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on behalf of herself and all “aggrieved employees”
pursuant to Labor Code § 2698 *et seq.*

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SERVICES, LLC

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

GABRIELA BUSTAMANTE, on behalf of
herself and all “aggrieved employees” pursuant
to Labor Code § 2698 *et seq.*,

Plaintiffs,

v.

MARRIOTT HOTEL SERVICES, INC., a
Delaware corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No. 22CV400968
Assigned to: Hon. Theodore C. Zayner
Dept.: D19

**AMENDED AND RESTATED
SETTLEMENT AGREEMENT**

Complaint Filed: July 21, 2022
Trial Date: None Set

1 This Amended and Restated Settlement Agreement is made by and between Plaintiff
2 Gabriela Bustamante (“Plaintiff”), on behalf of herself and each of the Class Members and PAGA
3 Members as defined herein, and Defendant Marriott Hotel Services, Inc. (*now known as* Marriott
4 Hotel Services, LLC), and is intended to resolve and settle the pending action entitled Gabriela
5 Bustamante, et al. v. Marriott Hotel Services, Inc., Case No. 22CV400968 (Santa Clara County
6 Superior Court) (the “Settlement”).

7 RECITALS

8 WHEREAS, on or about November 17, 2023, the Parties fully executed a Settlement
9 Agreement intended to resolve and settle the Action (“Original Agreement”);

10 WHEREAS, the Parties now intend to amend and restate the Original Agreement in its
11 entirety as set forth herein.

12 1. **DEFINITIONS**

13 1.1 The term “Action” means the action entitled Gabriela Bustamante, et al. v. Marriott
14 Hotel Services, Inc., Case No. 22CV400968 (Santa Clara County Superior Court).

15 1.2 The term “Agreement” refers to this Amended and Restated Settlement Agreement.

16 1.3 The terms “Class” or “Class Members” means all individuals who are or who have
17 been directly employed by Defendant in California at the Monterey Marriott as a non-exempt
18 employee during any portion of the Class Period.

19 1.4 The term “Class Counsel” means Gaines & Gaines, APLC.

20 1.5 The term “Class List and Data” means the name, last known mailing address, Social
21 Security number, number of Workweeks for each Class Member during the Class Period, and
22 number of PAGA Workweeks for each PAGA Member during the PAGA Period.

23 1.6 The term “Class Period” means the time from July 21, 2018 through November 24,
24 2023, the date when the number of workweeks worked by Class Members since July 21, 2018
25 reached 37,891.

26 1.7 The term “Court” means the Superior Court of California, County of Santa Clara.

27 1.8 The term “Defendant” or “Marriott” means Defendant Marriott Hotel Services, Inc.
28 (*now known as* Marriott Hotel Services, LLC).

1 1.9 The “Effective Date” of the Settlement will be the last to occur of the following:
2 (a) if there are no objections to the Settlement, then the date on which the Court enters the Final
3 Approval Order; (b) if one or more timely objections has/have been filed and not withdrawn, then
4 upon passage of the applicable date for an objector to seek appellate review of the Final Approval
5 Order; or (c) if an appeal, review or writ is sought from the Final Approval Order, the day after the
6 Final Approval Order is affirmed or the appeal, review or writ is dismissed or denied, and the Final
7 Approval Order is no longer subject to further judicial review.

8 1.10 The term “Final Approval Order” means the order of the Court that grants final
9 approval of the Settlement.

10 1.11 The term “Final Judgment” means the final judgment entered by the Court based
11 upon the Settlement.

12 1.12 The term “Individual PAGA Payment” means the PAGA Member’s pro-rata share of
13 the portion of the PAGA Payment allocated to PAGA Members pursuant to Section 10 below.

14 1.13 The term “Individual Settlement Payment” means the amount to be paid to a
15 Participating Class Member from the Net Settlement Amount pursuant to Section 10 below.

16 1.14 The term “Mediator” means Hon. Thierry Colaw (Ret.).

17 1.15 The term “Monterey Marriott” means the hotel located at 350 Calle Principal,
18 Monterey, CA 93940.

19 1.16 The term “Net Settlement Amount” means the Settlement Amount minus the Court-
20 approved Attorneys’ Fees, Litigation Costs and Expenses, Service Award to Plaintiff, Settlement
21 Administration Costs, and PAGA Payment.

22 1.17 The term “PAGA Member(s)” means all individuals who are or who have been
23 employed by Defendant in California at the Monterey Marriott as a non-exempt employee during
24 any portion of the PAGA Period.

25 1.18 The term “PAGA Payment” means the payment made to the LWDA and PAGA
26 Members for civil penalties pursuant to PAGA and the terms of this Agreement.

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1.19 The term “PAGA Period” means the time from July 21, 2021 through November 24, 2023, the date when the number of workweeks worked by Class Members since July 21, 2018 reached 37,891.

1.20 The term “PAGA Workweek(s)” refers to the week(s) during the PAGA Period in which a PAGA Member worked for Defendant at the Monterey Marriott.

1.21 The term “Participating Class Members” means Class Members who have not timely requested exclusion from the Settlement.

1.22 The term “Parties” means Plaintiff and Defendant, collectively.

1.23 The term “Party” means Plaintiff or Defendant, individually.

1.24 The term “Plaintiff” means Plaintiff Gabriela Bustamante.

1.25 The term “Preliminary Approval Order” means the order of the Court that grants preliminary approval of the Settlement.

1.26 The term “Settlement Administrator” means ILYM Group, Inc. (“ILYM”), the third-party settlement administrator agreed upon by Parties to administer this Settlement.

1.27 The term “Settlement Amount” means the amount of Two Hundred Ninety Thousand Dollars and Zero Cents (\$290,000.00), inclusive of the Attorneys’ Fees and Litigation Costs and Expenses incurred by Class Counsel, the Settlement Administration Costs, the Service Award to Plaintiff, and the PAGA Payment to the State of California Labor Workforce and Development Agency (“LWDA”) and PAGA Members, but excluding the employer portion of any applicable payroll taxes.

1.28 The term “Workweek(s)” refers to week(s) during the Class Period in which a Class Member worked for Defendant at the Monterey Marriott.

