shall be bound by the releases for which this Agreement
21 provides.

22 **4.2.3. Tolerance of Opt-Outs—Defendants' Right to Withdraw.** If the
23 number of Class Members who opt out by submitting Requests for Exclusion exceeds five percent (5%)
24 of the total number of Class Members, then Defendants may, in the exercise of their sole discretion,
25 abrogate this Agreement. Defendants' right expires 15 calendar days after the expiration of the
26 Consideration Period. In the event Defendants exercise this option, the costs of administration shall be
27 borne by Defendants.
28

1 **4.3. Objections.** Class Members who do not submit a Request for Exclusion
2 shall be entitled to object to the terms of the Agreement.

3 **4.3.1. Objection Procedures.** Any objection to this Agreement must contain
4 (1) the name and case number of this Actions (or reasonable portion thereof), (2) the full name, last four
5 digits of their social security number, and current address of the Class Member making the Objection,
6 (3) the specific reason(s) for the Objection, and (4) all evidence and supporting papers (including,
7 without limitation, all briefs, written evidence, and declarations) for the Court to consider. Class
8 Members who submit an Objection remain bound by this Agreement if it is approved by the Court.
9 Class Counsel shall file any and all Objections with the Court, which shall be attached as exhibits to the
10 Settlement Administrator's declaration of due diligence and proof of mailing with regard to mailing of
11 the Notice of Class Action Settlement.

12 **4.3.2. Waiver of Objection Rights.** Class Members who fail to submit an
13 Objection in the manner specified in the Notice of Class Action Settlement shall be deemed to have
14 waived any objection and shall be foreclosed from objecting to this Agreement, whether by appeal or
15 otherwise.

16 **4.4. Proof of Class Members' Responses.** At least twenty (20) calendar days
17 prior to the Fairness Hearing, the Settlement Administrator will prepare a declaration to submit to the
18 Court regarding the mailing of the Notice of Class Action Settlement, the inability to deliver any mailing
19 due to invalid addresses, the number of any Requests for Exclusion, and the number of any Objections
20 and the contents of the Objections.

21 **4.5. Binding Effect of Settlement.** Although a Class Member might not
22 receive the Notice of Class Action Settlement, and might not timely submit an Objection or a Request
23 for Exclusion because of inability to locate the Class Member's current address, that Class Member shall
24 nonetheless be bound by this Agreement.

25 **4.6. No Interference with Class Member Responses.** Each Party agrees not
26 to encourage any Class Member to submit an Objection or a Request for Exclusion and agrees not to
27 retaliate against any Class Member for participating or not participating in the settlement that this
28 Agreement contemplates.

1 **5. DISTRIBUTION OF SETTLEMENT PROCEEDS**

2 **5.1. Administrative Costs.** The Parties agree to obtain a reasonable estimate
3 of Administrative Costs of up to Fifteen Thousand Dollars and No Cents (\$15,000.00), and seek
4 approval of Administrative Costs to be drawn from the Gross Settlement Amount. If the Court approves
5 only a lesser amount, then the other terms of this Agreement shall still remain in effect. The amount of
6 Administrative Costs is not a material term of this Agreement.

7 **5.2. Class Counsel Payment.** Class Counsel intend to request—and
8 Defendants agree not to oppose—that the Court award a Class Counsel Payment, to be drawn from the
9 Gross Settlement Amount, for (a) attorneys’ fees of One Hundred Sixty Six Thousand Six Hundred
10 Sixty Six Dollars and Sixty Seven Cents (\$166,666.67), which represents one-third of the Gross
11 Settlement Amount and (b) litigation costs actually incurred in representing the interests of the Class
12 Members, supported by adequate documentation, in an amount not to exceed Twenty Thousand Dollars
13 And No Cents (\$20,000.00). Defendants shall have no liability for any other attorneys’ fees or costs.
14 To the extent that the Court approves less than the amount of Class Counsel Payment that Class Counsel
15 request, the difference between the requested and awarded amounts will be distributed to Settlement
16 Class Members on a proportional basis relative to the size of their claims as set forth in Section 5.5.1,
17 below.

18 **5.2.1. Approval of Class Counsel Payment Not Material.** The Court’s
19 approval of the Class Counsel Payment in the amount requested is not a material term of this
20 Agreement. If the Court approves only a lesser amount, then the other terms of this Agreement shall
21 still remain in effect and the difference will remain part of the Net Settlement Amount.

22 **5.2.2. Timing of Class Counsel Payment.** The Settlement Administrator shall
23 issue the Class Counsel Payment within fifteen (15) business days after the Effective Date. Within ten
24 (10) business days after the Effective Date, Class Counsel shall transmit instructions to the Settlement
25 Administrator as to how any approved attorneys’ fees and costs shall be paid. The Settlement
26 Administrator shall issue an appropriate Internal Revenue Service Form 1099 to Class Counsel. Class
27 Counsel shall be solely responsible for paying all applicable taxes on any Class Counsel payment and
28 shall indemnify Defendants from any claim or liability for taxes, penalties, or interest arising as a result

1 of the Class Counsel payment. In other words, if Defendants are made to pay for taxes owed by Class
2 Counsel, Class Counsel will reimburse Defendants for that payment.

3 **5.3. Class Representative Service Award.** Class Counsel intends to request—
4 and Defendants agree not to oppose—that the Court award a Class Representative Service Award to the
5 Class Representative in an amount of Ten Thousand Dollars And No Cents (\$10,000.00), to be drawn
6 from the Gross Settlement Amount. Any Class Representative Service Award would be in addition to
7 the Class Representative’s Individual Settlement Payment. To the extent that the Court approves less
8 than the amount of Class Representative Service Award that Class Counsel request, the difference
9 between the requested and awarded amounts will be distributed to Settlement Class Members on a
10 proportional basis relative to the size of their claims as set forth in Section 5.5.1, below.

