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GRAND HYATT S.F., LLC

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOE VIGIL, individually and on behalf of himself
and all others similarly situated,

Plaintiff,

v.

HYATT CORPORATION, a Delaware
corporation, GRAND HYATT S.F., LLC, a
Delaware limited liability company, doing
business as GRAND HYATT SAN FRANCISCO,
and DOES 1-50, inclusive,

Defendants.

Case No. 4:22-cv-00693-HSG

**JOINT STIPULATION OF CLASS
ACTION SETTLEMENT AND RELEASE
OF CLAIMS**

Complaint Filed: November 2, 2021

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1 This Joint Stipulation of Class Action Settlement Agreement and Release of Claims
2 (“Agreement”) is made and entered into between: (1) Plaintiff Joe Vigil (“Vigil” or “Plaintiff”),
3 individually and on behalf of all current and former non-exempt, hourly employees working for
4 Defendants Hyatt Corporation and Grand Hyatt S.F., LLC at the Grand Hyatt San Francisco hotel
5 (collectively, “Defendants”) at any time between November 2, 2017 to March 9, 2023 (the “Class”); and
6 (2) Defendants, subject to approval from the Court, as provided below.

7 This Agreement is intended by the Parties to fully, finally, and forever resolve, discharge, and
8 settle the Action (as defined below) and the Released Claims (as defined below), upon and subject to the
9 terms and conditions hereof, as follows:

10 1. DEFINITIONS

11 As used herein, for the purposes of this Agreement only, the following terms shall be defined as
12 set forth below:

13 1.1. **“Action”** refers to the civil actions entitled: (i) *Vigil v. Hyatt Corporation, et al.*,
14 filed as Case No. CGC-21-596464 in San Francisco Superior Court on November 2, 2021, and (ii) *Vigil*
15 *v. Hyatt Corporation, et al.*, filed as Case No. CGC-22-597517 in San Francisco Superior Court on
16 January 7, 2022, which were both removed to the United States District Court for the Northern District
17 of California and consolidated as Case No. 4:22-cv-00693-HSG. The Action was filed as separate class
18 action and representative action matters, and then consolidated into a single proceeding for all purposes.

19 1.2. **“Agreement”** refers to this Joint Stipulation of Class Action Settlement
20 Agreement and Release of Claims, which includes all of the Recitals and the Exhibits attached hereto.

21 1.3. **“Class”** refers to all current and former non-exempt, hourly employees working
22 for Defendants at the Grand Hyatt San Francisco hotel at any time between November 2, 2017 to March
23 9, 2023.

24 1.4. **“Class Counsel”** refers to James R. Hawkins, Christina M. Lucio, and Mitchell
25 Murray of James Hawkins APLC. For purposes of providing any notices required under this
26 Agreement, Class Counsel shall refer to James Hawkins (james@jameshawkinsaplc.com), Christina M.
27 Lucio (christina@jameshawkinsaplc.com), and Mitchell Murray (mitchell@jameshawkinsaplc.com)
28 9880 Research Drive, Suite 200, Irvine, California 92618.

1.5. **“Class Member(s)”** refers to any individual that is a member of the Class.

1.6. **“Class Period”** refers to the period of November 2, 2017 to March 9, 2023, as defined in this Agreement. The Class Period is based on a four-year statute of limitations period for state law claims, beginning on the date the Action was filed on November 2, 2021.

1.7. **“Class Representative”** refers to the named Plaintiff in the Action, Joe Vigil.

1.8. **“Class Representative Incentive Payment”** refers to any payment, subject to Court approval, to the Class Representative from the Gross Settlement Amount in recognition of the efforts and work in prosecuting the Action on behalf of the Class Members and in exchange for a general release.

1.9. **“Complaint”** refers to the original class action complaint filed on November 2, 2021; the original PAGA action complaint filed on January 7, 2022; and the operative First Amended Consolidated Complaint filed on July 25, 2022, in this Action.

1.10. **“Weeks Worked”** refers to any weeks when a Class Member worked for Defendants during the Class Period, as reflected on Defendants’ records.

1.11. **“Defendants”** refers to Defendant Hyatt Corporation and Defendant Grand Hyatt S.F., LLC.

1.12. **“Defendants’ Counsel”** refers to Seyfarth Shaw LLP. For purposes of providing any notices required under this Agreement, Defendants’ Counsel shall refer to Brian P. Long (bplong@seyfarth.com), Michael Afar (mafar@seyfarth.com), and Phillip J. Ebsworth (pebsworth@seyfarth.com); Seyfarth Shaw LLP, 2029 Century Park East, Suite 3500, Los Angeles, California 90067.

1.13. **“Effective Date”** refers to the 15th calendar day after the date by which the last of the following has occurred: (a) all conditions of Settlement have been satisfied; (b) the Court has entered and filed the Final Approval Order and Judgment; and (c) the time period for appeal of the Judgment has been exhausted without any appeals having been filed, and/or all such appeals have been voluntarily or involuntarily dismissed, and/or the appropriate appellate court or courts have entered a final judgment affirming the Final Approval Order and Judgment of the Court and the final judgment of such appellate court or courts is no longer subject to any further appellate challenge or procedure.

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

1.15. **“Final Fairness Hearing”** refers to the hearing at which the Court will make a final determination whether the terms of the Agreement are fair, reasonable, and adequate for the Class and meet all applicable requirements for Final Approval.

1.16. **“Gross Settlement Amount”** refers to the maximum settlement payment Defendants may be obligated to make in connection with the Settlement or Agreement, which in this case is no more than \$725,000. This sum shall include all Individual Settlement Payments made to Class Members, all administration costs, the employees’ share of payroll taxes, the Class Representative Incentive Payment, the LWDA Payment (as defined below), interest, and attorneys’ fees and costs as set forth below. The Gross Settlement Amount shall not include the employer’s share of payroll taxes in connection with the wage-related portions of the Individual Settlement Payments to Class Members. Defendants will separately pay the employer’s share of the payroll taxes in connection with the wage-related portions of the Individual Settlement Payments to Class Members.

The Gross Settlement Amount is a material term of this Agreement. Except as set forth in Paragraph 5.2, to the extent Plaintiff or the Court seeks to require Defendants to pay more than the Gross Settlement Amount as part of this Settlement or Agreement, Defendants shall retain the right, in the exercise of their sole discretion, to nullify the Settlement or Agreement.

1.17. **“Individual Settlement Payment”** refers to the amount calculated by the Settlement Administrator to be distributed to each individual Class Member, based on Weeks Worked. The Individual Settlement Payment shall be paid from the Net Settlement Amount and shall include the employee’s share of payroll taxes and withholdings.

1.18. **“Judgment”** refers to the final judgment by the Court approving the Settlement.

1.19. **“LWDA Payment”** refers to a payment out of the Gross Settlement Amount of \$10,000, which shall be allocated as \$7,500 to the California Labor & Workforce Development Agency (“LWDA”) as the LWDA’s share of the settlement of civil penalties paid under this Agreement pursuant to the PAGA, and as \$2,500 to the Net Settlement Amount for distribution to the Class Members.

1 1.20. **“Net Settlement Amount”** refers to the Gross Settlement Amount minus all
2 administration costs, the Class Representative Incentive Payment, the LWDA Payment, and attorneys’
3 fees and costs. The Net Settlement Amount shall include all Individual Settlement Payments due to
4 Class Members, including the employees’ share of payroll taxes. The Net Settlement Amount is the
5 maximum amount that shall be available for distribution to Class Members.

6 The Net Settlement Amount is a material term of this Agreement. Except as set forth in
7 Paragraph 5.2, to the extent Plaintiff or the Court seeks to require Defendants to pay more than the Net
8 Settlement as part of this Settlement or Agreement, Defendants shall retain the right, in the exercise of
9 their sole discretion, to nullify the Settlement or Agreement.