2. **SCOPE, PURPOSE, AND BENEFITS OF THE SETTLEMENT**

2.1 On July 21, 2022, Plaintiff initiated the Action by filing a representative action against in this Court against Defendant pursuant to the Private Attorneys General Act of 2004 (“PAGA”). On November 17, 2022, Plaintiff filed her First Amended Complaint against Defendant, which added proposed class claims. On December 16, 2022, Defendant removed the Action to the United States District Court for the Northern District of California.

1 2.2 On July 26, 2023, the Parties participated in private mediation conducted by the
2 Mediator, an experienced and respected former judge (“Mediation”). The settlement discussions
3 were conducted at arm’s length. The Parties reached an impasse at Mediation, but the Mediator
4 successfully assisted the Parties to agree on a resolution of the Action through post-Mediation
5 discussions and negotiations. The Settlement is the result of an informed and detailed analysis of
6 the risks facing all Parties in litigating this case, including but not limited to, careful consideration
7 of the legal and factual obstacles to Plaintiff’s prospects of obtaining class certification and on the
8 merits, and Defendant’s defenses, as well as Defendant’s potential exposure and the additional costs
9 of litigating the Action.

10 2.3 On September 14, 2023, Plaintiff filed her Second Amended Complaint (the
11 operative complaint in the Action), which amended the definition of the putative class to limit the
12 scope to only non-exempt employees of Defendant at the Monterey Marriott, and asserted the
13 following claims against Defendant: (1) Failure to Pay All Wages Due; (2) Failure to Provide Rest
14 Periods or Compensation In Lieu Thereof; (3) Failure to Provide Meal Periods or Compensation In
15 Lieu Thereof; (4) Knowing and Intentional Failure to Comply With Itemized Employee Wage
16 Statement Provisions; (5) Failure to Pay Wages Due at Separation of Employment; (6) Violation Of
17 Business and Professions Code § 17200; and (7) PAGA (“Second Amended Complaint”). Also, on
18 September 14, 2023, this Action was remanded from the United States District Court for the
19 Northern District of California to this Court.

20 2.4 This Agreement is intended to and does effectuate the full, final, and complete
21 resolution of the Action.

22 2.5 The Parties believe that continued litigation would be protracted, expensive, and
23 uncertain, and that this Settlement is in the best interests of the Class, PAGA Members, and
24 Defendant. In light of these realities, the Parties believe that this Settlement is the best way to
25 resolve the disputes between them.

26 3. **JURISDICTION, ENFORCEMENT, AND INTERPRETATION**

27 The Court has jurisdiction over the Parties and the subject matter of the Action. The Action
28 includes claims that, while Defendant denies them in their entirety, would, if proven, authorize the

1 Court to grant relief pursuant to the California laws cited therein. If the Settlement is approved, the
2 Court will retain jurisdiction with respect to the interpretation, implementation, and enforcement of
3 the terms of this Agreement and all orders and judgments entered in connection therewith, pursuant
4 to California Rules of Court Rule 3.769, *et seq.* and California Code of Civil Procedure Section
5 664.6, and the Parties hereto submit to the jurisdiction of the Court for purposes of interpreting,
6 implementing, and enforcing the Settlement embodied in this Agreement and all orders and
7 judgments entered in connection therewith. The Parties and their counsel agree that a court, upon
8 motion, may enter judgment pursuant to the Agreement and California Code of Civil Procedure
9 Section 664.6 and the Agreement is admissible in evidence for purposes of enforcement pursuant to
10 California Evidence Code Section 1123. The Agreement will be interpreted and enforced under the
11 laws of the State of California without regard to its conflict of laws provisions. Any dispute arising
12 out of or relating to the Agreement, or the subject matter hereof, will be resolved solely and
13 exclusively in the Court, and the Parties hereby consent to the jurisdiction of the Court over them
14 solely in connection therewith.

15 4. **NO ADMISSION WITH RESPECT TO LIABILITY**

16 4.1 The Parties agree that this Agreement reflects their good faith compromise of the
17 Action, based upon their assessment of the mutual risks and costs of further litigation and the
18 assessments of their respective counsel. This Agreement does not constitute, is not intended to
19 constitute, and will not be deemed to constitute, an admission of liability or lack of liability by the
20 Parties as to the merits, validity, or accuracy of any of the allegations or claims made against
21 Defendant in the Action or the appropriateness of class certification. Defendant denies each of
22 Plaintiff's allegations in their entirety and alleges that Plaintiff and all other Class Members and
23 PAGA Members were provided compensation and treated in all respects in accordance with
24 California law with regard to the claims and facts alleged in the Second Amended Complaint.

25 4.2 Nothing in this Agreement, nor any action taken or made in implementation thereof,
26 including, without limitation, any statements, discussions, communications, or any materials
27 prepared, exchanged, issued, or used during the course of the negotiations leading up to the
28 Agreement, is intended by the Parties to or will constitute, be introduced, or be submitted in any

1 way in the Action or any other judicial, arbitral, administrative, investigative or other forum or
2 proceeding as evidence of any violation of any federal, state, or local law, statute, ordinance,
3 regulation, rule, or executive order, or any obligation or duty at law or in equity. Notwithstanding
4 the foregoing, the Agreement may be used in any proceeding in the Court that has as its purpose the
5 interpretation, implementation, or enforcement of the Agreement or any orders or judgments of the
6 Court entered into in connection therewith. Additionally, insofar as any of the foregoing material is
7 required to be filed by any Court, by Court order, the Parties will comply with such order but will
8 notify the other Party of such an order at least ten (10) days prior to filing of the documents.