11 **5.3.1. Class Representative Service Awards Not Material.** The Court’s
12 approval of the Class Representative Service Award is not a material term of this Agreement. If the
13 Court does not approve or approves only a lesser amount than that requested for a Class Representative
14 Service Award, then the other terms of this Agreement shall still remain in effect.

15 **5.3.2. Timing of Class Representative Service Award.** The Settlement
16 Administrator shall pay any Class Representative Service Award within fifteen (15) business days after
17 the Effective Date, and shall issue an IRS Form 1099 to the Class Representative. The Class
18 Representative shall be solely responsible for paying all applicable taxes on any Class Representative
19 Service Award and shall indemnify Defendants from any claim or liability for taxes, penalties, or
20 interest arising as a result of the Class Representative Service Award. In other words, if Defendants are
21 made to pay for taxes owed by Class Representative, Class Representative will reimburse Defendants
22 for that payment.

23 **5.4. PAGA Payment.** The Parties will seek approval for PAGA Payment of
24 Ten Thousand Dollars And No Cents (\$10,000.00). Of the PAGA Payment, Seven Thousand Five
25 Hundred Dollars And No Cents (\$7,500.00), representing 75% of the PAGA Payment, shall be payable
26 to the LWDA. The remaining Two Thousand Five Hundred Dollars And No Cents (\$2,500.00),
27 representing 25% of the PAGA Payment, shall be payable to all Settlement Class Members who worked
28 during the PAGA Period, and in proportion to the number of Eligible Workweeks attributed to the

1 Settlement Class Member during the PAGA Period. Settlement Class Members who opt out of the
2 Settlement Class will still receive their PAGA Payment and will release the PAGA claim.

3 **5.4.1. Amount of PAGA Payment Not Material.** Any change in the requested
4 PAGA Payment is not a material term of this Agreement. If the Court approves a lesser or greater
5 amount than that requested, the other terms of this Agreement shall still remain in effect. However,
6 some approval of a PAGA Payment is a material term of the Settlement and this Agreement. If the
7 Court does not approve a PAGA Payment, then the entire Agreement will be, at Defendants' sole
8 discretion, void and unenforceable. In the event Defendants exercise this option, the costs of
9 administration shall be borne by Defendants.

10 **5.4.2. Timing of PAGA Payment.** The Settlement Administrator shall pay 75
11 percent of any approved PAGA Payment to the LWDA within fifteen (15) business days after the
12 Effective Date.

13 **5.5. Individual Settlement Payments.** Each Settlement Class Member shall
14 be entitled to an Individual Settlement Payment consisting of a share of the Net Settlement Amount, as
15 set forth below.

16 **5.5.1. Calculation of Settlement Share.** Each Settlement Class Member will be
17 eligible to receive a portion of the Net Settlement Amount based on the following formula:

18 The individual Settlement Share payment to a Settlement Class Member will be
19 calculated by dividing the number of Eligible Workweeks attributed to the Settlement
20 Class Member by all Eligible Workweeks attributed to members of the Settlement Class,
21 multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class
22 Member is: (individual's Eligible Workweeks ÷ total Settlement Class Eligible
23 Workweeks) × Net Settlement Amount.

24 Defendants' time records regarding the number of Eligible Workweeks worked for each
25 Settlement Class Member shall be used for purposes of calculating individual settlement payments. The
26 Class Notice will include information for each Settlement Class Member showing how much the
27 individual Settlement Class Member is expected to receive based on this formula and their number of
28 eligible workweeks. The Class Notice will also provide the Settlement Class Members an opportunity to
dispute the number of Workweeks indicated on the Class Notice. Such dispute must be made no later
than thirty (30) calendar days from the later of the date of the mailing or re-mailing of the Class Notices.

Defendants and/or the Claims Administrator shall review any documentation provided by the Settlement Class Member to determine whether there was an error in the number of Eligible Workweeks calculated, and adjust any payment to be allocated if necessary.

Defendants estimate that the number of Settlement Class Members in the Class Period is 333. If the actual number of Class Members by preliminary approval exceeds this number by more than 10%, then the Gross Settlement Amount will be increased proportionally. In other words, if the excess is 11%, the increase will be 1%, if the excess is 12%, the increase will be 2%.

5.5.2. Timing of Individual Settlement Payments to Class Members. The Settlement Administrator shall issue Individual Settlement Payments no later than fifteen (15) business days after the Effective Date. Any checks from this distribution that are not cashed within one-hundred-eighty (180) calendar days from the date of the mailing of the checks shall be cancelled and said cancellation shall not affect the validity of the Release of claims provided for herein and the Settlement Class Member shall be deemed to, nevertheless, be bound by the Release of claims provided herein. As soon as practicable after the 180-day check cashing period, the Settlement Administrator shall prepare for the Parties a Final Report—a document summarizing relevant events to date and advising the total dollar amount paid to Settlement Class Members, the status of any uncashed checks, and any amount remaining in the QSF. The Parties will request the Court to order that all funds represented by uncashed settlement checks, plus any accrued interest, be tendered to California Rural Legal Assistance, as a *cy pres* recipient. The Parties do not have a connection to or a relationship with California Rural Legal Assistance that could reasonably create the appearance of impropriety as between the selection of California Rural Legal Assistance as the recipient of the unclaimed residuals and the interests of the class.

5.5.3. Tax Allocation of Individual Settlement Share Payments to Class Members. Each individual Settlement Share Payment will be allocated as twenty five percent (25%) to wages and seventy five percent (75%) to interest and penalties, which represents the Parties' good faith allocation based on the claims asserted and potential damages related to wages and interest and penalties. In accordance with law, the Settlement Administrator will make required tax withholdings from each individual Settlement Payment on the portion designated as wages and will remit the

1 withholding to the appropriate taxing authorities. The Settlement Administrator shall issue any
2 necessary Form W-2 and 1099 statements to Settlement Class Members for their respective individual
3 Settlement Payments. Settlement Class Members shall be solely responsible for paying all other
4 applicable taxes on their respective individual Settlement Payments and shall indemnify and hold
5 harmless Defendants and the Released Parties from any claim or liability for taxes, penalties, or interest
6 arising as a result of individual Settlement Payments.

