

Private Attorneys General Act (Cal. Lab. Code § 2698, *Et Seq.*) Settlement Agreement

IT IS HEREBY STIPULATED AND AGREED by and among the undersigned Parties, subject to the approval of the Court, that the Action and PAGA Released Claims shall be settled and resolved subject to the following terms and conditions set forth in this Private Attorneys General Act (Cal. Lab. Code § 2698, *et seq.*) Settlement Agreement (“Settlement Agreement”), entered by and between Plaintiff Fidel Cruz (“Plaintiff”), for himself and on behalf of the State of California and other Aggrieved Employees pursuant to the California Private Attorneys General Act, and Defendant Crescent Hotels & Resorts, LLC. (“Defendant” or “Crescent Hotels”) (collectively, the “Parties”).

This Settlement Agreement shall be effective on the Court’s final approval of the settlement and the Court’s dismissal of the class action claims in the Action (i.e., First through Eighth Causes of Action) without prejudice (“Effective Date”).

DEFINITIONS

Unless otherwise defined herein, the following terms, when used in this Settlement Agreement, shall have the following meanings:

1. “Action” means the matter entitled FIDEL CRUZ, individually, and on behalf of all others similarly situated, Plaintiff, v. CRESCENT HOTELS & RESORTS, LLC., a limited liability company; and DOES 1 through 10 inclusive, Defendants, Sacramento County Superior Court Case No. 34-2021-00299126-CU-OE-GDS, and as set forth in Plaintiff’s correspondence to the California Labor and Workforce Development Agency (“LWDA Letter”) dated April 14, 2021.
2. “Aggrieved Employees” consist of all current and former non-exempt employees who were employed by Crescent Hotels & Resorts, LLC in California from April 14, 2020 to the date the court approves the Parties’ Settlement Agreement.
3. “Crescent” means Crescent Hotels & Resorts, LLC.
4. “Complaint” means the operative complaint filed by Plaintiff in the Sacramento County Superior Court in Case No. 34-2021-00299126-CU-OE-GDS on April 20, 2021, as amended August 10, 2021.
5. “Court” or “Sacramento County Superior Court” means the Superior Court of California for the County of Sacramento.
6. “Defense Counsel” or “Counsel for Defendant” are Jeffrey S. Ranen, Esq., William C. Sung, and Kapil P. Dandamudi, Esq. of Lewis Brisbois Bisgaard & Smith, LLP, 633 West 5th Street, Ste. 4000, Los Angeles, California 90071.
7. “Employee PAGA Portion” is the amount to be distributed to the Aggrieved

Employees, which shall consist of 25% of the PAGA Penalties Amount, as provided in Paragraph 24 herein.

8. “Employee Payments” refers to the PAGA Penalty Payments that will be distributed to Aggrieved Employees, as provided in Paragraph 24 herein.

9. “Gross Settlement Amount” is the sum of One Hundred and Ninety Four Thousand Dollars and Zero Cents (\$194,000.00), which represents the total amount payable under this Settlement Agreement by Crescent, and includes the Employee PAGA Portion payable to Aggrieved Employees, LWDA Payment payable to the LWDA, Court-awarded Attorneys’ Fees (not to exceed \$77,600.00) to Plaintiff’s Counsel, Court-awarded Litigation Costs (not to exceed \$15,000.00) to Plaintiff’s Counsel, Court-awarded General Release Fee (not to exceed \$7,500.00) to Plaintiff, and a Court-awarded payment to the Settlement Administrator for Settlement Administration Costs (not to exceed \$15,000.00).

10. “LWDA” means the California Labor and Workforce Development Agency.

11. “Plaintiff’s Counsel” means Seung Yang, Esq., Allen Feghali, Esq., and Brett M. Gunther, Esq. of Moon & Yang, APC, 1055 W. Seventh St., Suite 1880, Los Angeles, California 90017.

12. “Net Settlement Amount” is the amount remaining to distribute to the LWDA and Aggrieved Employees after the following amounts are subtracted from the Gross Settlement Amount: (a) Attorneys’ Fees to Plaintiff’s Counsel; (b) Litigation Costs to Plaintiff’s Counsel; (c) General Release Fee to Plaintiff; and (d) Settlement Administration Costs to Settlement Administrator.

13. “PAGA” means the California Labor Code Private Attorneys General Act, California Labor Code § 2698, *et seq.*

14. “LWDA Payment” means the amount to be paid to the LWDA, which is seventy-five percent (75%) of the PAGA Penalties Amount as set forth in Paragraph 24 herein.