9 4.3 The Parties agree that Plaintiff's forthcoming motion for preliminary approval of the
10 Settlement, which will, among other things, seek certification of the Class, is for purposes of the
11 Settlement only. If, for any reason, the Settlement is not approved, the stipulation to certification
12 will have no force or effect. The Parties agree that certification for purposes of the Settlement is in
13 no way an admission that class certification is proper under the standard applied to contested
14 certification motions and that this Agreement will not be submitted in this or any other proceeding
15 as evidence that (i) the Class should be certified, or (ii) Defendant is liable to Plaintiff or any of the
16 Class Members or PAGA Members. Further, neither this Agreement nor the Court's actions with
17 regard to this Agreement will be submitted in any court or other tribunal regarding the propriety of
18 class certification or collective treatment for purposes other than the settlement of the Action. In
19 the event that this Agreement is not approved by the Court or any appellate court, is terminated, or
20 otherwise fails to be enforceable, Defendant will not be deemed to have waived, limited, or affected
21 in any way, any of its objections or defenses in the Action, including, but not limited to, its defenses
22 in opposition to class certification.

23 5. **CLASS CERTIFICATION**

24 For the purposes of this Agreement only, the Parties agree to the certification of the Class.
25 As set forth above, Defendant expressly reserves its right to oppose class certification should the
26 Court decide to not approve this Settlement.
27
28

1 6. **RELEASE AND WAIVER**

2 6.1 Release and Waiver of Claims by Participating Class Members

3 Participating Class Members, and their heirs, successors, assigns, and/or agents, and each of
4 them, upon the Effective Date, and subject to Defendant's payment of the Settlement Amount and
5 by operation of the Final Approval Order, shall fully and finally release and discharge Defendant,
6 the owners and operators of the Monterey Marriott, and each of them, and each of their past,
7 present, and future parent companies, subsidiaries, related companies, and affiliates, and their
8 respective shareholders, members, partners, representatives, fiduciaries, agents (including, without
9 limitation, any investment bankers, accountants, insurers, reinsurers, attorneys, trustees, equity
10 sponsors, joint employers, alter-egos, joint venturers, auditors, consultants, and any past, present, or
11 future officers, directors and employees), and each of their predecessors, successors, heirs, and
12 assigns, and any individual or entity which could be jointly liable with Defendant, or any of them
13 (collectively, the "Released Parties"), from any and all Released Claims arising out of employment
14 at the Monterey Marriott in a non-exempt position which arose at any time during the Class Period.
15 For purposes of this Agreement, the "Released Claims" are defined as the claims, debts, liabilities,
16 demands, actions, or causes of action pleaded or asserted in the Second Amended Complaint in the
17 Action or that could have been pleaded or asserted based upon the facts alleged in the Second
18 Amended Complaint in the Action, including but not limited to local, state, and/or federal wage and
19 hour claims, failure to pay all wages due, including minimum wages, straight time compensation,
20 overtime compensation, double-time compensation, and interest; the calculation of the regular rate
21 of pay; failure to provide meal periods and/or rest periods; failure to pay proper meal and/or rest
22 period penalties at all or at the proper rate of pay; payment for all hours worked, including off-the-
23 clock work; failure to provide accurate itemized wage statements; failure to timely pay all wages
24 during employment; failure to timely pay all wages due at separation of employment; unfair
25 business practices; declaratory relief; penalties, including but not limited to PAGA penalties, wage
26 statement penalties, minimum-wage penalties, and waiting-time penalties; interest; and attorneys'
27 fees and costs. The Released Claims also expressly include all claims arising under the California
28 Labor Code (including but not limited to Sections 200-204, 210, 218.5, 218.6, 221, 223, 226, 226.3,

1 226.7, 256, 510, 512, 552, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 *et seq.*, and
2 2699 *et seq.*); the Wage Orders of the California Industrial Welfare Commission, including but not
3 limited to Wage Order No. 5-2001; PAGA; California Business and Professions Code
4 Section 17200, *et seq.*; the California Civil Code, including but not limited to Sections 3287, 3336,
5 and 3294; 8 CCR Sections 11010, 11040, and 11070; California Code of Civil Procedure, including
6 but not limited to Section 1021.5; and the FLSA, 29 U.S.C. Section 201, *et seq.* The Released
7 Claims also include claims for civil penalties that accrued during the PAGA Period under PAGA to
8 the extent they were alleged or reasonably could have been alleged based on the factual allegations
9 in the PAGA notice filed with the LWDA by Plaintiff or any pleadings filed in the Action by
10 Plaintiff.

11 The Participating Class Members, agree, upon the Effective Date and by operation of the
12 Final Approval Order, to release any further attempt, by lawsuit, administrative claim or action,
13 arbitration, demand, or other action of any kind by each and all of the Participating Class Members
14 (including participation to any extent in any class or collective action), to obtain a recovery against
15 any of the Released Parties for the Released Claims. Class Members who endorse their settlement
16 checks waive and release any claims under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*
17 (“FLSA”) arising during the Class Period and reasonably related to any or all of the aforementioned
18 claims.

19 The Released Claims exclude the release of claims not permitted by law.

20 6.2 General Release and Waiver of Claims by Plaintiff

21 As of and subject to the occurrence of the Effective Date, and subject to Defendant’s
22 payment of the Settlement Amount, and in exchange for the Service Award described in Section
23 10.3, Plaintiff, on behalf of herself and her heirs, successors, assigns, and/or agents, and each of
24 them, fully and finally releases the Released Parties, and each of them, from any and all claims,
25 whether asserted or unasserted, known and unknown, unforeseen, unanticipated, unsuspected or
26 latent, which Plaintiff or any of her heirs, successors, assigns, and/or agents has at any time owned
27 or held prior to the date of execution of this Agreement, under federal, state and/or local law,
28 statute, ordinance, regulation, common law, or other source of law, including but not limited to