7 **5.5.4. Tax Allocations of Individual Settlement Payments Not Material.** The
8 Court's approval of the allocation of Individual Settlement Payments set forth above is not a material
9 term of this Agreement. If the Court does not approve or approves a different allocation of the
10 Individual Settlement Payments, then the other terms of this Agreement shall still remain in effect.

11 **5.6. Final Funding of Gross Settlement Amount.** By ten (10) business days
12 after the Effective Date, Defendants will deposit all of the Gross Settlement Amount plus the employer's
13 share of payroll taxes into the QSF established by the Settlement Administrator.

14 **6. RELEASES**

15 **6.1. Releases by Plaintiff and Settlement Class Members.** By operation of
16 the entry of the Final Approval Order and Judgment, and except as to rights this Agreement creates,
17 Plaintiff and each Settlement Class Member who does not opt out of the Settlement shall release
18 Defendants and their predecessors, successors, subsidiaries, parent companies, other corporate affiliates,
19 and assigns, including but limited to AWH Burbank Hotel II, LLC, and AWH Partners, LLC, and each
20 and all of their current or former subsidiaries, parents, affiliates, members, managers, owners,
21 predecessors, insurers, agents, servants, employees, successors, assigns, officers, officials, directors,
22 attorneys, personal representatives, registered representatives, lenders, franchisors, executors, and
23 shareholders, including their respective pension, profit sharing, savings, health, and other employee
24 benefits plans of any nature, the successors of such plans, and those plans' respective current or former
25 trustees and administrators, agents, employees, and fiduciaries, and any other persons acting by,
26 through, under or in concert with any of them ("Releasees"), from any and all claims, debts, liabilities,
27 demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, interest,
28 damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent

1 or accrued, under any legal theory under federal and state law that were or could have been brought
2 based on the facts or claims alleged in any version of the complaints filed in the Action.

3 The released claims include, but are not limited to, any and all claims, debts, liabilities, demands,
4 obligations, guarantees, penalties, costs, expenses, attorney's fees, damages, action or causes of action,
5 contingent or accrued, which relate to the allegations and claims asserted in the complaints filed in the
6 Action, including without limitation claims for: (1) unpaid overtime (Cal Lab. Code §§ 510 and 1198);
7 (2) unpaid minimum wage (Cal Lab. Code §§ 1182.12, 1194, 1197, 1197.1, and 1198); (3) failure to
8 provide meal periods (Cal Lab. Code §§ 226.7, 512(a), 516, and 1198); (4) failure to authorize and
9 permit rest breaks (Cal Lab. Code §§ 226.7, 516, and 1198); (5) non-compliant wage statements and
10 failure to maintain payroll records (Cal Lab. Code §§ 226(a), 1174(d), and 1198); (6) failure to pay
11 wages timely upon termination (Cal Lab. Code §§ 201 and 202); (7) failure to timely pay wages during
12 employment (Cal Lab. Code § 204); (8) failure to provide one day of rest in seven (Cal Lab. Code §§
13 551, 552, and 558); (9) failure to provide reporting time pay (Cal Lab. Code §§ 1198 and Cal. Code
14 Regs. Title 8, Section 11050 Subdivision 5(A)); (10) unreimbursed business expenses (Cal Lab. Code §
15 2802); (11) seeking civil penalties pursuant to the Private Attorneys General Act ("PAGA) (Cal. Lab.
16 Code § 2698, *et seq.*); (12) unlawful business practices (Cal. Bus. & Prof. Code, § 17200, *et seq.*); and
17 (13) unfair business practices (Cal. Bus. & Prof. Code, § 17200, *et seq.*); claims for any alleged failure
18 to pay all wages due (including minimum wage and overtime wages), failure to pay for all hours
19 worked, including off-the clock work, pre- and post-shift work (such as donning and doffing), failure to
20 provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal
21 and rest periods, failure to pay or underpayment of meal and rest break premiums, auto-deduction of
22 meal periods, failure to timely pay wages and final wages, failure to properly calculate or compensate at
23 the regular rate of pay, failure to keep accurate records, failure to furnish accurate wage statements,
24 failure to provide one day of rest in seven, failure to pay reporting time pay, failure to pay split shift
25 premiums, failure to compensate for time spent on mandatory drug testing or reimburse costs associated
26 with mandatory drug testing, failure to compensate for on-call or standby time, failure to provide notice
27 under Labor Code section 2810.5, failure to provide suitable seating, liquidated damages, conversion of
28 wages, pre and post-shift work, record-keeping violations, and claims regarding failure to reimburse

business expenses, up to and including the date of preliminary approval by the Court. The released claims include without limitation claims meeting the above definition(s) under any and all applicable statutes, including without limitation any provision of the California Labor Code; Private Attorneys General Act (California Labor Code §§ 2698, *et seq.*); California Business & Professions Code §§ 17200 *et seq.*; any provision of the applicable California Industrial Welfare Commission Wage Orders based on the facts or claims alleged in any version of the Complaints of letters to the Labor and Workforce Development Agency in the Action.

As to the Released Claims only, each Settlement Class Member waives all rights provided by California Civil Code section 1542, which states:

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

The release shall extend through the date of preliminary approval.