10 1.21. **“Notice of Class Action Settlement”** refers to the Notice of Class Action
11 Settlement, substantially in the form attached as **Exhibit A**.

12 1.22. **“Objection”** refers to a timely, written, signed objection by a Class Member who
13 elects to object to the Settlement, substantially in the form detailed in the Notice of Class Action
14 Settlement.

15 1.23. **“Parties”** refer to (1) Plaintiff Joe Vigil, individually and on behalf of all current
16 and former non-exempt, hourly employees working for Defendants at the Grand Hyatt San Francisco
17 hotel in California at any time between November 2, 2017 and March 9, 2023; and, (2) Defendants
18 Hyatt Corporation and Grand Hyatt S.F., LLC.

19 1.24. **“Plaintiff”** refers to Joe Vigil.

20 1.25. **“Preliminary Approval Order”** refers to the order issued and entered by the
21 Court following a Motion for Preliminary Approval of the Settlement and this Agreement.

22 1.26. **“Released Claims”** refers to those claims defined in Section 6 of this Agreement.
23 The Released Claims shall apply to all Class Members who do not file a Request for Exclusion (as
24 defined in this Agreement). The scope of the Released Claims is a material term of this Agreement. To
25 the extent Plaintiff or the Court seeks to modify the scope of the Released Claims in order to make it
26 more narrow, Defendants shall retain the right, in the exercise of their sole discretion, to nullify the
27 Settlement or Agreement.
28

1.27. **“Released Parties”** refers to (i) Defendants Hyatt Corporation and Grand Hyatt S.F., LLC; (ii) each of Defendants’ respective past, present and future parents, subsidiaries, and affiliates including, without limitation, any corporation, limited liability company, partnership, affiliated entity, trust, foundation, and non-profit entity which controls, is controlled by, or is under common control with Defendants; (iii) the past, present and future shareholders, directors, officers, agents, employees, attorneys, insurers, members, partners, managers, contractors, agents, consultants, representatives, administrators, fiduciaries, benefit plans, transferees, predecessors, successors, and assigns of any of the foregoing; and (iv) any individual or entity which could be jointly liable with any of the foregoing.

1.28. **“Request for Exclusion”** refers to a timely, written, signed opt-out request by someone who otherwise would be a Class Member who elects to be excluded from the Class, substantially in the form attached as **Exhibit B** to this Agreement.

1.29. **“Settlement”** refers to terms of this Agreement, which includes the Recitals and the Exhibits attached hereto.

1.30. **“Settlement Administrator”** refers to the third party administrator, who has been mutually selected by the Parties, subject to Court approval, to perform the notice, claims administration, and distribution of payment functions further described in this Agreement. The Settlement Administrator shall establish its own employer identification number and file an Internal Revenue Service Form W-9. The Settlement Administrator shall meet all of the requirements to establish a Qualified Settlement Fund (“QSF”) pursuant to U.S. Treasury Regulation Section 468B-1.

1.31. **“Settlement Class”** refers to all Class Members who do not file a timely and valid opt-out Request for Exclusion.

2. PROCEDURAL HISTORY AND RECITALS

2.1. **Causes Of Action.** On November 2, 2021, Plaintiff filed his original class action complaint against Defendants on behalf of the Class. The class action complaint was removed to federal court based on jurisdiction under the Class Action Fairness Act and federal question jurisdiction for preemption under the Labor Management Relations Act. On January 7, 2022, Plaintiff filed his original PAGA representative action complaint against Defendants, which was also removed to federal court based on federal question jurisdiction for preemption under the Labor Management Relations Act. On

1 April 28, 2022, the class action and PAGA action complaints were consolidated into a single proceeding
2 for all purposes. On July 25, 2022, Plaintiff filed the operative First Amended Complaint against
3 Defendants on behalf of the Class. Plaintiff assert eight causes of action in the First Amended
4 Complaint against Defendants: “(1) Failure to Pay Minimum Wages; (2) Failure to Pay Overtime Owed;
5 (3) Failure to Provide Lawful Meal Periods; (4) Failure To Authorize And Permit Rest Periods;
6 (5) Failure to Timely Pay Wages Upon Separation; (6) Failure to Reimburse Necessary Expenses;
7 (7) Violation of the Unfair Competition Law; and (8) Penalties Under Private Attorneys General Act,
8 Labor Code § 2698 et seq.” Like the original Complaint, the First Amended Complaint seeks unpaid
9 wages, actual damages, statutory damages, monetary damages, interest, statutory penalties, civil
10 penalties, liquidated damages, restitution, pre-judgment interest, and attorneys’ fees and costs.

11 **2.2. The Parties Have Exchanged Discovery To Fully Assess The Claims.** During
12 the litigation of this Action, the Parties have engaged in extensive discovery. Plaintiff propounded
13 written discovery on Defendants, including Requests for Production of Documents and Special
14 Interrogatories, and also made certain informal requests in connection with mediation. Pursuant to meet
15 and confer efforts for mediation, Defendants agreed to produce, and did produce, among other things,
16 electronic time punch records and payroll records all putative class members. Defendants also produced
17 meal and rest period attestation records for all putative class members. Defendants also produced
18 company policies, including the employee handbook, new hire paperwork, and all collective bargaining
19 agreements that applied to putative class members. The Parties were then able to engage their own
20 experts to independently review and analyze the data.

21 **2.3. Class Counsel’s Investigation.** Class Counsel investigated the claims against
22 Defendants in the Action and also analyzed all applicable defenses raised by Defendants. The
23 investigation included review of documents produced during discovery, including all time punch records
24 and payroll records, as well as expert analysis on the data. The investigation also included several
25 conferences between Class Counsel and Defendants’ Counsel, conferences between the Parties and the
26 Court, and Class Counsel’s further interviews of the Class Representative and other Class Members, as
27 well as a review of documents provided by the Class Representative and other Class Members.
28

1 2.4. **Defendants' Denials.** Defendants denied and continue to deny: (a) all of the
2 allegations made by the Class Representative or the Class in the Action; (b) that they violated any
3 applicable laws; (c) that they are liable or owe damages, penalties, or other compensation or remedies to
4 anyone with respect to the alleged facts or claims asserted in the Action; and, (d) that class certification
5 or representative treatment of the Action or any alleged claim is proper. Defendants emphasize that the
6 Court has not made any findings of liability as to Defendants and the Court has not determined that class
7 certification is warranted in this Action.

8 Nonetheless, without admitting or conceding any liability or wrongdoing whatsoever and
9 without admitting or conceding that class certification or representative treatment is appropriate for any
10 purpose other than settlement purposes alone, Defendants have agreed to settle the Action on the terms
11 and conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing
12 the Action. Any stipulations or statements by Defendants contained in this Agreement are made for
13 settlement purposes only.

14 2.5. **Class Counsel's Evaluation.** Based on Class Counsel's investigation and
15 evaluation, Class Counsel is of the opinion that the terms set forth in this Agreement are fair, reasonable,
16 adequate, and in the best interest of the Class Members. Class Counsel diligently and effectively
17 investigated Plaintiff's claims, drafted the Complaint and subsequent Amended Complaints, interviewed
18 witnesses, prepared discovery, and reviewed and analyzed documents and data produced for the entire
19 putative class. Class Counsel concluded that the Settlement reflected in this Agreement is in the best
20 interests of the Class, after reviewing the data and expert analysis, completing interviews with potential
21 Class Members, reviewing Defendants' policies and collective bargaining agreements, conferring with
22 Defendants' Counsel regarding Defendants' arguments in opposition to a potential Motion for Class
23 Certification, and evaluating the risk that further litigation might result in Plaintiff and the Class not
24 recovering anything at all was a very significant factor in determining that this Agreement is fair,
25 reasonable, and adequate.