1 claims arising from or in any way related to her employment with Defendant and/or her
2 compensation while an employee of Defendant (“Plaintiff’s Released Claims”). Plaintiffs’
3 Released Claims include, but are not limited to, all claims arising from or related to the Action; all
4 claims for unpaid wages, including, but not limited to, failure to pay minimum wages, straight time
5 compensation, overtime compensation, double-time compensation, and interest; the calculation of
6 the regular rate of pay; wages related to alleged illegal rounding; missed meal periods and rest
7 periods; failure to pay proper meal and/or rest period penalties at the proper rate of pay;
8 reimbursement for all business expenses; payment for all hours worked, including off-the-clock
9 work; inaccurate wage statements; unauthorized or improper deductions; failure to keep accurate
10 records; unfair business practices; penalties, including, but not limited to, meal/rest period penalties,
11 recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time
12 penalties; and attorneys’ fees and costs; all claims arising under the California Labor Code
13 (including, but not limited to, sections 200, 201, 201.1, 201.3, 201.5, 202, 203, 204, 205.5, 206,
14 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.2, 226.3, 226.7, 226.8,
15 227.3, 256, 450, 510, 511, 512, 516, 550, 551, 552, 558, 558.1, 1174, 1174.5, 1182.12, 1194,
16 1194.2, 1197, 1197.1, 1197.2, 1198, 2802, 2698 et seq., and 2699 et seq.); all claims arising under
17 the Wage Orders of the California Industrial Welfare Commission; PAGA; California Business and
18 Professions Code section 17200, et seq., the California Civil Code (to include, but not limited to,
19 sections 3287, 3336 and 3294); 12 CCR § 11040; 8 CCR § 11060; California Code of Civil
20 Procedure § 1021.5, the California common law of contract, the FLSA, 29 U.S.C. § 201, et seq.,
21 federal common law, and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, et seq.;
22 all claims for lost wages and benefits, emotional distress, punitive damages, other damages, and
23 attorneys’ fees and costs arising under federal, state, or local laws for discrimination, harassment,
24 retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C.
25 section 1981, Title VII of the Civil Rights Act of 1964, the Americans With Disabilities Act, the
26 Age Discrimination in Employment Act, and the California Fair Employment and Housing Act; and
27 the law of contract and tort. This release excludes the release of claims not permitted by law.
28 Plaintiff’s Released Claims include all claims, whether known or unknown. Plaintiff stipulates and

1 agrees that, upon the Effective Date, Plaintiff shall be deemed to have, and by operation of the Final
2 Approval Order shall have, expressly waived and relinquished, to the fullest extent permitted by
3 law, the provisions, rights and benefits of Section 1542 of the California Civil Code, or any other
4 similar provision under federal or state law, which provides:

5 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT
6 THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR
7 SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF
8 EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR
9 HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER
10 SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

11 Plaintiff may hereafter discover facts in addition to or different from those Plaintiff now
12 knows or believes to be true with respect to the subject matter of Plaintiff's Released Claims and
13 this General Release, but Plaintiff, upon the Effective Date, shall be deemed to have, and by
14 operation of the Final Approval Order shall have, fully, finally, and forever settled and released any
15 and all of the claims released pursuant to the General Release, whether known or unknown,
16 suspected or unsuspected, contingent or non-contingent, which now exist, or heretofore have
17 existed upon any theory of law or equity now existing or coming into existence in the future,
18 including, but not limited to, conduct that is negligent, intentional, with or without malice, or a
19 breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such
20 different or additional facts. Provided however, that Plaintiff does not release her rights to any
21 claims for earned benefits under the terms of any employee benefit plan applicable to her, claims to
22 enforce rights provided by this Agreement, claims that arise after the execution of this Agreement,
23 and claims that cannot be released as a matter of law.

24 6.3 Waiver of Age Claims

25 This Agreement constitutes a knowing and voluntary waiver of any and all rights or claims
26 that Plaintiff has or may have under the Federal Age Discrimination In Employment Act, as
27 amended by the Older Workers' Benefit Protection Act of 1990, 29 U.S.C. §§ 621 et seq.
28 ("ADEA"). This paragraph and this Agreement are written in a manner calculated to be understood

1 by Plaintiff. Plaintiff has been previously advised in writing to consult with an attorney before
2 signing this Agreement. Plaintiff covenants and agrees that she has previously had a reasonable
3 time of up to 21 days in which to consider signing this Agreement. Plaintiff covenants and agrees
4 that she knowingly and voluntarily decided not to use all 21 days and waived any claim that
5 Plaintiff was not given the 21-day period or did not use the entire 21 days to consider this
6 Agreement. Plaintiff may revoke this Agreement as to the ADEA and only with respect to her
7 release of any age claims she has or may have against any of the Released Parties at any time within
8 the 7-day period following the date Plaintiff signs this Agreement by providing written notice of
9 revocation to Greg S. Labate, Sheppard Mullin Richter & Hampton LLP, 650 Town Center Drive,
10 10th Floor, Costa Mesa, California 92626; email: glabate@sheppardmullin.com, so that said
11 revocation notice is received before the expiration of the 7-day revocation period. In the event of a
12 revocation by Plaintiff pursuant to this paragraph, and if Defendant chooses not to rescind this
13 Agreement in its entirety, the Agreement shall remain fully effective in all other respects; however,
14 the Service Award to Plaintiff shall be reduced by Four Thousand Dollars and Zero Cents
15 (\$4,000.00), attributable to the ADEA claim.

16 6.4 Release and Waiver of Claims By PAGA Members

17 Upon the Effective Date, subject to Defendant's payment of the Settlement Amount, and by
18 operation of the Final Approval Order, Plaintiff, the LWDA, and each and all PAGA Members, on
19 behalf of themselves and their heirs, successors, assigns, and/or agents, and each of them, will be
20 deemed to have fully and finally released and discharged the Released Parties, and each of them, of
21 any and all Released Claims arising out of employment at the Monterey Marriott in a non-exempt
22 position which arose at any time during the PAGA Period that have been or may be asserted under
23 PAGA seeking civil penalties.

24 7. **NOTICE AND OPPORTUNITY TO OPT OUT OR OBJECT**

25 7.1 Notice to the Class

26 The Parties submit a Notice of Class Action Settlement ("Class Notice"), in the form
27 attached hereto as "Exhibit 1," to the Court for approval. The Class Notice will include,
28 nonexclusively, information regarding the nature of the Action; a summary of the substance of the

1 Settlement; the definition of the Class and PAGA Members; the formula used to determine the
2 Individual Settlement Payments for the Participating Class Members and Individual PAGA
3 Payments for PAGA Members; the number of Workweeks and PAGA Workweeks credited to each
4 Class Member and PAGA Member, respectively; the estimated Individual Settlement Payment
5 and/or Individual PAGA Payment; the procedures and deadlines for objecting to the Settlement,
6 seeking exclusion from the Settlement (except PAGA Members shall have no right to exclude
7 themselves from the PAGA portion of the Settlement), and/or disputing the number of Workweeks
8 or PAGA Workweeks credited to them; and the date for the Final Approval Hearing.