6.2. Additional Release By Class Representative. In addition to the release given by each Settlement Class Member, the Class Representative also generally releases claims against each Released Party. This general release includes claims arising from the Class Representative's relationship with Defendants, including, without limitation, claims for discrimination, harassment, or retaliation pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. section 2000 *et seq.*, the California Fair Employment and Housing Act, California Government Code Section 12900 *et seq.*, or any claims for violation of public policy. This general release by the Class Representative also includes a waiver of rights under California Civil Code Section 1542, which states:

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

This release from the Class Representative is only effective upon the Court granting final approval of the Settlement and only applies to claims that may be released as a matter of law. This release also does not include future claims that arise after final approval.

6.3. Settlement is Contingent Upon Release of Claims. This Agreement is conditioned upon the releases by the Settlement Class and Class Representative as described herein, and

1 upon covenants by the Settlement Class and Class Representative that they will not join in, initiate or
2 prosecute as plaintiffs, claimants, absent class members, or aggrieved employees any actions, lawsuits,
3 proceedings, complaints, or charges in any court or before any administrative body asserting any claims
4 they have released under this Settlement.

5 **6.4. Inadmissibility of Settlement Documents.** The Parties agree that this
6 Agreement and all exhibits thereto shall be inadmissible in any proceeding, except an action or
7 proceeding to approve, interpret, or enforce this Agreement. The Parties agree that, to the extent
8 permitted by law, this Agreement will operate as a complete defense to—and may be used as the basis
9 for an injunction against—any action, suit, or other proceeding attempted in breach of this Agreement.

10 **7. SETTLEMENT APPROVAL PROCEDURE**

11 **7.1. Preliminary Approval.** Plaintiff shall submit to the Court a Motion for
12 Preliminary Approval of Class Action Settlement. This motion shall seek an order to preliminarily
13 approve this Agreement according to the terms in this Agreement and provide for the Notice of Class
14 Action Settlement to be sent to Class Members as specified in this Agreement, substantially in the form
15 attached hereto as Exhibit A. This motion shall include the bases for demonstrating that settlement
16 amounts are reasonable in light of the facts and controlling authorities pertaining to the claims alleged.
17 The motion shall also be accompanied by a declaration of Class Counsel discussing the decision that the
18 best interests of the Class Members are served by the terms of this Agreement. Defense counsel shall
19 have the opportunity to review and comment on a draft of the motion before it is filed.

20 **7.2. Final Approval.** Plaintiff shall submit to the Court a Motion for Final
21 Approval Order, which shall include findings and orders (a) approving the Agreement, (b) adjudging the
22 terms to be fair, reasonable, and adequate, (c) reciting the Released Claims in full, (d) directing that the
23 terms of the Agreement be carried out, and (e) retaining jurisdiction to oversee enforcement of this
24 Agreement and the Court's orders. Defense counsel shall have the opportunity to review and comment
25 on a draft of the motion before it is filed.

26 **7.3. Motion for Class Counsel Payment.** Along with the Motion for Final
27 Approval, Class Counsel may file a motion for Court approval of an attorneys' fees and costs award in
28 the amount of (a) One Hundred Sixty Six Thousand Six Hundred Sixty Six Dollars And No Cents

(\$166,666.67), which represents up to one-third of the Gross Settlement Amount, and (b) litigation costs actually incurred in representing the interests of the Class, supported by adequate documentation, in an amount not to exceed Twenty Thousand Dollars And No Cents (\$20,000.00).

7.4. Motion for Class Representative Service Award. Along with the Motion for Final Approval, Class Counsel may file a motion for Court approval of a Class Representative Service Award in the amount of up to Ten Thousand Dollars And No Cents (\$10,000.00).

7.5. Timing of Judgment. After the Final Approval Order, Plaintiff shall request that the Court (a) enter Judgment in accordance with this Agreement, without further fees or costs, and (b) enter an order permanently enjoining all members of the Settlement Class from pursuing or seeking to reopen claims that have been released by this Agreement.

7.6. Appeal Rights. Only an Objector has the right to appeal the Judgment, if the Judgment is in accord with this Agreement. The Parties hereby waive any right to appeal any judgment, ruling, or order in this Action, including, without limitation, any Final Approval Order and any Judgment in the Action except, however, that Plaintiff or Class Counsel may appeal any reduction to the Class Counsel Payment below the amount they request from the Court, and either party may appeal any court order that materially alters the Agreement's terms. This waiver includes all rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to vacate judgment, a motion for new trial, and any extraordinary writ, and the Judgment therefore will become non-appealable at the time it is entered. The waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings, or post-judgment proceedings.

7.7. Schedule of contemplated events. By way of review, the events contemplated by the settlement approval procedure are as follows:

Deadline for Defendants to provide current class list to Settlement Administrator	Within 14 calendar days of the later of preliminary approval of this Settlement or court approval of Settlement notice to the class
Deadline for Settlement Administrator to mail Notice of Class Action Settlement	Within 14 calendar days of receipt of the class data from Defendant
Last day for class members to dispute their number	45 calendar days from date that Notice of Class

1	of Eligible Workweeks	Action Settlement is mailed
2	Last day for class members to submit Requests for	45 calendar days from date that Notice of Class
3	Exclusion or Objections	Action Settlement is mailed or re-mailed
4	Settlement Administrator to report to Defense and	50 calendar days from date that Notice of Class
5	Class Counsel on Requests for Exclusion, Objections	Action Settlement is mailed
6	and other results of class notice	
7	Deadline for Class Counsel to move for Final	16 court days prior to the Hearing on Final
8	Approval, attorneys' fees and costs, and a Class	Approval
9	Representative Service Award	
10	Hearing on Final Approval and on motion for Class	To be set by the Court [the Parties request a
11	Counsel Payment and Class Representative Service	date to be set that is 100 days after the Court
12	Award	grants preliminary approval of this Settlement
13		or court approval of Settlement notice to the
14		class]

8. MISCELLANEOUS

8.1. Materiality of Terms. Except as otherwise stated herein, each substantive term of this Agreement is material and has been relied upon by the Parties in entering into this Agreement. If the Court does not approve any substantive term, or if the Court effects a material change to the Agreement—such as increasing any amount that Defendants must pay—then the entire Agreement will be, at Defendants' sole discretion, void and unenforceable. Where this Agreement states that a term is not material, then the Court's refusal to approve that term leaves all the other terms of the Agreement in effect, and does not give Class Counsel or any Class Member any basis to abrogate this Agreement.