26 2.6. **Second Amended Consolidated Complaint.** As a condition of the Settlement,
27 Plaintiff will file a Second Amended Consolidated Complaint to conform the pleadings with the scope
28 of the release, and specifically, to more explicitly plead class and representative theories of liability that

were raised at mediation, the draft of which is attached hereto as **Exhibit C**. Defendants will not be required to file an answer or other responsive pleading to the Second Amended Consolidated Complaint. If, for any reason, the Court does not grant Final Approval, or if the Settlement or Judgment does not become binding for any reason, then the Second Amended Consolidated Complaint will be deemed withdrawn and the First Amended Consolidated Complaint, filed July 25, 2022, will again become the operative complaint without prejudice to Plaintiff's right to seek leave to file another amended complaint. Defendants do not impliedly or expressly waive any arguments or defenses to the Second Amended Consolidated Complaint.

2.7. **The Parties' Intent.** It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge any and all claims, rights, demands, charges, complaints, causes of action, obligations or liability of any and every kind that were or could have been asserted in the Action, to the extent that such claims arise out of the alleged facts, circumstances, and occurrences underlying the allegations as set forth in the claims in the operative First Amended Consolidated Complaint in the Action.

2.8. **Certification of Settlement Classes.** This Agreement is contingent upon approval of class certification under Fed. R. Civ. P. Rule 23 by the Court of the Settlement Class for settlement purposes only. Defendants do not waive, and instead expressly reserves, its right to challenge the propriety of class certification, collective action certification, or representative treatment for any other purpose should the Court not approve the Settlement or this Agreement.

2.9. **The Parties' Agreement to Cooperate.** The Parties agree to cooperate and to take all steps necessary and appropriate to effectuate all aspects of this Agreement, to obtain a Preliminary Approval Order and Final Approval Order of this Settlement, and to dismiss the Action and claims of Class Members with prejudice upon final approval.

NOW THEREFORE, in consideration of the covenants and agreements set forth herein, and of the release and dismissal of all Released Claims, the Parties stipulate and agree to the terms and provisions of this Settlement and Agreement, subject to the approval of the Court.

1 **3. NOTICE TO CLASS MEMBERS**

2 3.1. **Settlement Administrator.** The Parties request that the Court appoint Phoenix
3 Class Action Administration Solutions as Settlement Administrator. The Parties agree that settlement
4 administration costs shall not exceed \$9,750, based on a written bid received from the Settlement
5 Administrator. All disputes relating to the Settlement Administrator's performance of its duties, after
6 good-faith efforts by the Parties to first resolve such disputes, will be referred to the Court, if necessary,
7 which will have continuing jurisdiction over this Agreement until all payments and obligations
8 contemplated by this Agreement have been fully completed.

9 3.2. **Class Data For Settlement Administrator.** Within 21 calendar days of the entry
10 of a Preliminary Approval Order of this Agreement, Defendants shall provide to the Settlement
11 Administrator with the following information: (1) name of each Class Member; (2) most current known
12 address of each Class Member; (3) social security number of each Class Member; and (4) the dates of
13 employment for each Class Member and/or days worked by each Class Member, in order to determine
14 the total number of Weeks Worked by each Class Member during the Class Period.

15 3.3. **Confidentiality Of Class Member Contact Information And Data.** The
16 contact information is being provided confidentially, and the Settlement Administrator shall treat the
17 information as private and confidential and take all necessary precautions to maintain the confidentiality
18 of contact information of the Class Member. This information is to be used only to carry out the
19 Settlement Administrator's duties as specified in this Settlement Agreement. The Settlement
20 Administrator shall return the class data to Defendants or confirm its destruction upon completion of the
21 Settlement Administrator's duties in administering the Settlement.

22 3.4. **Mailing Of Notice Of Class Action Settlement And Request For Exclusion.**
23 The Settlement Administrator shall mail the Notice of Class Action Settlement, and Request for
24 Exclusion, to Class Members within 14 calendar days of receiving the Class Member data from
25 Defendants. The Settlement Administrator shall send the Notice of Class Action Settlement, and
26 Request for Exclusion to Class Members via First Class U.S. Mail, using the most current, known
27 mailing address for each Class Member based on information provided by Defendants. Upon receipt of
28 this information from Defendants, the Settlement Administrator shall perform a search based on the

1 National Change of Address Database maintained by the United States Postal Service to update and
2 correct any known or identifiable address changes.

3 **3.4.1 Re-mailing Of Returned Notices.** Any mailing returned to the
4 Settlement Administrator as undeliverable shall be sent within 3 business days via First Class U.S. Mail
5 to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement
6 Administrator shall attempt to determine the correct address by again using the National Change of
7 Address Database maintained by the United States Postal Service to update and correct any known or
8 identifiable address changes. Following this procedure, the Settlement Administrator shall perform a
9 single re-mailing via First Class U.S. Mail within 3 business days.

10 **3.4.2 Content Of The Notice Of Class Action Settlement.** The Notice of
11 Class Action Settlement shall be substantially in the form attached as **Exhibit A** to this Agreement.

12 **3.4.3 Content Of The Request For Exclusion.** The Request for Exclusion
13 shall be substantially in the form attached as **Exhibit B** to this Agreement.

14 **3.5. Proof Of Mailing.** At least 5 calendar days prior to the Final Fairness Hearing,
15 the Settlement Administrator shall provide a declaration of due diligence and proof of mailing with
16 regard to mailing of the Notice of Class Action Settlement to Class Counsel and Defendants' Counsel,
17 which they shall in turn provide to the Court.

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

19 **4.1. Class Members' Consideration Period.** Class Members shall be provided 45
20 calendar days to exercise any rights with regard to the Settlement, following the postmark date of the
21 initial mailing of the Notice of Class Action Settlement and the Request for Exclusion. Except as
22 specifically provided herein, no Class Member responses of any kind that are postmarked more than 45
23 calendar days after the initial mailing of Class Notice shall be considered. Responses from Class
24 Members must be postmarked for mail with the U.S. Postal Service. Responses sent by facsimile, email,
25 or other forms of electronic transmission will not be considered.

26 **4.2. Request for Exclusion and Opt Out Rights.** Class Members shall be given the
27 opportunity to opt out of the Settlement.
28

1 **4.2.1 Opt Out Procedures.** Class Members may opt out of the Settlement by
2 mailing to the Settlement Administrator a Request for Exclusion, substantially in the form attached as
3 Exhibit B. Any such Request for Exclusion must be postmarked not more than 45 calendar days after
4 the postmark date of the initial mailing of the Notice of Class Action Settlement and the Request for
5 Exclusion. To be a valid Request for Exclusion, a Class Member must provide his or her name (and
6 former names, if any), current address, and current telephone number. Any Request for Exclusion that
7 does not include all of the required information or that is not submitted in a timely manner will be
8 deemed null, void, and ineffective. If there is a dispute regarding the timeliness or validity of a Request
9 for Exclusion, the Settlement Administrator shall make the determination, after consultation with Class
10 Counsel and Defense Counsel. Requests for Exclusion from Class Members must be postmarked for
11 mail with the U.S. Postal Service. Requests for Exclusion sent by facsimile, email, or other forms of
12 electronic transmission will not be considered.

13 **4.2.2 Effect of Opt Out.** Any Class Member who opts out of the Settlement
14 may not object to the Settlement, shall not receive any Individual Settlement Payment, and shall not be
15 bound by the Released Claims provisions in this Agreement. If a Class Member submits both a Request
16 for Exclusion and an Objection, the Class Member's Objection will be valid and be deemed to invalidate
17 the Request for Exclusion.