9 To determine the estimated Individual Settlement Payment for each Class Member for
10 purposes of the Notice, the Settlement Administrator will divide each Class Member's respective
11 Workweeks by the total workweeks worked by all Class Members during the Class Period, and will
12 multiply the resulting figure by the Net Settlement Amount. To determine the estimated Individual
13 PAGA Payment for each PAGA Member, the Settlement Administrator will divide each PAGA
14 Member's respective PAGA Workweeks by the total workweeks worked by all PAGA Members
15 during the PAGA Period, and will multiply the resulting figure by the portion of the PAGA
16 Payment (\$6,250.00) allocated to PAGA Members.

17 7.2 Mailing of the Class Notice

18 Within twenty one (21) calendar days following notice by Plaintiff or the Court of the
19 Preliminary Approval Order, Defendant shall provide the Settlement Administrator with the Class
20 List and Data in readable Microsoft Excel spreadsheets. The Class List and Data shall not be
21 shared with Class Counsel.

22 Within fifteen (15) calendar days after the Settlement Administrator's receipt of the Class
23 List and Data, the Settlement Administrator shall mail the Class Notice to the Class Members via
24 first-class regular U.S. mail. Class Members will have forty-five (45) calendar days from the
25 mailing of the Class Notice ("Response Deadline") to submit a Request for Exclusion (as defined
26 below), dispute, or objection. The date of initial mailing of the Class Notice by the Settlement
27 Administrator to the Class Members is the "Initial Mailing." Prior to mailing the Class Notice to
28 Class Members, the Settlement Administrator will perform one search based on the National

1 Change of Address Database information to update and correct the Class List and Data for any
2 known or identifiable address changes.

3 If, within thirty (30) calendar days of the Initial Mailing, a Class Notice is returned with a
4 forwarding address, then within five (5) calendar days of receiving the undeliverable Class Notice,
5 the Settlement Administrator shall forward the original Class Notice to the updated address via
6 first-class regular U.S. mail indicating on the Class Notice the date of such re-mailing. If a Class
7 Notice is returned within thirty (30) calendar days of the Initial Mailing as undeliverable without a
8 forwarding address, then within five (5) calendar days of receiving the undeliverable Class Notice,
9 the Settlement Administrator will promptly attempt to determine the correct address using a skip-
10 trace search, and will perform a single re-mailing to any addresses located indicating the date of the
11 re-mailing on the Class Notice. Those Class Members who receive a re-mailed Class Notice (as a
12 result of the Settlement Administrator locating an updated address by way of skip-trace search,
13 forwarding address provided by the post office, or request from the Parties or Class Members), will
14 have the later of (a) fifteen (15) calendar days from the date the Class Notice is re-mailed or (b) the
15 Response Deadline to postmark a Request for Exclusion, objection, or dispute regarding
16 Workweeks or PAGA Workweeks to the Settlement Administrator (“Extended Response
17 Deadline”).

18 In the event that the procedures in this Section are followed and the intended recipient of a
19 Class Notice still does not receive the Class Notice, the intended recipient shall be bound by all
20 terms of the Settlement and any Final Approval Order and Final Judgment entered by the Court if
21 the Settlement is approved by the Court. In the event the procedures in this Section are followed
22 and a Class Member does not ultimately return a Request for Exclusion and/or the Request for
23 Exclusion is rejected by the Settlement Administrator, the Class Member shall be deemed a
24 Participating Class Member and will be bound by all terms of the Settlement and any Final
25 Approval Order and Final Judgment entered by the Court if the Settlement is approved by the
26 Court.

1 7.3 Objection to the Settlement

2 A Participating Class Member may object to the Settlement. To assert an objection to the
3 Settlement, a Participating Class Member must submit an objection to the Settlement Administrator
4 by first class U.S. mail at the address specified on the Class Notice, not later than the Response
5 Deadline, or in the instance of a re-mailed Class Notice, the Extended Response Deadline. The date
6 of the postmark will be the exclusive means for determining whether an objection has been timely
7 submitted. All objections must be in writing, which includes: (1) the objector's full name, address,
8 last four digits of his or her Social Security number, and signature; (2) the case name and number;
9 (3) the factual and legal basis, with supporting documents, if any, on which the objection is based;
10 (4) whether the objector is represented by an attorney and providing the contact information of any
11 such attorney; and (5) whether the objector plans to appear at the Final Approval Hearing. The
12 Parties agree that the Settlement Administrator shall not disclose the last four digits of any
13 objecting Class Member's Social Security number to anyone but the Parties, that such information
14 will be securely held, and that the disclosure of those last four digits to the Parties shall not be used
15 for any purpose except to ascertain the identity of the objector for administration of this Settlement.
16 Any person who fails to timely submit their written objections in the manner specified above may
17 still appear and object at the Final Approval Hearing. If a Participating Class Member objects to
18 this Settlement, the Participating Class Member will remain a member of the Class for Settlement
19 purposes, and if the Court grants final approval of the Settlement, he or she will be bound by the
20 terms of the Settlement and any Final Approval Order and Final Judgment. Within three (3)
21 business days of receipt of an objection, the Settlement Administrator shall provide counsel for the
22 Parties with a copy of the objection. No later than fourteen (14) calendar days before the Final
23 Approval Hearing, the Settlement Administrator shall provide counsel for the Parties with a
24 complete list of Participating Class Members who have submitted an objection. Prior to the Final
25 Approval Hearing, the Settlement Administrator shall submit copies of the objections that it has
26 received, to the Court by way of declaration.