8.2. No Tax Advice. Neither Class Counsel nor Defense Counsel intend anything contained in this Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Agreement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

8.3. No Impact on Employee Benefits. No payment made under this Agreement shall be considered as compensation or hours worked or hours paid for purposes of determining eligibility, vesting, participation, or contributions with respect to any employee benefit plan. For purposes of this Agreement, the term "benefit plan" means every ERISA "employee benefit plan,"

as defined in the Employee Retirement and Income Security Act of 1974 (“ERISA”), 29 U.S.C. section 1002(3). The term also includes any 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing, retirement, disability, vacation, severance, hospitalization, insurance, incentive, deferred compensation, or any other similar benefit plan, practice, program, or policy, regardless of whether any such plan is considered an ERISA employee benefit plan.

8.4. Language of Settlement Documents. All Settlement-related documents to be filed with the Court or sent to Class Members must be approved by all Parties before being filed or sent.

8.5. Parties’ Authority. The signatories hereto represent that they are fully authorized to bind the Parties to all the term of this Agreement. The Parties agree that Class Members are so numerous that it is impossible or impractical to have each Class Member execute this Agreement. This Agreement may be executed on behalf of Class Members by a Class Representative and by Class Counsel.

8.6. Entire Agreement. This Agreement, which includes its Definitions, Recitals, and all Exhibits attached hereto, constitutes the entire agreement on its subject matter, and supersedes all prior and contemporaneous negotiations and understandings between the Parties.

8.7. Counterparts. This Agreement may be executed in counterparts, and each counterpart signed and delivered shall be deemed an original, and when taken together with other signed counterparts, signed and delivered shall constitute one signed Agreement, which shall be binding upon and effective as to all Parties.

8.8. Facsimile or Scanned Signatures. A Party may sign and deliver this Agreement by signing on the designated signature block and transmitting that signature page via facsimile or as an attachment to an email to counsel for the other Party. Any such signature shall be deemed an original for purposes of this Agreement and shall be binding upon the Party who transmits the signature page. This Agreement is subject only to the execution of all Parties. However, the Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic (e.g., DocuSign), facsimile, and scanned copies of the signature page, will be deemed to be one and the same instrument.

1 **8.9. Waivers and Modifications to Be in Writing.** No waiver, modification,
2 or amendment of this Agreement—whether purportedly made before or after the Court’s approval of this
3 Agreement—shall be valid unless it appears in a writing signed by or on behalf of all Parties, and then
4 shall be valid subject to any required Court approval. Any failure by any Party to insist upon the strict
5 performance by the other Party of any provision of this Agreement shall not be deemed a waiver of
6 future performance of the same provisions or of any other provision of this Agreement, and such Party,
7 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of
8 any provision of this Agreement. The time periods and dates provided in this Agreement with respect to
9 giving of notices and hearings are subject to Court approval and modification by the Court or by written
10 stipulation of Class Counsel and Defense Counsel.

11 **8.10. Construction.** Each Party participated jointly in the drafting of this
12 Agreement, and its terms are not intended to be, and shall not be, construed against any party by virtue
13 of draftsmanship.

14 **8.10.1. Exhibits Incorporated by Reference.** This Agreement includes
15 the terms set forth in any attached exhibit. Any exhibit to this Agreement is an integral part of it.

16 **8.10.2. Headings.** The headings within this Agreement appear for
17 convenience of reference only and shall have no effect upon the construction or interpretation of any
18 part of this Agreement.

19 **8.10.3. Invalidity of Any Provision.** It is the intent of the parties that
20 before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the
21 provisions valid to the fullest extent possible so as to render all provisions of this Agreement
22 enforceable.

23 **8.11. Duty to Cooperate.** Each Party, upon the request of another, agrees to
24 perform such acts and to execute and to deliver such documents as are reasonably necessary to carry out
25 this Agreement. In the same spirit, the Parties agree to make all reasonable efforts to avoid unnecessary
26 Administrative Costs.

27 **8.12. No Prior Assignments or Undisclosed Liens.** The Class Representative
28 and the Class Counsel represent that they have not assigned, transferred, conveyed, or otherwise

1 disposed of any Released Claim or claim to attorneys' fees and costs award to be paid under this
2 Agreement. The Class Representative and the Class Counsel further represent and warrant that there are
3 not any liens or claims against any amount that Defendants are to pay under this Agreement. The Class
4 Representative and Class Counsel agree to defend, to indemnify, and to hold Defendants harmless from
5 any liability, losses, claims, damages, costs, or expenses, including reasonable attorneys' fees, resulting
6 from a breach of these representations or from any lien or assignment that should have been disclosed
7 under this provision.

8 **8.13. Waiver of Right to Request Exclusion by Class Representative.** The
9 Class Representative, by signing this Agreement, agrees not to request exclusion from the Settlement.
10 The Class Representative, by signing this Agreement, further represents that he has no objection to the
11 terms of the Agreement and he believes the terms to be fair, reasonable and adequate.

12 **8.14. Confidential Information.** Class Counsel will destroy all confidential
13 documents and information provided by Defendants within 60 calendar days after the completion of the
14 administration of this Agreement. Class Counsel further agree that none of the information provided by
15 Defendants shall be used for any purpose other than prosecution of this Action.