15. “PAGA Period” means the time period from April 14, 2020 through the date the Court approves the Parties’ Settlement Agreement.

16. “PAGA Released Claims” means any and all claims for civil penalties under PAGA based on the facts and Labor Code sections alleged in the notice letter Plaintiff sent to the LWDA on April 14, 2021 (case no. LWDA-CM-829369-21) and the operative Complaint, including failure to pay for all hours worked, including overtime; failure to provide meal periods; failure to provide rest periods; failure to maintain accurate records of hours worked and meal periods; failure to reimburse and indemnify expenses; failure to timely pay all wages at termination; failure to furnish accurate itemized wage statements; failure to pay all earned wages twice per month; Labor Code sections 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197.1, 1198, 2699(f)(2), 2802; and applicable IWC Wage Orders.

17. “Released Parties” mean Crescent Hotels & Resorts, LLC and its affiliated companies and its respective parent companies, subsidiaries, affiliates, shareholders, members, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys and any past, present or future officers, directors and employees) predecessors, successors, and assigns.

18. “Settlement Administrator” means Phoenix Settlement Administrators, Inc., a third-party administrator who shall administer the settlement, subject to approval by the Court, in accordance with this Settlement Agreement, and whose costs and expenses to administer the settlement are currently estimated not to exceed \$15,000.00 (“Settlement Administration Costs”).

RECITALS

19. On April 14, 2021, Plaintiff provided written notice to the LWDA and Crescent asserting claims for civil penalties pursuant to PAGA stemming from alleged violations of California Labor Code sections 201, 202, 203, 204, 210, 226(a), 226(e), 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197.1, 1198, 2698, 2699(a), 2699(f)(2), 2699(g)(1), and 2802.

20. On April 20, 2021 Plaintiff filed a class action complaint in the Superior Court of California, County of Sacramento, Case No. 34-2021-00299126-CU-OE-GDS, entitled FIDEL CRUZ, individually, and on behalf of all others similarly situated, Plaintiff, v. CRESCENT HOTELS & RESORTS, LLC., a limited liability corporation; and DOES 1 through 10 inclusive, Defendants, alleging violations of the Labor Code and Unfair Competition Law for: (1) failure to pay minimum and regular rate wages; (2) failure to pay overtime compensation; (3) failure to provide meal periods; (4) failure to authorize and permit rest breaks; (5) failure to indemnify necessary business expenses; (6) failure to timely pay final wages at termination; (7) failure to provide accurate itemized wage statements; and (8) unfair business practices. On August 10, 2021, Plaintiff filed a First Amended Complaint to add a cause of action for civil penalties under PAGA. As part of the Parties’ Settlement Agreement, Plaintiff will submit a request for dismissal of the class and individual claims without prejudice due to the existence of a arbitration agreement which Plaintiff’s counsel believes to be enforceable.

21. On August 19, 2021, the Parties participated in a day-long mediation with mediator Lisa Klerman, Esq. In preparation for the mediation, Plaintiff’s counsel requested and Defendant’s counsel provided sample time and payroll data for the purported aggrieved employees, personnel and employment documents, and company financial information. With Ms. Klerman’s assistance, the Parties agreed to fully and finally resolve the Action and the PAGA Released Claims as to Plaintiff, the State of California, and the Aggrieved Employees.

OPERATIVE TERMS OF SETTLEMENT AGREEMENT

The Parties agree as follows:

22. **Non-Admission.** Nothing in this Settlement Agreement nor action taken in implementation thereof shall be construed to be an admission or concession by Plaintiff that his claims do not have merit or by Crescent of any liability or wrongdoing as to Plaintiff, Aggrieved Employees, or any other person, and Crescent specifically disclaims any such liability or wrongdoing. Nor will any of the foregoing be used in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this Settlement Agreement may be used in any court proceeding that has as its purpose the interpretation, implementation, or enforcement of the settlement or any orders or judgments of the Court entered into in connection therewith. The Parties have entered into this Settlement Agreement with the intention to avoid further disputes and litigation with the attendant inconvenience, expenses, and risks. This Settlement Agreement and any related Court documents or orders are not and may not be cited or admitted as evidence of liability. If the Court does not grant approval of this settlement, then the Parties revert to their previous positions and Crescent will contend that a representative action is not appropriate.