1 7.4 Request for Exclusion from the Settlement

2 Class Members who wish to exclude themselves from the Settlement must submit a valid
3 and timely request for exclusion (“Request for Exclusion”) to the Settlement Administrator by mail,
4 postmarked on or before the Response Deadline or, in the instance of a re-mailed Class Notice, the
5 Extended Response Deadline. The date of the postmark on the return mailing envelope will be the
6 exclusive means for determining whether a Request for Exclusion has been timely submitted. A
7 Request for Exclusion must be in writing which contains: (1) the Class Member’s full name, current
8 address, last four digits of his/her Social Security number; (2) the case name and number; (3) a clear
9 statement that the Class Member wishes to be excluded from the Settlement; and (4) the Class
10 Member’s signature and the date of signature. With respect to Class Members who submit a
11 Request for Exclusion, the Parties agree that the Settlement Administrator shall not disclose the last
12 four digits of any such Class Member’s Social Security number to anyone but the Parties, that such
13 information will be securely held, and that the disclosure of those last four digits to the Parties shall
14 not be used for any purpose except to ascertain the identity of the individual who wishes to exclude
15 himself or herself from the Settlement for administration of this Settlement. The name and last four
16 digits of the Social Security number provided by the Class Member on the Request for Exclusion
17 must match Defendant’s records as provided to the Settlement Administrator, or match Defendant’s
18 records for that particular Class Member. The name and Social Security number provided by the
19 Class Member will be deemed to match Defendant’s records only if: (1) both the first name and the
20 last name and the last four digits of the Social Security number provided by the Class Member
21 match Defendant’s records; (2) the first name and the last four digits of the Social Security number
22 provided by the Class Member match Defendant’s records and it appears the last name has been
23 changed as a result of a change in marital status or is a shortened or lengthened version of the name
24 that appears in Defendant’s records; or (3) the last four digits of the Social Security number and last
25 name match Defendant’s records and the first name provided is either a nickname or a shortened or
26 lengthened version of the name that appears in Defendant’s records. Each Class Member who does
27 not submit a Request for Exclusion in compliance with this paragraph will be deemed to be a
28 Participating Class Member. Participating Class Members will be bound by all terms of the

1 Agreement and the Final Approval Order and Final Judgment. Any Class Member who submits a
2 timely, valid Request for Exclusion will not be a Participating Class Member, will not be entitled to
3 receive any Individual Settlement Payment, and will not be bound by this Agreement or have any
4 right to object, appeal, or comment thereon; provided, however, that the Parties agree there is no
5 statutory or other right for any Class Member or PAGA Members to opt out or otherwise exclude
6 himself or herself from the PAGA portion of the Settlement. A Class Member who submits a valid
7 and timely Request for Exclusion and who is also a PAGA Member shall still receive his or her
8 Individual PAGA Payment and shall be bound by the release of the PAGA claims during the PAGA
9 Period.

10 No later than thirty (30) calendar days before the Final Approval Hearing, the Settlement
11 Administrator shall provide counsel for the Parties with a complete list of all Class Members who
12 have submitted a valid and timely Request for Exclusion.

13 If a Class Member submits both a Request for Exclusion and written objection to the
14 Settlement Administrator prior to the Response Deadline, the Settlement Administrator will first
15 attempt to contact the Class Member(s) to determine if they intended to submit only the Request for
16 Exclusion or written objection. If the Settlement Administrator is unable to contact the Class
17 Member(s) within ten (10) calendar days of receiving both the Request for Exclusion and written
18 objection or if the Class Member(s) fails to respond to the Settlement Administrator within ten (10)
19 calendar days of being contacted, then only the Request for Exclusion will be deemed valid. The
20 Class Member(s)' written objection will be invalid, and the Class Member will no longer be
21 considered a Participating Class Member, will not receive his or her Individual Settlement Payment,
22 and will not be bound by the release of Released Claims (but will still have fully and finally
23 released and discharged the Released Parties of all Released Claims arising during the PAGA
24 Period that may be asserted under PAGA).

25 7.5 No Solicitation of Objections to or Exclusions from the Settlement

26 The Parties agree to use their best efforts to carry out the terms of this Agreement. At no
27 time shall any of the Parties or their counsel seek to solicit or otherwise encourage Class Members
28 to submit Requests for Exclusion, objections to the Settlement, or appeal from or seek review of the

1 Court's Preliminary Approval Order, Final Approval Order, or Final Judgment, provided, however,
2 that Class Counsel may respond to any questions received from Class Members regarding the
3 Settlement and this Agreement.

4 8. **DEFENDANT'S RIGHT TO RESCIND**

5 If either (i) 10% or more of the Class Members, or, (ii) a number of Class Members whose
6 Individual Settlement Payments in the aggregate are 10% or more of the Settlement Amount, either
7 opt out of and/or object to the Settlement, or if both (i) and (ii) occur, Defendant may, at its
8 election, rescind the Settlement and all actions taken in its furtherance of it will be thereby null and
9 void. If Defendant exercises this right of recession, it must do so in writing, sent to Class Counsel
10 by email to attorneys@gaineslawfirm.com and overnight mail, addressed to: Daniel Gaines of
11 Gaines & Gaines, APLC, 4550 East Thousand Oaks Blvd., Ste. 100, Westlake Village, CA 91362.
12 If the option to rescind is exercised, Defendant must exercise it no later than five (5) court days
13 prior to the Final Approval Hearing, and Defendant shall be solely responsible for all Settlement
14 Administration Costs accrued to that point. If such provision is exercised, the Action will return to
15 its pre-settlement litigation posture.

16 9. **DISPUTES REGARDING WORKWEEKS**

17 The Class Notice mailed to each Class Member will indicate the Workweeks and PAGA
18 Workweeks credited to each Class Member and the estimated Individual Settlement Payment and/or
19 Individual PAGA Payment that he/she is to receive based upon Defendant's records and the
20 formula set forth in Section 10 below. If a Class Member disputes the Workweeks and/or PAGA
21 Workweeks credited to him or her, as stated in the Class Notice, the Class Member must submit
22 written correspondence to the Settlement Administrator that is postmarked no later than the
23 Response Deadline, or in the instance of a re-mailed Class Notice, the Extended Response
24 Deadline, explaining the basis for the dispute and including any supporting documentation showing
25 that the Workweeks and/or PAGA Workweeks credited to him or her is inaccurate. Defendant's
26 records will be presumed determinative, absent credible evidence to rebut the accuracy of the
27 Workweeks and/or PAGA Workweeks credited to a Class Member based thereon. The Settlement
28 Administrator will evaluate the evidence submitted by the Class Member and make a

1 recommendation to the Parties as to which figures should be applied. If the Parties disagree with
2 the Settlement Administrator's recommendation, the dispute will be presented to the Court for
3 determination.