16 **8.15. Publicity.** Neither Plaintiff nor Class Counsel will publicize the
17 Settlement in any way, except as follows: Nothing in this Agreement shall preclude Class Counsel from
18 communicating with members of the Settlement Class after preliminary approval, and after preliminary
19 approval Class Counsel is permitted to post court-filed documents on their website for viewing by the
20 Settlement Class. Class Counsel may also refer to this Action in publicly-filed documents seeking to
21 establish adequacy of counsel for purposes of settlement approval in future actions, provided however,
22 that Class Counsel may only refer to information about the settlement available in the public record.

23 **8.16. Continuing Jurisdiction.** The Court shall retain jurisdiction over the
24 implementation of this Agreement as well as any matter arising out of, or related to, the implementation
25 of this Agreement. The Court shall not have jurisdiction to modify the terms of this Agreement without
26 the consent of all Parties.

27 **8.17. Disputes.** If the Parties dispute the interpretation of this Agreement, they
28 shall first attempt to resolve the dispute informally through good faith negotiations, and, if those efforts

are unsuccessful, they agree to mediate any such dispute. The Parties will split the costs of the mediator, and all parties will bear their own fees and costs.

8.18. Governing Law. All terms of this Agreement shall be governed by and interpreted according to California law.

SO AGREED:

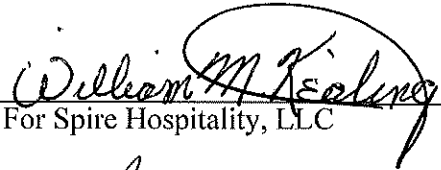
Dated: September 15, 2021

DocuSigned by:



Plaintiff Mario Cordero

Dated: September 22, 2021

By 
For Spire Hospitality, LLC

Dated: September 22, 2021

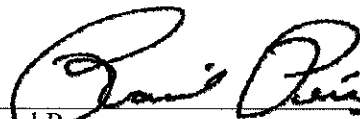
By 
For AWH Burbank Hotel, LLC

Approval As To Form By Counsel:

Dated: September 14, 2021

CAPSTONE LAW APC

By



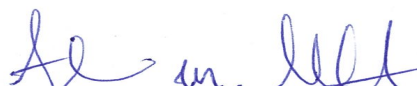
Raul Perez
Molly DeSario

Attorney for Plaintiff
Mario Cordero

Dated: September 23 2021

SEYFARTH SHAW LLP

By



Andrew McNaught

Attorney for Defendants
Spire Hospitality, LLC and AWH Burbank Hotel, LLC

Exhibit A

Mario Cordero v. Spire Hospitality, LLC, No. 20STCV49475
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES
NOTICE OF CLASS ACTION SETTLEMENT

You are not being sued. This notice affects your rights. Please read it carefully.

To: All current and former California non-exempt hourly employees of Defendants Spire Hospitality, LLC and AWH Burbank Hotel, LLC (“Defendants”) who worked at any time from December 28, 2016 through the [date of Preliminary Approval] (“Class Members”).

All current and former California non-exempt hourly employees of Defendants who worked at any time from December 28, 2019 through [the date of Preliminary Approval] (“PAGA Members”).

On _____, the Honorable Carolyn B. Kuhl of the Los Angeles County Superior Court granted preliminary approval of this class action settlement and ordered the litigants to notify all Class Members of the settlement. **You have received this notice because Defendants’ records indicate that you are a Class Member, and therefore entitled to a payment from the settlement.**

Unless you choose to opt out of the settlement by following the procedures described below, you will be deemed a Class Member and, if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement fund. The Final Fairness Hearing on the adequacy, reasonableness, and fairness of the Settlement will be held at __:00 __.m. on _____, 2021 in Department 12 of the Los Angeles County Superior Court located at 312 North Spring Street, Los Angeles, California 90012. Please note that the Final Fairness Hearing may be rescheduled by the Court to another date and/or time. Please visit [settlement website] for any scheduling changes.

You are not required to attend the hearing, but if you wish to attend, you may attend the hearing telephonically (remotely), which can be set up through LA Court Connect (www.lacourt.org/lacc/). A prescheduled appointment is currently necessary to review any documents in the clerk’s office.

If you move from your residence, you must send the Settlement Administrator your new address; otherwise, you may never receive your settlement payment. It is your responsibility to keep a current address on file with the Settlement Administrator.

Summary of the Litigation

Plaintiff Mario Cordero, on his behalf and on behalf of other current and former non-exempt employees, alleges that Defendants violated California state labor laws as a result of their alleged failure to, among other things: (1) pay minimum and overtime wages to employees for all hours worked; (2) provide employees with meal and rest breaks; (3) reimburse employees for all necessary business expenses; (4) provide one day of rest in seven; (5) timely pay all wages owed to employees during each pay period and upon termination of their employment; and (6) provide employees with accurate, itemized wage statements.

Counsel for Plaintiff, and the attorneys appointed by the Court to represent the class, Capstone Law APC (“Class Counsel”), have investigated and researched the facts and circumstances underlying the issues raised in the case and the applicable law. While Class Counsel believe that the claims alleged in this lawsuit have merit, Class Counsel also recognize that the risk and expense of continued litigation justify settlement. Based on the foregoing, Class Counsel believe the proposed settlement is fair, adequate, reasonable, and in the best interests of Class Members.

Defendants have denied, and continue to deny the factual and legal allegations in the case and believe that they have valid defenses to Plaintiff's claims. By agreeing to settle, Defendants are not admitting liability on any of the allegations or claims in the case or that the case can or should proceed as a class or representative action. Defendants have agreed to settle the case as part of a compromise with Plaintiff.