18 Each Class Member who does not opt out of the Settlement shall be bound by the
19 applicable Released Claims provisions in this Agreement, including the Released Claims.

20 The LWDA Payment portion of the Gross Settlement Amount shall be distributed
21 to aggrieved employees based on number of workweeks worked during the PAGA period, defined as
22 one year and sixty-five days preceding the filing of the original Complaint. Class Members who opt out
23 of the class portion of the Settlement and worked during the PAGA period will receive their respective
24 share of the LWDA Payment, even if they opt out of the class portion, because there are no opt-out
25 rights under PAGA.

26 **4.2.3 Defendants' Rights to Withdraw.** Defendants have the right, at their
27 sole option, to withdraw from this Settlement or Agreement if the number of Class Members opting out
28 exceeds five percent (5%) of the total number of Class Members. These rights to withdraw are material

1 terms of the Agreement and Defendants have the right, at their sole option, to withdraw from this
2 Agreement if either of these material terms are not approved by the Court. If Defendants exercise this
3 right to withdraw, they will be responsible for all Settlement Administration Costs incurred by the
4 Administrator.

5 4.3. **Objection Rights.** Because the Settlement Class will be certified by the Court,
6 only Class Members who do not opt out of the Settlement shall be entitled to object to the terms of the
7 Settlement.

8 4.3.1 **Objection Procedures.** Class Members' objections to the Settlement or
9 this Agreement must be made using the procedures set forth in the Notice of Class Action Settlement.
10 Any Objection must be sent to the Settlement Administrator and postmarked no later than 45 days after
11 the first postmark date of mailing the Notice of Class Action Settlement. An Objection shall be deemed
12 to be submitted as of the postmarked date. The written Objection must contain: (1) the name and case
13 number of this lawsuit, *Vigil v. Hyatt Corporation, et. al*, United States District Court for the Northern
14 District of California, Case No. 4:22-cv-00693-HSG; (2) the full name, last four digits of their Social
15 Security Number, and current address of the Class Member making the Objection; (3) the specific
16 reason(s) for the Objection; and (4) any and all evidence and supporting papers (including, without
17 limitation, all briefs, written evidence, and declarations) for the Court to consider. Class Members who
18 submit an Objection remain bound by this Agreement.

19 Objections from Class Members must be postmarked for mail with the U.S. Postal
20 Service. Objections sent by facsimile, email, or other forms of electronic transmission will not be
21 considered.

22 4.3.2 **Rights of Individuals Who Submit an Objection.** Class Members who
23 timely submit an Objection shall have the right to appear at the Final Fairness Hearing either in person
24 or through counsel, but must state their intent to do so at the time they submit their written Objection.
25 Class Members may withdraw their Objections at any time.

26 4.3.3 **Waiver of Objection Rights.** Class Members who fail to make
27 Objections in the manner specified in the Notice of Class Action Settlement shall be deemed to have
28

1 waived any Objections and shall be foreclosed from making any Objection, whether by appeal or
2 otherwise, to this Agreement.

3 **4.4. Proof of Class Members' Responses.** By not later than 75 calendar days after
4 the initial mailing of the Notice of Class Action Settlement and Request for Exclusion, the Settlement
5 Administrator will prepare and submit a declaration attesting to (by number of relevant individuals) its
6 mailing of the Notice of Class Action Settlement, its inability to deliver any mailing due to invalid
7 addresses, and its receipt of valid Requests for Exclusion. Five calendar days prior to the Final Fairness
8 Hearing, the Settlement Administrator will prepare a supplemental declaration to submit to the Court, to
9 indicate the number of valid timely claims, objections, and opt out Requests for Exclusion.

10 **4.5. Binding Effect of Settlement.** Although some Class Members might not receive
11 or timely submit the Notice of Class Action Settlement or the Request for Exclusion, as provided under
12 this Settlement and Agreement, due to inability to locate their current address following the procedures
13 set forth in this Agreement, such individuals shall nonetheless be bound by all of the terms of this
14 Settlement and Agreement and the Final Order and Dismissal with Prejudice.

15 **5. DISTRIBUTION OF SETTLEMENT PROCEEDS**

16 **5.1. Gross Settlement Amount.** Defendants agree to pay up to a maximum Gross
17 Settlement Amount of \$725,000. The \$725,000 Gross Settlement Amount refers to the maximum
18 settlement payment Defendants may be obligated to make in connection with the Settlement or
19 Agreement, and shall include all Individual Settlement Payments made to Class Members, all
20 administration costs, the employees' share of payroll taxes, the Class Representative Incentive Payment,
21 the LWDA Payment, and attorneys' fees and costs. The Gross Settlement Amount shall be funded
22 fourteen (14) calendar days after the Effective Date.

23 **5.2. Representation of Workweeks.** Defendants have represented that the
24 workweeks between November 2, 2017 and October 29, 2022 are approximately 56,217. If the actual
25 number of workweeks during this timeframe (between November 2, 2017 and October 29, 2022)
26 exceeds 56,217 by more than 10%, the amount of the settlement will be increased by the actual
27 percentage. There is no other escalator clause that applies to the Settlement or the Gross Settlement
28 Amount.

1 **5.3. Attorneys' Fees and Costs.** Class Counsel intends to request—and Defendants
2 agree not to oppose—that the Court approve an attorneys' fees and costs award for (a) attorneys' fees in
3 an amount up to 35% of the Gross Settlement Amount (or \$253,750) and (b) costs in the amount of up to
4 \$25,000.00, supported by adequate documentation by Class Counsel. Except as provided in this
5 Agreement, Defendants shall have no liability for any other attorneys' fees or costs.

6 **5.3.1 Approval of Attorneys' Fees and Costs Award Not Material.** The
7 Court's approval of an attorneys' fees or costs award is not a material term of the Settlement or this
8 Agreement. If the Court does not approve or approves only a lesser amount than that requested by Class
9 Counsel for attorneys' fees or costs, the other terms of the Settlement and this Agreement shall still
10 apply. The Court's refusal to approve the attorneys' fees or costs award requested by Class Counsel
11 does not give the Class Representative, the Class Members, or Class Counsel any basis to abrogate the
12 Settlement or this Agreement. Any amount of an attorneys' fees and costs award requested by Class
13 Counsel but unapproved by the Court shall be allocated to the Net Settlement Amount.

14 **5.3.2 Timing of Payment of Attorneys' Fees and Costs.** The Settlement
15 Administrator shall pay to Class Counsel any approved attorneys' fees and costs award fourteen (14)
16 calendar days after the full funding of the Gross Settlement Amount as set forth in Section 5.1. Class
17 Counsel agrees that Class Counsel is responsible for allocating this payment among themselves and any
18 other counsel for Plaintiff settling claims through this Agreement. The Settlement Administrator shall
19 issue an Internal Revenue Service Form 1099 to Class Counsel for any attorneys' fees and costs award
20 payment. Class Counsel shall be solely and legally responsible for paying all applicable taxes on any
21 attorneys' fees and costs award payments and shall indemnify and hold harmless Defendants from any
22 claim or liability for taxes, penalties, or interest arising as a result of the payment.

23 **5.4. Class Representative Incentive Payment.** Class Counsel intends to request—
24 and Defendants agree not to oppose—that the Court approve a Class Representative Incentive Payment
25 of up to \$10,000 for the Class Representative, for his additional participation in the Action and a full
26 individual settlement and release (as outlined in Section 6.2), and such payments shall not be subject to
27 payroll taxes or withholdings. Any Class Representative Incentive Payment is in addition to each Class
28 Representative's Individual Settlement Payment.