4 10. **COMPUTATION AND DISTRIBUTION OF PAYMENTS**

5 10.1 Settlement Amount

6 The Settlement Amount has been agreed to by the Parties, based on analysis and assessment
7 of the value of the claims of the Class, and, other than the employer portion of payroll taxes, the
8 Settlement Amount is the maximum amount that Defendant agreed to pay with respect to the
9 Settlement. It is expressly understood that if the Court awards less than the total amounts requested
10 to be awarded for Attorneys' Fees, Litigation Costs and Expenses, PAGA Payment, Settlement
11 Administration Costs, and/or Service Award to Plaintiff, or as otherwise provided herein, the
12 difference in any such amounts will be added to the Net Settlement Amount.

13 10.2 Distribution to the Participating Class Members

14 Individual Settlement Payments to be made to Participating Class Members will be
15 determined as follows: The Settlement Administrator will calculate the total number of Workweeks
16 worked by all Participating Class Members during the Class Period ("Total Workweeks"). To
17 determine the Individual Settlement Payment for each Participating Class Member, the Settlement
18 Administrator will (1) divide each Participating Class Member's respective Workweeks by the
19 Total Workweeks, and (2) multiply the resulting figure by the Net Settlement Amount. The
20 Individual Settlement Payment will be reduced by any required legal deductions for each
21 Participating Class Member, provided that such legal deductions will not include the employer's
22 share of any payroll taxes, as set forth in Section 1.27 above.

23 Participating Class Members will have one hundred eighty (180) calendar days from the
24 date on which the Individual Settlement Payment and/or Individual PAGA Payment check is issued,
25 to cash or deposit such check(s). If an Individual Settlement Payment and/or Individual PAGA
26 Payment check is not cashed or deposited within ninety (90) calendar days after mailing, the
27 Settlement Administrator will send a reminder postcard indicating that unless the check is cashed or
28 deposited within the original 180 day check cashing period, the check(s) will expire and become

1 non-negotiable, and offering to replace the check(s) if it was lost or misplaced. If any checks remain
2 uncashed or not deposited by the expiration of the 180 day check cashing period, the Settlement
3 Administrator will, within two hundred (200) calendar days after the checks are initially mailed,
4 cancel the check(s), and pay the amount of the Individual Settlement Payment(s) and/or Individual
5 PAGA Payment(s) to the Parties' chosen *cy pres*, UNICEF USA (or as otherwise ordered by the
6 Court), under Code of Civil Procedure § 384.

7 10.3 Service Award to Plaintiff

8 Plaintiff will apply to the Court for a service award of no more than \$4,500.00 (the "Service
9 Award"), to be paid out of the Settlement Amount. Defendant will not oppose such an application,
10 so long as it is consistent with the provisions of this Agreement. Plaintiff shall be solely and legally
11 responsible to pay any and all applicable taxes on the Service Award and shall hold harmless the
12 Released Parties from any claim or liability for taxes, penalties or interest arising as a result of the
13 payment. Plaintiff is solely responsible for providing a completed IRS W-9 form to the Settlement
14 Administrator prior to distribution. The Settlement Administrator will issue to Plaintiff an IRS
15 Form 1099 reflecting the Service Award.

16 10.4 PAGA Payment

17 The Parties agree to allocate the amount of \$25,000.00 from the Settlement Amount
18 pursuant to PAGA as the PAGA Payment. Seventy-five percent (75%) of this amount, or
19 \$18,750.00, will be paid to the LWDA and twenty-five percent (25%) of this amount, or \$6,250.00,
20 will be distributed to PAGA Members. The portion of the PAGA Payment (\$6,250.00) distributed
21 to PAGA Members shall be calculated and distributed on a pro rata basis based on PAGA
22 Members' respective number of PAGA Workweeks during the PAGA Period. The Settlement
23 Administrator will (1) divide each PAGA Member's PAGA Workweeks by the total number of
24 workweeks worked by all PAGA Members during the PAGA Period, and (2) multiple the resulting
25 figure by the portion of the PAGA Payment (\$6,250.00) allocated to PAGA Members in order to
26 yield each PAGA Member's Individual PAGA Payment.

27 In the event that the Court finds the Parties' allocation of proceeds from the Settlement
28 Amount to PAGA to be insufficient, the Parties expressly reserve the right to amend this Agreement

1 to increase the allocated amount to a level that satisfies the Court's discretion, but provided that
2 such increase does not increase the Settlement Amount.

3 10.5 Attorneys' Fees and Litigation Costs and Expenses

4 Class Counsel shall be entitled to apply to the Court for attorneys' fees payable to Class
5 Counsel in the amount of up to 33-1/3% of the Settlement Amount, which is estimated to be
6 \$96,666.67 ("Attorneys' Fees"), and litigation costs and expenses in an amount not to exceed
7 \$20,000.00 ("Litigation Costs and Expenses"). The amounts set forth above for Attorneys' Fees
8 and Litigation Costs and Expenses will cover all work performed and all fees and costs incurred by
9 Class Counsel to date, and all work to be performed and all fees to be incurred in connection with
10 the litigation of the Action, seeking preliminary and final approval by the Court of this Settlement
11 and Agreement, the administration of the Settlement, seeking and obtaining a Preliminary Approval
12 Order and Final Approval Order, and obtaining Final Judgment. Class Counsel is solely
13 responsible for providing completed IRS W-9 forms to the Settlement Administrator prior to
14 distribution. The Settlement Administrator shall issue an IRS Form 1099 to Class Counsel
15 reflecting the awarded Attorneys' Fees and Litigation Costs and Expenses. Should Plaintiff and/or
16 Class Counsel request a lesser amount for Attorneys' Fees and/or the Court approves a lesser
17 amount, the difference between the lesser amount and the requested 33-1/3% (estimated to be
18 \$96,666.67) will be a part of the Net Settlement Amount. Should Plaintiff and/or Class Counsel
19 request a lesser amount for its Litigation Costs and Expenses and/or the Court approves a lesser
20 amount, the difference between the lesser amount and \$20,000.00 will be added to the Net
21 Settlement Amount. Class Counsel will not be permitted to petition the Court for, or accept, any
22 additional payments from Defendant for attorneys' fees, costs, or expenses in connection with the
23 Action. Class Counsel shall assume full responsibility and liability for the payment of taxes due on
24 such awards.