23. **Gross Settlement Amount.** Crescent shall pay \$194,000.00 as the Gross Settlement Amount (“GSA”). Crescent will not pay more than the Gross Settlement Amount. However, in the event that the estimated pay periods from April 14, 2020 to July 16, 2021 is more than 10% greater than 5,927 (i.e., if there are more than **6,519** pay periods from April 14, 2020 to July 16, 2021), Crescent shall increase the GSA in proportion to the increase in pay periods over 10% (e.g., if the number of pay periods is 12% greater than 5,927, Crescent will increase the GSA by 2%). (“Escalator Clause”). In the event that the escalator clause is triggered, the Parties shall cooperate to obtain an amended judgment which reflects the increased Gross Settlement Amount.

24. **Net Settlement Amount.** The Parties agree that the Net Settlement Amount shall be distributed to the LWDA and Aggrieved Employees as follows: Seventy-five percent (75%) of the Net Settlement Amount shall be distributed to the LWDA (i.e., the LWDA Payment) and twenty-five percent (25%) of the Net Settlement Amount shall be distributed to the Aggrieved Employees on a *pro rata* basis, based on their respective number of pay periods worked for Crescent during the PAGA Period. Payments to Aggrieved Employees of their share of the Other PAGA Penalties Amount shall be referred to as “PAGA Penalty Payment(s).” Each Aggrieved Employee will be paid a non-wage check for the PAGA Penalty Payment, and will receive an IRS Form 1099 for said payment.

25. **Attorneys’ Fees Payment and Litigation Costs Payment.** Crescent will not oppose Plaintiff’s request for an award of attorneys’ fees in the amount up to \$77,600.00 (“Attorneys’ Fees”) and litigation costs and expenses in the amount up to \$15,000.00 incurred in prosecuting this Action (“Litigation Costs”), to Plaintiff’s Counsel. In the event the Court approves a payment of less than \$77,600.00 for Attorneys’ Fees and/or less than \$15,000.00 for Litigation Costs to Plaintiff’s Counsel, the difference will be a part of the Net Settlement Amount. The Attorneys’ Fees and Litigation Costs payments will be reported on an IRS Form

1099 issued to Plaintiff's Counsel. Except as set forth in this Paragraph, the Parties shall each bear their own attorneys' fees and costs.

26. **Plaintiff's Individual Release of All Claims.** Crescent will not oppose Plaintiff's request for payment in the amount up to \$7,500.00 as a general release fee in connection with the release and waivers provided by Plaintiff, in his individual capacity ("General Release Fee"). In the event the Court approves a payment of less than \$7,500.00 as a General Release Fee award to Plaintiff, the difference will be a part of the Net Settlement Amount. The General Release Fee will be reported on an IRS Form 1099 issued to Plaintiff.

27. **Settlement Administration Costs.** Crescent will not oppose Plaintiff's request for payment in the amount up to \$15,000.00 to the Settlement Administrator for administering the settlement. In the event the Court approves a payment of less than \$15,000.00 for Settlement Administration Costs, the difference will be a part of the Net Settlement Amount. Settlement Administration Costs will be reported on an IRS Form 1099 issued to the Settlement Administrator.

28. **Plaintiff's Release of Claims and Waiver of California Civil Code section 1542.** In consideration of payment under the settlement, and upon the Effective Date and payment of all funds due under this Settlement, Plaintiff shall be deemed to release the Released Parties from any and all PAGA Released Claims and any other claims that he may have against the Released Parties, including and not limited to, all complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, actions, causes of action, suits, rights, demands, costs, losses, debts, and expenses (including attorneys' fees and costs actually incurred, other than as otherwise provided herein) of any nature whatsoever, known or unknown, suspected or unsuspected, including, but not limited to, any claim for damages related to Plaintiff's employment with Defendant, the separation of his employment, rights arising out of alleged violations of any contracts, express or implied, any covenant of good faith and fair dealing, express or implied, or any tort including defamation, any claim of wrongful termination, retaliation, or wage and hour violations, or any legal restrictions of Defendant's right to terminate employees, or any federal, state or other governmental statute, regulation or ordinance, including, without limitation: (1) the Civil Rights Act of 1964, as amended; (2) 42 U.S.C. § 1981; (3) the California Government Code; (4) section 503 of the Rehabilitation Act of 1973; (5) the Americans with Disabilities Act; (6) the Fair Labor Standards Act (including the Equal Pay Act); (7) the California Constitution; and (8) the California Labor Code, which Plaintiff now has, owns or holds, or claims to have, own or hold, or which Plaintiff at any time heretofore had, owned or held, or claimed to have owned or held against any of the Released Parties relating to any conduct occurring prior to and including the date of execution of this Settlement Agreement (collectively, "Plaintiff's Released Claims"). Plaintiff represents that he is not aware of any claims he may have against the Released Parties other than the PAGA Released Claims. As a material inducement for Crescent to enter into this settlement, Plaintiff waives any and all rights and benefits conferred by the provisions of section 1542 of the California Civil Code and any similar law of any state or territory of the United States or other jurisdiction. Section 1542 of the California Civil Code provides as follows:

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.

Plaintiff understands and acknowledges that this Settlement Agreement is meant to include, to the fullest extent, all PAGA Released Claims and other claims which Plaintiff does not know or suspect to exist in his favor against the Released Parties.

29. **PAGA Released Claims.** Upon the Effective Date and payment of all funds due under this Settlement, Plaintiff, Aggrieved Employees, and the State of California will be forever barred from pursuing any and all PAGA Released Claims defined in Paragraph 16 herein. Upon entry of the Order approving the settlement and judgment entered thereon, Plaintiff, the State of California, and all Aggrieved Employees will be forever barred from pursuing any and all of the PAGA Released Claims that arose during the PAGA Period against the Released Parties. This release of claims only covers those civil penalties which are recoverable under PAGA, and does not otherwise cover individual, underlying claims or causes of action that Aggrieved Employees other than Plaintiff may have under the law against Released Parties for violations of the California Labor Code.

30. **Covenants and Representations by Plaintiff and Plaintiff's Counsel.** Plaintiff represents and warrants that he has not assigned or transferred or purported to assign or transfer to any person or entity, any claim or portion thereof, or interest therein, which is or may be subject to this Settlement Agreement. Plaintiff acknowledges that he has read this Settlement Agreement, that he fully understands his rights, privileges, and duties under the Settlement Agreement, and enters into this Settlement Agreement freely and voluntarily. Plaintiff further acknowledges that he has had the opportunity to consult with his attorneys to explain the terms of this Settlement Agreement and the consequences of signing this Settlement Agreement.

31. **Limited Disclosure and No Publicity.** Except as provided below, to the extent necessary to effectuate the settlement or as required by the PAGA statute, a court of law, or legal process, neither Plaintiff nor Plaintiff's Counsel will publicize the terms of this Settlement Agreement or issue a press release, hold a press conference, publish information about the settlement on any website or through any social media, or otherwise publicize the settlement or communicate its terms in public or in private, unless ordered by the Court.

32. **Obligation of Plaintiff's Counsel to Submit Settlement Agreement to the LWDA.** To permit judicial review and approval of the PAGA Payment, as required by Labor Code section 2698, et seq., Plaintiff's Counsel will file the Settlement Agreement with the Court and submit the Settlement to the LWDA as part of the parties' seeking Court approval of the Settlement, per Lab. Code § 2699(1)(2).

33. **Filing of Motion for Approval of Settlement by Plaintiff's Counsel.** Plaintiff's Counsel shall be responsible for preparing the Motion for Approval of the Settlement ("Approval Motion") and providing Defendant's Counsel with sufficient opportunity to propose revision to the Approval Motion prior to filing. Plaintiff's Counsel will file the Approval Motion, which is mutually agreed to by the Parties, as soon as practicable. Plaintiff's Counsel will serve the Approval Motion on Defendant's Counsel. Pursuant to California Labor Code section 2698, *et seq.*, Plaintiff's Counsel shall undertake all required submissions and disclosures to the Court to obtain approval of the settlement. The order approving the settlement shall include a provision that the Action is dismissed with prejudice, which shall constitute a final and binding resolution of Plaintiff's claims herein.

34. **Termination of Settlement Agreement.** If the Court does not approve the settlement, if the Court does not enter judgment as provided for in this Settlement Agreement, or if appellate review is sought and, on such review, the Court's decision is materially modified or reversed, or if one or more of the material terms of the Settlement Agreement is not approved or is materially modified or reversed or found to be invalid, then either of the Parties shall have the right within 10 days of written notice thereof to elect to terminate the Settlement Agreement, in which case the Settlement Agreement shall have no force or effect, and the Parties shall be deemed to have reverted to their respective status as of the date and time immediately prior to the execution of this Settlement Agreement. However, if the Court declines to approve the Settlement Agreement as drafted, the Parties agree to attempt in good faith to amend the Settlement Agreement to resolve the Court's concerns with the Settlement Agreement, before either Party terminates the Settlement Agreement.