1 **5.4.1 Class Representative Incentive Payment Not Material.** The Court's
2 approval of the Class Representative Incentive Payment is not a material term of the Settlement or this
3 Agreement. If the Court does not approve or approves only a lesser amount than that requested by Class
4 Counsel for the Class Representative Incentive Payment, the other terms of the Settlement and this
5 Agreement shall apply. The Court's refusal to approve the Class Representative Incentive Payment
6 requested by Class Counsel does not give either the Class Representative or Class Counsel any basis to
7 abrogate the Settlement or this Agreement. Any amount of a Class Representative Incentive Payment
8 requested by Class Counsel but unapproved by the Court shall be allocated to the Net Settlement
9 Amount.

10 **5.4.2 Timing of Class Representative Incentive Payment.** The Settlement
11 Administrator shall pay to the Class Representative any approved Class Representative Incentive
12 Payment fourteen (14) calendar days after the initial funding of the Gross Settlement Amount set forth in
13 Section 5.1. The Settlement Administrator shall issue an IRS Form 1099 to the Class Representative for
14 any Class Representative Incentive Payment. The Class Representative shall be solely and legally
15 responsible for paying all applicable taxes on any Class Representative Incentive Payment and shall
16 indemnify and hold harmless Defendants from any claim or liability for taxes, penalties, or interest
17 arising as a result of the payment.

18 **5.5. Settlement Administration Costs.** Class Counsel intends to request—and
19 Defendants agree not to oppose—that the Court approve Settlement Administration Costs of up to
20 \$9,750. Upon completion of administration of the Settlement, the Settlement Administrator shall
21 provide written certification of such completion to Class Counsel and Defendants' Counsel. The Parties
22 agree to cooperate in the settlement administration process and to make all reasonable efforts to control
23 and to minimize settlement administration costs.

24 **5.6. LWDA Payment.** The Parties will seek approval for a Private Attorneys General
25 Act ("PAGA") payment out of the Gross Settlement Amount of \$10,000, which shall be allocated as
26 \$7,500 to the LWDA as the LWDA's share of the settlement of civil penalties paid under this
27 Agreement pursuant to the PAGA, and as \$2,500 to the Net Settlement Amount for distribution to the
28 Class Members.

1 **5.6.1 Modification Of LWDA Payment Not Material.** The Court's reduction
2 or increase of a LWDA Payment is not a material term of the Settlement or this Agreement. If the Court
3 approves only a lesser amount or a higher amount than that requested by Class Counsel for the LWDA
4 Payment, the other terms of the Settlement and this Agreement shall apply. The Court's reduction or
5 increase of the LWDA Payment requested by Class Counsel does not give the Class Representative or
6 Class Counsel any basis to abrogate the Settlement or this Agreement.

7 However, the Court's approval of a LWDA Payment is a material term of the
8 Settlement or this Agreement. If the Court does not approve a LWDA Payment set forth in this
9 Agreement, then the LWDA Payment shall be made in the amount required by the Court. If the Court
10 requires the LWDA Payment to be higher than as stated in this Agreement, the additional funds for the
11 LWDA Payment shall be taken from the Gross Settlement Amount. Thus, the Gross Settlement Amount
12 shall not be increased in the Court requires a larger LWDA Payment.

13 **5.7. Individual Settlement Payments From the Net Settlement Amount.** This
14 Settlement shall be a non-reversionary Settlement. Each Class Member who does not opt out of the
15 Settlement shall be entitled to an Individual Settlement Payment consisting of their share of the Net
16 Settlement Amount, in accordance with the formula set forth below.

17 **5.7.1 Individual Settlement Calculations and Payments.** Each Class Member
18 will be eligible to receive a portion of the Net Settlement Amount in accordance with the following
19 formula:

20 Each Class Member's potential share of the Net Settlement Amount will
21 be calculated by dividing the number of Weeks Worked by the Class
22 Member by all Weeks Worked during the Class Period by all Class
23 Members, multiplied by the Net Settlement Amount [*i.e.*, (individual
24 Weeks Worked ÷ total Weeks Worked by Class Members) x Net
25 Settlement Amount].

26 **5.7.2 Disputes Regarding Weeks Worked.** The Notice of Class Action
27 Settlement will list each Class Member's number of Weeks Worked, for purposes of determining the
28 Individual Settlement Payment. If a Class Member disputes the number of Weeks Worked on the
Notice of Class Action Settlement, the Class Member must produce, by no later than fourteen (14)

1 calendar days from the date the Notice of Class Action Settlement is postmarked, evidence to the
2 Settlement Administrator showing that such information is inaccurate. All disputes will be decided
3 within seven (7) calendar days from the date the dispute is received by the Settlement Administrator.
4 The Settlement Administrator shall have the authority to determine the outcome of any disputes, but
5 may contact Class Counsel and/or Defendants' Counsel to seek their input.

6 **5.8. Distribution of Individual Settlement Payments.** Each Class Member's portion
7 of the Net Settlement Amount shall be distributed as one check.

8 **5.8.1 Settlement Checks.** The settlement check shall be for the amount of each
9 Class Member's Individual Settlement Payment. The check will include language indicating that
10 endorsing and cashing the check will constitute a release of claims under the California Labor Code,
11 California Unfair Competition Law, and PAGA, for any and all claims asserted or that could have been
12 asserted based on the facts alleged in the Action. The language to be included will be substantially
13 similar to the following:

14 My signature or cashing of this check constitutes a full and complete
15 release of Hyatt Corporation, and all of their current or former subsidiary
16 or affiliated entities, and their current or former officers, directors, and
17 employees, for any and all claims asserted or that could have been asserted
18 based on the facts alleged in the operative Second Amended Consolidated
19 Complaint in the lawsuit entitled *Vigil v. Hyatt Corporation, et. al*,
20 pending in the United States District Court, Northern District of
California, Case No. 4:22-cv-00693-HSG, including the claims brought
under the California Labor Code, California Unfair Competition Law, or
PAGA, arising during my employment at any time between November 2,
2017 through March 9, 2023.

21 **5.9. Timing of Individual Settlement Payments.** The Settlement Administrator shall
22 issue the distribution of the Individual Settlement Payments no later than fourteen (14) calendar days
23 after the funding of the Gross Settlement Amount.

24 **5.10. Allocation of Individual Settlement Payments.** Each Class Member's
25 Individual Settlement Payment will be characterized as 80% Form 1099 income and 20% Form W-2
26 income, to reflect that 80% of the payment will account for penalties and interest, while 20% will
27 account for unpaid wages. In accordance with applicable tax laws, required tax withholdings and
28 payroll deductions will be taken from each Individual Settlement Payment for the portion allocated to

1 Form W-2 income and remitted to the appropriate taxing authorities. The Settlement Administrator
2 shall issue any necessary IRS Form 1099 and Form W-2 statements to Class Members for their
3 respective Individual Settlement Payments. Class Members shall be solely and legally responsible for
4 paying all other applicable taxes on their respective Individual Settlement Payments and shall indemnify
5 and hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a
6 result of the payments. In allocating the Individual Settlement Payments, the Parties agree that, pursuant
7 to applicable law, all payments for wages shall be subject to payroll tax withholdings and a Form W-2,
8 while all payments for penalties shall not be subject to payroll tax withholdings and will be recorded on
9 a Form 1099.

10 **5.10.1 Allocation of Individual Settlement Payment Not Material.** The
11 Court's approval of the allocation of the Individual Settlement Payment for Form 1099 income and
12 Form W-2 income is not a material term of the Settlement or this Agreement. If the Court does not
13 approve or approves a different allocation of the Individual Settlement Payments, the other terms of the
14 Settlement and this Agreement shall apply. The Court's refusal to approve the allocation for the
15 Individual Settlement Payments requested by the Parties does not give the Parties any basis to abrogate
16 the Settlement or this Agreement.