Summary of the Proposed Settlement Terms

Plaintiff and Defendants have agreed to settle the underlying class claims in exchange for a Class Settlement Amount of \$500,000. This amount is inclusive of: (1) individual settlement payments to all Participating Class Members; (2) a Class Representative Enhancement Payment of \$10,000 to Mario Cordero for his services on behalf of the class, and for a release of all claims arising out of his employment with Defendants; (3) \$166,666.67 in attorneys' fees and up to \$20,000 in litigation costs and expenses; (4) a \$10,000 settlement of claims under the Labor Code Private Attorneys General Act of 2004 ("PAGA"), inclusive of a \$7,500 payment to the California Labor and Workforce Development Agency ("LWDA") in connection with the PAGA, and a \$2,500 payment ("PAGA Fund") to all PAGA Members; and (5) reasonable Settlement Administrator's fees and expenses currently estimated at \$15,000. After deducting the above payments, a total of approximately \$_____ will be allocated to Class Members who do not opt out of the Settlement Class ("Net Settlement Fund"). Additionally, all PAGA Members will receive a proportional share of the \$2,500 PAGA Fund, regardless whether they opt out of the Settlement Class.

Payments from Net Settlement Fund. The individual Settlement Share payment to a Settlement Class Member will be calculated based on Workweeks worked by each Settlement Class Member during the time period of December 28, 2016 through the date of Preliminary Approval. Individual Settlement Shares for that time period will be calculated by dividing the number of Eligible Workweeks attributed to the Settlement Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the Net Settlement Amount. Otherwise stated, the formula for a Class Member is: (individual's Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) × Net Settlement Amount. The Individual Settlement Payment will be reduced by any required deductions for each Class Members as specifically set forth herein, including employee-side tax withholdings or deductions. If there are any valid and timely Requests for Exclusion, the Settlement Administrator shall proportionately increase each Participating Class Member's share of the Net Settlement Fund according to the number of Workweeks worked, so that the amount actually distributed to the Settlement Class equals 100% of the Net Settlement Fund.

According to Defendants' records, you worked during the Class Period in a non-exempt position for a total of _____ Workweeks. Accordingly, your estimated payment from the Net Settlement Fund is approximately \$_____.

Payments from PAGA Fund. The individual Settlement Share payment to a Settlement Class Member from the PAGA Fund will be calculated based on Workweeks worked by each Settlement Class Member during the time period of December 28, 2019 through the date of Preliminary Approval. Individual Settlement Shares for that time period will be calculated by dividing the number of Eligible Workweeks attributed to the Settlement Class Member by all Eligible Workweeks attributed to members of the Settlement Class, multiplied by the PAGA Fund Amount. Otherwise stated, the formula for a Class Member is: (individual's Eligible Workweeks ÷ total Settlement Class Eligible Workweeks) × PAGA Fund Amount. A Request for Exclusion does not exclude a PAGA Member from the release of claims under California Labor Code §§ 2698, *et seq.* and the PAGA Member will receive their portion of the PAGA fund even if he or she submits a valid Request for Exclusion.

According to Defendants' records, you worked during the PAGA Period in a non-exempt position for a total of _____ Workweeks. Accordingly, your estimated payment from the PAGA Fund is approximately \$_____.

Your Estimated Payment: Based on the above, your estimated payment from the settlement is approximately \$_____. If you believe the Workweek information provided above is incorrect, please contact the Settlement Administrator to

dispute the calculation. You must attach all documentation in support of your dispute (such as check stubs, W2s, or letters from HR). All disputes must be postmarked or faxed on or before [insert date of Response Deadline] and must be sent to:

Settlement Administrator

c/o _____

Fax No. _____

Taxes on Settlement Payments. IRS Forms W-2 and 1099 will be distributed to participating Class Members and the appropriate taxing authorities reflecting the payments they receive under the settlement. Class Members should consult their tax advisors concerning the tax consequences of the payments they receive under the Settlement. For purposes of this settlement, 25% of each settlement payment will be allocated as wages for which IRS Forms W-2 will be issued, and 75% will be allocated as non-wages for which IRS Forms 1099-MISC will be issued.

Your Options Under the Settlement

Option 1 – Automatically Receive a Payment from the Settlement

If you want to receive your payment from the settlement, then no further action is required on your part. You will automatically receive your settlement payment from the Settlement Administrator if and when the Settlement receives final approval by the Court.

If you choose **Option 1**, and if the Court grants final approval of the settlement, you will be mailed a check for your share of the settlement funds. In addition, you will be deemed to have released claims as follows:

By operation of the entry of the Final Approval Order and Judgment, and except as to rights this Agreement creates, Plaintiff and each Settlement Class Member who does not opt out of the Settlement shall release Defendants and their predecessors, successors, subsidiaries, parent companies, other corporate affiliates, and assigns, including but limited to AWH Burbank Hotel II, LLC, and AWH Partners, LLC, and each and all of their current or former subsidiaries, parents, affiliates, members, managers, owners, predecessors, insurers, agents, servants, employees, successors, assigns, officers, officials, directors, attorneys, personal representatives, registered representatives, lenders, franchisors, executors, and shareholders, including their respective pension, profit sharing, savings, health, and other employee benefits plans of any nature, the successors of such plans, and those plans' respective current or former trustees and administrators, agents, employees, and fiduciaries, and any other persons acting by, through, under or in concert with any of them ("Releasees"), from any and all claims, debts, liabilities, demands, obligations, penalties, premium pay, guarantees, costs, expenses, attorney's fees, interest, damages, actions or causes of action of whatever kind or nature, whether known or unknown, contingent or accrued, under any legal theory under federal and state law that were or could have been brought based on the facts or claims alleged in any version of the complaints filed in the Action.