35. **Judgment.** As part of the Approval Motion to approve the Settlement, Plaintiff shall submit a proposed order and judgment which enters judgment in the Action in accordance with the terms of the Settlement, retains jurisdiction over the Action for the purpose of enforcing the terms of the Settlement following approval of the Settlement, and enjoins the prosecution of any of the PAGA Released Claims against Crescent. The judgment will release and bar Plaintiff's Released Claims and the PAGA Released Claims as to Plaintiff, the State of California, and Aggrieved Employees.

ADMINISTRATION OF SETTLEMENT

36. **Settlement Administrator.** The Parties have mutually selected Phoenix, Settlement Administrators, Inc. to handle the administration of this settlement, subject to approval by the Court.

Notice to Aggrieved Employees.

a. No later than fifteen (15) business days after the Effective Date, Defendant shall provide the Settlement Administrator with a list of the Aggrieved Employees (the "Aggrieved Employees List"). The Aggrieved Employees List shall include each Aggrieved Employee's full name, last known mailing address, last known telephone number, total pay periods worked for Crescent in California during the PAGA Period, and Social Security number,

to the extent available from Crescent's records. Because Social Security numbers are included in the list, the Settlement Administrator will maintain the list in confidence, and shall only access and use the list to administer the settlement in conformity with the Court's orders. Crescent will in good faith compile from its records the Aggrieved Employees List and provide it to the Settlement Administrator in a computer-readable format, such as a Microsoft Excel spreadsheet.

b. Upon approval by the Court, Crescent shall deposit the GSA with the Settlement Administrator as follows: 1) a first payment of \$64,666.67 within ninety (90) days of the Court's approval of the Settlement (the "First Payment"); 2) a second payment of \$64,666.67 within ninety (90) days of the First Payment (the "Second Payment"); and 3) a final payment of \$64,666.67 within ninety (90) days of the Second Payment (the "Third Payment"). No later than twenty-one (21) calendar days after receipt of the Gross Settlement Amount from Defendant, the Settlement Administrator will mail the Employee Payments under cover letter, substantially in the form attached hereto as "**Exhibit A**" ("Cover Letter"), to each of the Aggrieved Employees identified on the Aggrieved Employees List. Prior to mailing the Cover Letter, the Settlement Administrator shall check the addresses provided in the Aggrieved Employees List using the United States Postal Service's National Change of Address database, and update the addresses for known address changes.

Should any of the mailings to the Aggrieved Employees of their Cover Letter and Employee Payments be returned as undeliverable within thirty (30) calendar days of mailing, the Settlement Administrator will have five (5) calendar days after it receives the returned undeliverable mail to search for a more current address for the Aggrieved Employee (via a skip trace or other reasonable method) and re-mail the Cover Letter and Employee Payments to any alternative or updated address obtained by the Settlement Administrator.

The Settlement Administrator shall distribute payments for the General Release Fee, the Attorneys' Fees, the Litigation Costs, the Settlement Administration Costs, the Employee Payments, and the LWDA Payment within twenty-one (21) calendar days after the Third Payment such that the entire GSA is deposited with the Settlement Administrator. All payments provided for by this Settlement Agreement shall be made by the Settlement Administrator in accordance with this Settlement Agreement and the Court's order approving this settlement.

Each Aggrieved Employee will be issued one check for his or her Employee Payment which will expire one hundred and eighty (180) calendar days from the date the checks are issued by the Settlement Administrator. After the 180 day-period, the Settlement Administrator shall cancel all checks that have not been cashed or deposited and remit funds associated with such canceled checks to the State Controller's Office, Unclaimed Property Division, in the name associated with each Aggrieved Employee whose Employee Payment checks are canceled.