17 **5.10.2 Undeliverable or Uncashed Checks.** Any settlement checks distributing
18 Individual Settlement Payments returned to the Settlement Administrator as undeliverable shall be sent
19 within 5 calendar days via First Class U.S. Mail to the forwarding address affixed thereto. If no
20 forwarding address is provided, the Settlement Administrator shall attempt to determine the correct
21 address using the National Change of Address Database maintained by the United States Postal Service,
22 and it shall then perform a re-mailing within 5 calendar days. The amount of any Individual Settlement
23 Payments that remain undeliverable or uncashed 180 calendar days after the postmarked date of the
24 initial mailing of the Individual Settlement Payments will be sent to the California State Controller's
25 Office to be held as "Unclaimed Property" in the name of the Class Member. The Settlement
26 Administrator shall notify Class Counsel and Defendants' Counsel of any undeliverable checks.

1 **5.11. Tax Payment Considerations.** Class Counsel, Defendants' Counsel,
2 Defendants, and the Settlement Administrator are not giving any tax advice in connection with the
3 Settlement or any payments to be made pursuant to this Agreement.

4 **5.12. No Tax Advice or Liability.** Each Class Member agrees to indemnify, and to
5 hold harmless, Defendants from any liability for taxes, fees, costs, or assessments resulting from his or
6 her failure to timely pay taxes, interest, fees, or penalties owed.

7 **5.13. No Impact On Contributions To Employee Benefit Plans.** None of the
8 payments made pursuant to the Settlement and this Agreement shall be considered to alter the terms or
9 to grant any rights to additional payments under any employee benefit plans. None of the payments
10 made pursuant to the Settlement and this Agreement shall be considered for purposes of determining
11 eligibility for, vesting or participation in, or contributions to any benefit plan, including, without
12 limitation, all plans subject to the Employee Retirement and Income Security Act of 1974 ("ERISA").
13 Any distribution of payments to Plaintiff or Class Members shall not be considered as a payment of
14 wages or compensation under the terms of any applicable benefit plan and shall not affect participation
15 in, eligibility for, vesting in, the amount of any past or future contribution to, or level of benefits under
16 any applicable benefit plan.

17 Any amounts paid will not impact or modify any previously credited hours of
18 service or compensation taken into account under any bonus or incentive plan, benefit plan sponsored or
19 contributed to by Defendants or any jointly-trusted benefit plan, or for purposes of calculating the
20 regular rate of pay. For purposes of this Agreement, "benefit plan" means each and every "employee
21 benefit plan," as defined in 29 U.S.C. Section 1002(3), and, even if not thereby included, any 401(k)
22 plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing,
23 retirement, disability, vacation, severance, hospitalization, insurance, incentive, deferred compensation,
24 or any other similar benefit plan, practice, program, or policy.

25 **6. RELEASES**

26 **6.1. Release by Class Members.** By operation of the entry of the Final Approval
27 Order and judgment and contingent upon full funding of all sums owed under this Agreement, each
28 Class Member, and each of their respective executors, administrators, representatives, agents, heirs,

1 successors, assigns, trustees, spouses, or guardians, will release Defendants and each of the Released
2 Parties of and from any and all claims, rights, demands, charges, complaints, causes of action,
3 obligations, or liability of any and every kind between November 2, 2017 through March 9, 2023, for
4 any and all claims that were raised or could have been raised based on the factual allegations made in
5 the operative Second Amended Consolidated Complaint. This includes claims for (1) failure to pay
6 minimum wages; (2) failure to pay overtime wages at the regular rate of pay; (3) failure to provide
7 required meal periods and pay premium pay at the regular rate of pay; (4) failure to provide required rest
8 periods and pay premium pay at the regular rate of pay; (5) failure to timely pay wages due and payable
9 during employment; (6) failure to time pay wages upon separation; (7) failure to reimburse necessary
10 expenses; (8) knowing and intentional failure to comply with itemized wage statement provisions;
11 (9) failure to maintain timekeeping and payroll records; (10) failure to properly pay sick leave;
12 (11) PAGA claims for civil penalties pursuant to Labor Code sections 200, 201, 202, 203, 204, 210, 216,
13 225.5, 226, 226.3, 226.7, 246, 248, 248.5, 510, 512, 558, 1174, 1174.5, 1182.12, 1194, 1194.2, 1197,
14 1197.1, 1198, 1199, 2698-2699.5, and 2802; (12) claims brought under Business & Professions Code
15 section 17200 *et seq.*; (13) claims arising out of alleged violations of the California Labor Code sections
16 200, 201, 202, 203, 204, 210, 216, 225.5, 226, 226.3, 226.7, 246, 248, 248.5, 510, 512, 558, 1174,
17 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 1199, 2698-2699.5, and 2802, and California
18 Industrial Welfare Commission Wage Order No. 5-2001; (14) penalties of any nature; (15) interest;
19 (16) attorneys' fees and costs; and (17) any other claims arising out of or related to the Second Amended
20 Consolidated Complaint filed in the Action through March 9, 2023.

21 **6.2. Additional Release by Class Representative.** In addition to the above release
22 applicable to the Class Members, the Class Representative also generally releases any and all claims
23 against Defendants and each of the Released Parties. This general release includes any and all claims
24 arising from the employment relationship with Defendants or any Released Party, including, without
25 limitation, claims for wrongful termination, discrimination, harassment, or retaliation pursuant to Title
26 VII of the Civil Rights Act of 1964, 42 U.S.C. Section 2000 *et seq.*, the California Fair Employment and
27 Housing Act, Cal. Gov't Code Section 12900 *et seq.*, or the California Labor Code. This general release
28 by the Class Representative also includes a waiver of California Civil Code Section 1542. The Class

Representative expressly waives all rights provided by California Civil Code Section 1542, or other similar statutes, that the Class Representative may have against Defendants and each of the Released Parties. California Civil Code Section 1542 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.

6.3. Class Representative Acknowledgements. The Class Representative acknowledges that he has read this Agreement in its entirety, including the above language from the California Civil Code, and that he fully understands both this Agreement and the California Civil Code section. By executing this Agreement, the Class Representative expressly waives any benefits and rights granted pursuant to California Civil Code Section 1542 or any statute, rule, or principle of common law or equity, in any jurisdiction, that is similar, comparable, or equivalent, in whole or in part, to California Civil Code Section 1542. The Class Representative acknowledges and agrees that this knowing and voluntary waiver is an essential and material term of this Agreement, and the Agreement would not have been entered into without such a waiver.

6.4. Injunction from Pursuing Released Claims. As part of the preliminary approval of the Settlement, Class Members shall be enjoined from filing, initiating, or continuing to prosecute any actions, claims, complaints, or proceedings in any court, or with the DLSE, or with the California Labor and Workforce Development Agency ("LWDA"), or the United States Department of Labor ("DOL"), or with any other entity regarding the Released Claims.

This Settlement is conditioned upon the release by the Settlement Class as described herein, and upon covenants by the Settlement Class that they will not participate in any actions, lawsuits, proceedings, complaints, or charges brought individually by the DLSE, LWDA, DOL, or by any other agency, persons, or entity in any court or before any administrative body related to the Released Claims, nor will the Settlement Class contest or interfere with efforts by Defendants to oppose any attempt to bring such released claims against Defendants.

6.5. Acknowledgement of Binding Terms of the Settlement, Despite Other Potential Claims. Class Counsel, the Class Representative, and the Settlement Class acknowledge that

1 they may hereafter discover facts or law different from, or in addition to, the facts or law they know or
2 believe to exist with respect to the Released Claims. The Settlement Class nonetheless agrees that this
3 Agreement and the Released Claims contained in it shall be and remain effective in all respects
4 notwithstanding such different or additional facts or law regarding such Released Claims. These
5 releases do not include any claims that cannot be waived as a matter of law, but the Settlement Class
6 agrees that they will not accept any monetary recovery or benefit from any proceedings relating to any
7 such claims.