The released claims include, but are not limited to, any and all claims, debts, liabilities, demands, obligations, guarantees, penalties, costs, expenses, attorney's fees, damages, action or causes of action, contingent or accrued, which relate to the allegations and claims asserted in the complaints filed in the Action, including without limitation claims for: (1) unpaid overtime (Cal Lab. Code §§ 510 and 1198); (2) unpaid minimum wage (Cal Lab. Code §§ 1182.12, 1194, 1197, 1197.1, and 1198); (3) failure to provide meal periods (Cal Lab. Code §§ 226.7, 512(a), 516, and 1198); (4) failure to authorize and permit rest breaks (Cal Lab. Code §§ 226.7, 516, and 1198); (5) non-compliant wage statements and failure to maintain payroll records (Cal Lab. Code §§ 226(a), 1174(d), and 1198); (6) failure to pay wages timely upon termination (Cal Lab. Code §§ 201 and 202); (7) failure to timely pay wages during employment

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

(Cal Lab. Code § 204); (8) failure to provide one day of rest in seven (Cal Lab. Code §§ 551, 552, and 558); (9) failure to provide reporting time pay (Cal Lab. Code §§ 1198 and Cal. Code Regs. Title 8, Section 11050 Subdivision 5(A)); (10) unreimbursed business expenses (Cal Lab. Code § 2802); (11) seeking civil penalties pursuant to the Private Attorneys General Act ("PAGA") (Cal. Lab. Code § 2698, *et seq.*); (12) unlawful business practices (Cal. Bus. & Prof. Code, § 17200, *et seq.*); and (13) unfair business practices (Cal. Bus. & Prof. Code, § 17200, *et seq.*); claims for any alleged failure to pay all wages due (including minimum wage and overtime wages), failure to pay for all hours worked, including off-the clock work, pre- and post-shift work (such as donning and doffing), failure to provide meal and rest periods, short/late meal and rest periods, failure to relieve of all duties during meal and rest periods, failure to pay or underpayment of meal and rest break premiums, auto-deduction of meal periods, failure to timely pay wages and final wages, failure to properly calculate or compensate at the regular rate of pay, failure to keep accurate records, failure to furnish accurate wage statements, failure to provide one day of rest in seven, failure to pay reporting time pay, failure to pay split shift premiums, failure to compensate for time spent on mandatory drug testing or reimburse costs associated with mandatory drug testing, failure to compensate for on-call or standby time, failure to provide notice under Labor Code section 2810.5, failure to provide suitable seating, liquidated damages, conversion of wages, pre and post-shift work, record-keeping violations, and claims regarding failure to reimburse business expenses, up to and including the date of preliminary approval by the Court. The released claims include without limitation claims meeting the above definition(s) under any and all applicable statutes, including without limitation any provision of the California Labor Code; Private Attorneys General Act (California Labor Code §§ 2698, *et seq.*); California Business & Professions Code §§ 17200 *et seq.*; any provision of the applicable California Industrial Welfare Commission Wage Orders based on the facts or claims alleged in any version of the Complaints of letters to the Labor and Workforce Development Agency in the Action.

As to the Released Claims only, each Settlement Class Member waives all rights provided by California Civil Code section 1542, which states:

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

The release shall extend through the date of preliminary approval.

Option 2 – Opt Out of the Settlement

If you do not wish to participate in the settlement, you may exclude yourself from participating by submitting a written request to the Settlement Administrator expressly and clearly indicating that you have received this Notice of Class Action Settlement, decided not to participate in the settlement, and desire to be excluded from the settlement. The written request for exclusion must include your name, signature, address, telephone number, and last four digits of your Social Security Number. Sign, date, and mail the request for exclusion by First Class U.S. Mail or equivalent, to the address below.

Settlement Administrator

c/o _____

The Request for Exclusion must be postmarked or faxed not later than _____, 2021. If you submit a Request for Exclusion which is not postmarked or faxed by _____, 2021, your Request for Exclusion will be rejected, and you will be included in the settlement class.

If you choose **Option 2**, you will no longer be a Class Member, and you will:

- Not Receive a Payment from the Net Settlement Fund.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******

- Not release the Released Class Claims.
- You will, however, release claims for PAGA civil penalties predicated on the Released Claims, and will receive a payment from the PAGA Fund.

Option 3 – Object to the Settlement

If you decide to object to the settlement, you may submit a written objection stating why you object to the settlement, or you may instead appear at the Final Fairness Hearing to object to the Settlement. Your objection must provide: (1) the name and case number of this Actions (or reasonable portion thereof), (2) your full name, last four digits of their social security number, and current address, (3) the specific reason(s) for the objection, and (4) all evidence and supporting papers (including, without limitation, all briefs, written evidence, and declarations) for the Court to consider. The written objection must be mailed to the administrator at [administrator’s address].

All objections must be received by the administrator by not later than _____ 2021. Late objections will not be considered. By submitting an objection, you are not excluding yourself from the settlement. To exclude yourself from the settlement, you must follow the directions described above. Please note that you cannot both object to the settlement and exclude yourself. You must choose one option only.

You may also, if you wish, appear at the Final Fairness Hearing set for _____ at _____ a.m./p.m. in the Superior Court of the State of California, for the County of Los Angeles and discuss your objection with the Court and the Parties at your own expense. You may also retain an attorney to represent you at the hearing.

If you choose **Option 3**, you will remain bound by this Settlement and release of claims if it is approved by the Court and will receive your individual Settlement Share.

Additional Information

This Notice of Class Action Settlement is only a summary of the case and the settlement. For a more detailed statement of the matters involved in the case and the settlement, you may refer to the pleadings, the settlement agreement, and other papers filed in the case. All inquiries by Class Members regarding this Class Notice and/or the settlement should be directed to the Settlement Administrator or Class Counsel.

Raul Perez
Capstone Law APC
 1875 Century Park E., Suite 1000
 Los Angeles, CA 90067
 Phone: Number

PLEASE DO NOT CONTACT THE CLERK OF THE COURT, THE JUDGE, DEFENDANTS’ ATTORNEYS WITH INQUIRIES.

Questions? Contact the Settlement Administrator toll free at 1-*-***-******