MISCELLANEOUS PROVISIONS

37. **No Impact on Employee Benefit Plans.** Neither the Settlement Agreement nor any amounts paid to Plaintiff, any Aggrieved Employee, or the LWDA under the settlement will modify any previously credited hours or service under any employee benefit plan, policy, or

bonus program sponsored by Crescent. Such amounts will not form the basis for additional contributions to, benefits under, or any other monetary entitlement under Crescent's sponsored benefit plans, policies, or bonus programs. The payments made under the terms of this Settlement Agreement shall not be applied retroactively, currently, or on a going-forward basis, as salary, earnings, wages, or any other form of compensation for the purposes of any Crescent benefit plan, policy, or bonus program. Crescent retains the right, if necessary, to modify the language of its benefit plans, policies, and bonus programs to effect this intent, and to make clear that any amounts paid pursuant to this Settlement Agreement are not for "hours worked," "hours paid," "hours of service," or any similar measuring term as defined by applicable plans, policies, and bonus programs for purposes of eligibility, vesting, benefit accrual, or any other purpose, and that additional contributions or benefits are not required by this Settlement Agreement.

38. **Tax Consequences.** Plaintiff and Aggrieved Employees will be solely responsible for correctly characterizing any compensation received under the settlement on his/her personal income tax returns for tax purposes, and paying all appropriate taxes due for any and all amounts paid to them under the settlement. Plaintiff, Crescent, Plaintiff's Counsel, and Defendant's Counsel make no representations or warranties with respect to tax consequences of any payment under this Settlement Agreement, do not intend anything contained in this Settlement Agreement to constitute advice regarding taxes or taxability, nor shall anything in this Settlement Agreement be relied upon as such.

39. **Governing Law.** This Settlement Agreement shall be construed under and governed by the laws of the State of California. This Settlement Agreement shall be deemed to have been entered into in California, and all questions of validity, interpretation, or performance of any of its terms or of any rights or obligations of the Parties to this Settlement Agreement shall be governed by California law. If any legal or equitable action or arbitration is necessary to enforce the terms of this Settlement Agreement, it shall be brought in the State of California, County of Sacramento.

40. **Entire Agreement.** This Settlement Agreement constitutes the entirety of the Parties' settlement terms. No other prior or contemporaneous written or oral agreements may be deemed binding on the Parties. The Parties each acknowledge and represent that no promise or representation not contained in this Settlement Agreement has been made to them, and acknowledge and represent that this Settlement Agreement contains the entire understanding between them and contains all terms and conditions pertaining to the compromise and settlement of the Action and PAGA Released Claims.

41. **Judgment and Continued Jurisdiction.** The Parties agree that this Settlement Agreement shall be enforceable by the Court pursuant to California Code of Civil Procedure section 664.6, and the Court, to the fullest extent of the law, shall retain exclusive and continuing jurisdiction over this Action, over all Parties, and the Aggrieved Employees to interpret and enforce the terms, conditions, and obligations of the Settlement Agreement.

42. **Amendment or Modification.** This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest

or counsel for all Parties, subject to approval by the Court.

43. **Authorization to Enter into Binding Settlement Agreement.** Defendant represents and warrants that the undersigned has the authority to act on behalf of Crescent and to bind Crescent to the terms of this Settlement Agreement. Plaintiff represents and warrants that he has the capacity to act on his own behalf and on behalf of all who might claim through him to bind him to the terms and conditions of this Settlement Agreement. Counsel for all Parties warrant and represent that they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms, and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties warrant that they understand and have full authority to enter into this settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all Parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any settlement and/or mediation privileges and/or confidentiality provisions that otherwise might apply under federal or state law.

44. **Binding on Successors and Assigns.** This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

45. **Execution and Counterparts.** This Settlement Agreement may be executed in one or more counterparts. All executed counterparts, and each of them, including facsimile and scanned copies of the signature page, will be deemed to be one and the same instrument provided that counsel for the Parties will exchange among themselves original signed counterparts.

46. **Acknowledgement of Mutual Drafting and that the Settlement is Fair, Adequate, and Reasonable.** The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action, and have arrived at this settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this settlement. The Parties agree that the terms and conditions of this Settlement Agreement are the result of lengthy, intensive, arm's-length negotiations and that neither Party shall be considered the "drafter" of this Settlement Agreement for purposes of having terms construed against that Party. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one Party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

47. **Invalidity of Any Provision.** Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents, so as to define all provisions of this Settlement Agreement valid and enforceable.

48. **Severability.** If any term or provision of this Settlement Agreement is held to be invalid or unenforceable, provided that the essential terms and conditions of this Settlement Agreement for each Party remain valid, binding and enforceable, the remaining portions of this Settlement Agreement will continue to be valid, and will be performed, construed, and enforced to the fullest extent permitted by law, and the invalid or unenforceable term will be deemed amended and limited in accordance with the intent of the Parties, as determined from the face of the Settlement Agreement, to the extent necessary to permit the maximum enforceability or validation of the term or provision.