8 **6.6. No Admission of Liability.** By entering into this Agreement, Defendants in no
9 way admit any violation of law or any liability whatsoever to Class Members, individually or
10 collectively, and expressly deny all such liability. Neither this Agreement, nor any other Settlement
11 documents, shall be offered in any case or proceeding as evidence of any admission by Defendants of
12 any liability on any claim for damages, penalties, restitution, or any other relief. Likewise, by entering
13 into this Agreement, Defendants in no way admit to the suitability of this case for class action, collective
14 action, or representative action litigation, other than for purposes of Settlement. Rather, Defendants
15 enter into this Agreement to avoid further protracted litigation and to resolve and to settle all disputes
16 with the Settlement Class.

17 The Parties understand and agree that this Agreement and all exhibits thereto are
18 settlement documents and shall be inadmissible for any purpose in any proceeding, except an action or
19 proceeding to approve, interpret, or enforce the terms of this Agreement. The Parties agree that, to the
20 extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be
21 used as the basis for an injunction against any action, suit, or other proceeding that may be instituted,
22 prosecuted, or attempted in breach of this Agreement.

23 **7. SETTLEMENT APPROVAL PROCEDURE**

24 **7.1. Preliminary Approval.** The Parties shall submit to the Court a Joint Motion for
25 Preliminary Approval of class action settlement by May 22, 2023. This motion shall seek an order to
26 preliminarily approve the proposed Settlement according to the terms in this Agreement and provide for
27 the Notice of Class Action Settlement and the Request for Exclusion, to be sent to Class Members as
28 specified in this Agreement. This motion shall include the bases for the Gross Settlement Amount and

1 why the amount is reasonable in light of the facts and controlling authorities pertaining to the claims
2 alleged in the Complaint. The motion shall also be accompanied by signed declarations by Class
3 Counsel, discussing the risks of continued litigation and the decision that the best interests of Plaintiff
4 and the Class Members are served by the terms of this Agreement.

5 **7.2. Effect of Failure to Obtain Preliminary Approval.** If this Settlement or
6 Agreement or a substantially similar settlement mutually agreed to by the Parties is not preliminarily
7 approved, the Action shall proceed as if no settlement had been attempted and revert back to its prior
8 procedural posture, *i.e.*, the First Amended Consolidated Complaint shall be the operative Complaint.
9 The Parties may, however, jointly agree to seek reconsideration of the ruling on the Settlement or Court
10 approval of a renegotiated settlement. Defendants retain the right to contest whether any aspect of the
11 Action should be maintained as a class action or representative action, or to contest the merits of the
12 claims being asserted by the Class Representative or Class Members in the Action.

13 **7.3. Final Approval.** The Parties shall submit to the Court a Joint Motion for Final
14 Approval Order. The motion shall request the entry of a Final Approval Order, which shall include
15 findings and orders: (a) approving the Settlement and the Agreement; (b) adjudging the terms to be fair,
16 reasonable, and adequate; (c) reciting the release terms in full; (d) directing that the Settlement terms
17 and provisions be carried out; and (e) retaining jurisdiction to oversee administration and enforcement of
18 the terms of this Agreement and the Court's orders.

19 **7.4. Motion for Attorneys' Fees and Costs Award.** Class Counsel shall file a
20 motion for Court approval of an attorneys' fees and costs award in the amount of (a) up to 35% of the
21 Gross Settlement Amount (or \$253,750) and (b) verified costs in the amount of up to \$25,000.
22 Defendants will not oppose the motion provided it is consistent with this paragraph. Defendants will not
23 be required to support such a motion.

24 **7.5. Entry of Judgment.** At the final approval hearing, the Parties shall request that
25 the Court, among other things: (a) enter final judgment in accordance with this Agreement and without
26 further fees or costs to any party except as expressly set forth in this Agreement; (b) approve this
27 Agreement as fair, reasonable, adequate, and binding on all members of the Settlement Class; (c) enter
28 an order as to Class Counsel's request for an attorneys' fees and costs award; (d) enter an order as to the

1 request for the Class Representative Incentive Payment; and, (e) enter an order permanently enjoining
2 all members of the Settlement Class from pursuing or seeking to reopen claims that have been released
3 by this Agreement.

4 **7.6. Effect of Failure to Obtain Final Judgment.** In the event the Court fails to
5 enter final judgment in accordance with this Agreement, or such final judgment is vacated or reversed,
6 the Action shall proceed as if no settlement had been attempted and revert back to its prior procedural
7 posture, *i.e.*, the First Amended Consolidated Complaint shall be the operative Complaint. The Parties
8 may, however, jointly agree to seek reconsideration or appellate review of the ruling or Court approval
9 of a renegotiated settlement. Defendants retain the right to contest whether any aspect of the Action
10 should be maintained as a class action or representative action, or to contest the merits of the claims
11 being asserted by the Class Representative or Class Members in the Action.

12 **7.7. Waiver of Appeal Rights.** By accepting this Settlement, authorizing the
13 dismissal of the Action with prejudice, and upon final approval of the settlement being granted, the
14 Class Representative and Class Counsel hereby waive any and all rights they may have to appeal any
15 judgment, ruling, or order made by the Court in this Action, including, without limitation, any order
16 granting final approval of this Settlement or dismissing the Action with prejudice. This includes all
17 rights to any post-judgment proceeding and appellate proceeding, such as, but not limited to, a motion to
18 vacate judgment, a motion for new trial, a motion for relief under Fed. R. Civ. P. 60, and any
19 extraordinary writ, and the Judgment therefore will become nonappealable at the time it is entered. The
20 waiver of appeal does not include any waiver of the right to oppose any appeal, appellate proceedings,
21 or post-judgment proceedings. If an appeal is taken from the Judgment, the time for consummation of
22 the Settlement (including making payments under the Settlement) will be suspended until such time as
23 their appeal is finally resolved and the Judgment becomes final.

24 **8. MISCELLANEOUS**

25 **8.1. Interim Stay of Proceedings.** The Parties agree to refrain from further litigation,
26 except such proceedings necessary to implement and to obtain a Preliminary Approval Order and Final
27 Approval Order of the terms of the Agreement. If the Settlement is not finally approved, the Parties
28 agree that they will revert to their positions in the lawsuit prior to the time the Settlement was reached,

1 and no agreements set forth in this Agreement or any documents generated or orders issued related to
2 the Settlement will be admissible in any future proceeding in this or any other action.

3 8.2. **Parties' Authority.** The signatories hereto represent that they are fully
4 authorized to enter into this Agreement and are fully authorized to bind the Parties to all terms stated
5 herein. It is agreed that Class Members are so numerous that it is impossible or impractical to have each
6 Class Member execute this Agreement. It is agreed that this Agreement may be executed on behalf of
7 Class Members by the Class Representative and Class Counsel.

8 8.3. **Entire Agreement.** This Agreement, which includes the Definitions, Recitals,
9 and all Exhibits attached hereto, constitutes the entire agreement between the Parties with regard to the
10 subject matter contained herein, and all prior and contemporaneous negotiations and understandings
11 between the Parties shall be deemed merged into this Agreement.

12 8.4. **Materiality of Terms.** The Parties have arrived at this Agreement as a result of
13 arm's-length negotiations. Where stated in this Agreement, certain terms are material and revision of
14 these material terms will allow Defendants the option to void this Agreement.

15 8.5. **Counterparts.** This Agreement may be executed in counterparts, and when each
16 party has signed and delivered at least one such counterpart, each counterpart shall be deemed an
17 original, and when taken together with other signed counterparts, shall constitute one signed Agreement,
18 which shall be binding upon and effective as to all Parties.

19 8.6. **Facsimile or Scanned Signatures For This Agreement.** Any party may sign
20 and deliver this Agreement by signing on the designated signature block and transmitting that signature
21 page via facsimile or as an attachment to an e-mail to counsel for the other party. Any signature made
22 and transmitted by facsimile or as an attachment to an e-mail for the purpose of executing this
23 Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding
24 upon the party who transmits the signature page.

25 8.7. **Binding Effect.** This Agreement shall be binding upon the Parties and, with
26 respect to the Class Representative, Class Members, their spouses, children, representatives, heirs,
27 administrators, executors, beneficiaries, conservators, attorneys, and assigns.
28

1 8.8. **Waivers and Modifications to Be in Writing.** No waiver, modification, or
2 amendment of the terms of this Agreement, whether purportedly made before or after the Court's
3 approval of this Agreement, shall be valid or binding, unless in writing, signed by or on behalf of all
4 Parties and then only to the extent set forth in such written waiver, modification, or amendment, subject
5 to any required Court approval. Any failure by any Party to insist upon the strict performance by the
6 other Party of any of the provisions of this Agreement shall not be deemed a waiver of future
7 performance of the same provisions or of any of the other provisions of this Agreement, and such Party,
8 notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of
9 any and all of the provisions of this Agreement. The time periods and dates provided in this Agreement
10 with respect to giving of notices and hearings are subject to Court approval and modification by the
11 Court or by written stipulation of Class Counsel and Defendants' Counsel.

12 Any notice to be given pursuant to this Agreement shall be made by email and
13 overnight delivery to Class Counsel or Defendants' Counsel. If Class Members have questions about
14 this Agreement or their Individual Settlement Payments, they must contact Class Counsel, rather than
15 Defendants. Defendants shall have no obligation to respond to communications by Class Members.

16 8.9. **Construction.** The determination of the terms and conditions of this Agreement
17 has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this
18 Agreement, and the terms and conditions of this Agreement are not intended to be, and shall not be,
19 construed against any party by virtue of draftsmanship.

20 8.9.1 **Exhibits Incorporated by Reference.** The terms of this
21 Agreement include the terms set forth in any attached exhibit, which are incorporated by this reference
22 as though fully set forth herein. Any exhibit to this Agreement is an integral part of the Settlement.

23 8.9.2 **Captions.** The captions or headings of the sections and paragraphs
24 of this Agreement have been inserted for convenience of reference only and shall have no effect upon
25 the construction or interpretation of any part of this Agreement.

26 8.9.3 **Invalidity of Any Provision.** Before declaring any provision of
27 this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent
28

possible consistent with applicable precedents so as to render all provisions of this Agreement valid and enforceable.

8.10. **Further Acts and Cooperation Between the Parties.** The Parties shall cooperate fully with each other and shall use their best efforts to obtain the Court's approval of this Agreement and all of its terms. Each of the Parties, upon the request of another, agrees to perform such further acts and to execute and to deliver such other documents as are reasonably necessary to carry out the provisions of this Agreement.

8.11. **No Prior Assignments or Undisclosed Liens.** The Class Representative and Class Counsel represent and warrant that they have not assigned, transferred, conveyed, or otherwise disposed of, or purported to assign, transfer, convey, or otherwise dispose of, any Released Claims or the attorneys' fees and costs award to be paid pursuant to this Agreement. The Class Representative and Class Counsel further represent and warrant that there are not any liens or claims against any of the amounts to be paid by Defendants pursuant to this Agreement. The Class Representative and Class Counsel agree to defend, to indemnify, and to hold Defendants harmless from any liability, losses, claims, damages, costs, or expenses, including reasonable attorneys' fees, resulting from a breach of these representations or from any lien or assignment.

8.12. **Waiver of Right to Object by the Class Representative.** The Class Representative agrees to sign this Agreement, and by signing this Agreement, the Class Representative is thereby bound by the terms of this Agreement. The Class Representative further agrees that he shall not object to any of the terms of this Agreement.

8.13. **No Solicitation of Objections.** The Parties further represent and warrant that they have not and will not solicit, encourage, or assist in any fashion any effort by any entity or person to object to or to seek exclusion from the Settlement set forth in this Agreement.

8.14. **Discovery of Confidential Documents and Information.** Class Counsel agree that they will destroy all confidential documents and information provided to them by Defendants within 60 calendar days after the completion of the administration of the Settlement. Class Counsel further agrees that none of the documents and information provided to them by Defendants shall be used for any purpose other than prosecution of this Action or the defense or prosecution of a malpractice action.

1 8.15. **No Tax Advice.** Neither Class Counsel, Defendants' Counsel, or Defendants
2 intend anything contained in this Settlement or Agreement to constitute advice regarding taxes or
3 taxability, nor shall anything in this Settlement or Agreement be relied upon as such within the meaning
4 of United States Treasury Department Circular 230 (31 C.F.R. Part 10, as amended) or otherwise.

5 8.16. **No Media Announcements.** Neither side shall make any public statements to the
6 news, print, electronic, or Internet media concerning the Settlement, and both sides shall decline to
7 respond to media inquiries concerning the Settlement. Class Counsel shall not publicize the settlement
8 in their marketing materials, website, or other advertising media.

9 8.17. **Continuing Jurisdiction.** The Court shall retain jurisdiction over the
10 implementation of this Agreement as well as any and all matters arising out of, or related to, the
11 implementation of this Agreement and Settlement. The Court shall not have jurisdiction to modify the
12 terms of the Agreement without the consent of all of the Parties.

13 8.18. **Disputes.** If the Parties have a dispute with regard to the language of this
14 Agreement, they agree to first attempt to resolve the dispute informally through good-faith negotiations
15 with mediator Paul Grossman, but if those efforts are unsuccessful, they agree to mediate any such
16 dispute. The Parties will split the costs of the mediator, and all parties will bear their own fees and costs.

17 8.19. **Governing Law.** This Settlement and Agreement was made and entered into in
18 the State of California. All terms of this Agreement shall be governed by and interpreted according to
19 the substantive laws of the State of California and the procedural laws of the United States of America.

20 **SO AGREED AND STIPULATED:**

21 DATED: May 17, 2023

PLAINTIFF JOE VIGIL

22 By:

23 Joe Vigil

DocuSigned by:

Joe Vigil

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1 DATED: May__, 2023

DEFENDANTS HYATT CORPORATION and
GRAND HYATT S.F., LLC

By: _____

Print Name: _____

Title: _____

7 DATED: May 17, 2023

JAMES HAWKINS APLC

By: 
James R. Hawkins
Christina M. Lucio

Attorneys for Plaintiff and the Class

12 DATED: May__, 2023

SEYFARTH SHAW LLP

By: _____
Brian P. Long
Michael Afar
Phillip J. Ebsworth

Attorneys for Defendants
HYATT CORPORATION and
GRAND HYATT S.F., LLC

1 DATED: May __, 2023
2 5/17/2023

DEFENDANTS HYATT CORPORATION and
GRAND HYATT S.F., LLC

3 By: _____

DocuSigned by:

David Lewin

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4 Print Name: David Lewin

5 Title: GM

6
7 DATED: May __, 2023

JAMES HAWKINS APLC

8 By: _____

James R. Hawkins

Christina M. Lucio

10 Attorneys for Plaintiff and the Class

11
12 DATED: May __, 2023
13 5/16/2023

SEYFARTH SHAW LLP

14 By: _____

DocuSigned by:

Michael Afar

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Brian P. Long

Michael Afar

Phillip J. Ebsworth

16 Attorneys for Defendants
17 HYATT CORPORATION and
18 GRAND HYATT S.F., LLC