49. **No Waiver.** No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such Party of the same or any other condition, covenant, right, or remedy.

50. **Cooperation and Execution of Necessary Documents.** All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement the settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

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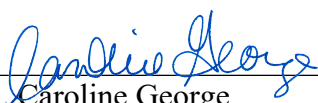
IN WITNESS THEREOF, the Parties each acknowledge that she/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement, and hereby executes it voluntarily and with full understanding of its consequences.

Dated: _____

Fidel Cruz, Plaintiff

CRESCENT HOTELS & RESORTS, LLC

Dated: September 24, 2021


By: Caroline George
Its: General Counsel

APPROVED AS TO FORM:

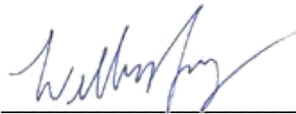
Dated: _____, 2021

Moon & Yang, APC

By: _____
Seung Yang
Allen Feghali
Brett M. Gunther
Attorneys for Plaintiff, Fidel Cruz

Dated: Sept., 24, 2021

LEWIS BRISBOIS BISGAARD & SMITH, LLP


By: _____
Jeffrey Ranen
William Sung
Kapil Dandamudi
Attorneys for Defendant, Crescent Hotels & Resorts, LLC

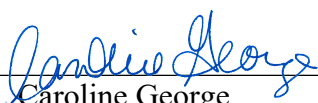
IN WITNESS THEREOF, the Parties each acknowledge that she/it has read the foregoing Settlement Agreement, accepts and agrees to the provisions contained in this Settlement Agreement, and hereby executes it voluntarily and with full understanding of its consequences.

Dated: _____

Fidel Cruz, Plaintiff

CRESCENT HOTELS & RESORTS, LLC

Dated: September 24, 2021


By: Caroline George
Its: General Counsel

APPROVED AS TO FORM:

Dated: _____, 2021

Moon & Yang, APC

By: _____
Seung Yang
Allen Feghali
Brett M. Gunther
Attorneys for Plaintiff, Fidel Cruz

Dated: Sept., 24, 2021

LEWIS BRISBOIS BISGAARD & SMITH, LLP

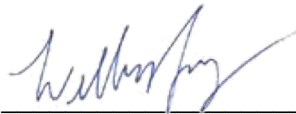

By: _____
Jeffrey Ranen
William Sung
Kapil Dandamudi
Attorneys for Defendant, Crescent Hotels & Resorts, LLC

EXHIBIT A

<<DATE>>

<<FIRST_NAME>> <<LAST_NAME>>

<<ADDRESS 1>>

<<ADDRESS 2>>

Re: Payment From Cruz v. Crescent Hotels & Resorts, LLC.

Dear <<FIRST_NAME>> <<LAST_NAME>>:

Enclosed you will find a check made payable to you. This is your payment from the settlement of the lawsuit entitled *Cruz v. Crescent Hotels & Resorts, LLC.*, Sacramento County Superior Court Case No. 34-2021-00299126-CU-OE-GDS.

That case was filed against Crescent Hotels & Resorts, LLC. (“Crescent”) pursuant to the California Private Attorneys General Act of 2004, Cal. Lab. Code § 2698 *et seq.* (called “PAGA”). The claim was brought on behalf of the State of California and all similarly situated “aggrieved employees” who worked as non-exempt employees for Crescent. You have been identified as one of the employees on whose behalf the case was brought.

The plaintiff in the case claimed that Republique owed penalties under PAGA for certain California Labor Code violations. Crescent denies that it did anything wrong or that it owes any penalties. The parties agreed to resolve the case, and as part of that settlement, Crescent agreed to pay a certain amount of money categorized as PAGA penalties. Under the PAGA statute, the penalties get divided between the State and the employees. The enclosed check represents your portion of the penalties allocated to the employees.

It is important to note that this is not a class action settlement. You may have received notifications in the mail regarding other class action settlements you may or may not have been a part of in the past. This case against Crescent is not a class action. Therefore, you cannot seek to opt out from the PAGA settlement to pursue your own claims.

If you have any questions, you can contact plaintiff’s counsel or Crescent’s counsel:

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Sincerely,