25 Defendant's payment of the Attorneys' Fees and Litigation Costs and Expenses awarded to
26 Class Counsel shall constitute full satisfaction of the obligation to pay any amounts to any person,
27 attorney, or law firm for attorneys' fees, costs, or expenses in the Action incurred by any attorney
28 on behalf of the Plaintiff, the Class Members, and the PAGA Members, and shall relieve

1 Defendant, the Settlement Administrator, and Defendant's counsel of any other claims or liability to
2 any other attorney or law firm for any attorneys' fees, costs, and expenses to which any of them
3 may claim to be entitled on behalf of Plaintiffs and/or the Class Members and PAGA Members.

4 10.6 Settlement Administrator

5 Subject to approval by the Court, the Parties agree that the fees and expenses of the
6 Settlement Administrator in relation to services rendered in administration of the Settlement of the
7 Action shall be deducted from the Settlement Amount, not to exceed \$10,000.00 ("Settlement
8 Administration Costs"), absent approval of the Court for a greater amount. If the Settlement
9 Administrator's actual costs are lower than, or the Court awards less than the total amount allocated
10 for Settlement Administration Costs, the difference in any such amounts will be a part of the Net
11 Settlement Amount.

12 The Settlement Administrator shall have the authority to mail the Class Notice; establish a
13 qualified settlement fund account and administer the Settlement Amount; and disburse funds from
14 the Settlement Amount in accordance with this Agreement. The Settlement Administrator shall
15 calculate the Individual Settlement Payments to be paid to the Participating Class Members in
16 accordance with the terms and provisions of this Agreement; calculate the Individual PAGA
17 Payments to be paid to PAGA Members in accordance with the terms and provisions of this
18 Agreement; distribute the Class Notice; determine eligibility for payment to a Class Member or
19 PAGA Member; resolve any disputes regarding the Workweeks and/or PAGA Workweeks credited
20 to each Class Member and/or PAGA Member; keep track of those Class Members requesting to be
21 excluded from the Settlement, and provide information regarding objections and Requests for
22 Exclusion to the Parties' counsel; mail the Individual Settlement Payment checks to Participating
23 Class Members and Individual PAGA Payment checks to PAGA Members; undertake require tax
24 withholdings and reporting; and perform such other tasks necessary to effectuate the terms of this
25 Agreement or as the Parties mutually agree or the Court orders the Parties to perform. The
26 Settlement Administrator shall regularly report to the Parties, in written form, the substance of the
27 work performed.

1 The Settlement Administrator will submit to the Court, in conjunction with the motion for
2 final approval, a declaration providing, among other things, the number of Class Notices it mailed
3 to the Class Members, the number of Class Notices that it re-mailed, the number of Class Notices
4 that were ultimately undeliverable, the number of Requests for Exclusion and objections that it
5 received, the number of defective Requests for Exclusion and objections that it received, the total of
6 its charges for services rendered, and the anticipated future charges contemplated in order to bring
7 the administration of the Settlement and distribution of payments to completion.

8 Any disputes relating to the Settlement Administrator's ability and need to perform its
9 duties shall be referred to the Court.

10 10.7 Time for Funding of the Settlement

11 Prior to the Effective Date of the Settlement, Defendant will not be required to fund the
12 Settlement, in whole or in part, through the Settlement Administrator or any third party. Within
13 twenty one (21) calendar days after the Effective Date, Defendant shall provide the Settlement
14 Administrator with sufficient funds to make all the payments required under this Settlement.

15 10.8 Time for Distribution

16 Within 30 calendar days after receipt of the Settlement Amount from Defendant, the
17 Settlement Administrator shall make the following payments as approved by the Court:
18 (1) Individual Settlement Payments to Participating Class Members; (2) Individual PAGA
19 Payments to PAGA Members; (3) the Service Award; (4) the Attorneys' Fees; (5) the Litigation
20 Costs and Expenses; (6) payment to the LWDA of the LWDA portion of the PAGA Payment; and
21 (7) the Settlement Administration Costs.

22 10.9 End of Class Period and PAGA Period

23 In connection with Mediation, that took place on July 26, 2023, Defendant estimated that
24 as of May 11, 2023, there were approximately 33,000 weeks worked by Class Members. The
25 Parties agree that the Class Period and PAGA Period will end on the date when the number of
26 workweeks worked by Class Members reaches 37,950 workweeks (counting from July 21, 2018).
27 37,950 workweeks is fifteen percent (15%) more than the 33,000 workweeks estimated to have
28 been worked by Class Members when the Parties attended Mediation.

1 10.10 Allocation

2 All Individual Settlement Payments will be allocated as follows: 50% as wages (“wage
3 portion”) and 50% as penalties, any other non-taxable items, and interest. The wage portion of each
4 Individual Settlement Payment will be subject to W-2 reporting and, therefore, normal employee’s
5 share of payroll taxes and withholdings will be deducted pursuant to applicable state and federal
6 law. Defendant shall be responsible for paying employer-side taxes separately from the Settlement
7 Amount. Participating Class Members will be issued an IRS Form 1099 for the portion of their
8 Individual Settlement Payments that is treated as interest and penalties and any other non-taxable
9 items and will assume full responsibility and liability for the payment of taxes due on such awards,
10 if any. All Individual PAGA Payments will be allocated as 100% penalties and interest and PAGA
11 Members will be issued an IRS Form 1099 for their Individual PAGA Payment and will assume full
12 responsibility and liability for the payment of taxes due on such awards, if any. The Parties make
13 no representations about the tax consequences to the portion of the Individual Settlement Payments
14 representing interest and penalties.

15 11. INTEREST

16 The Settlement Amount includes any and all interest accruals and no additional interest shall
17 be due under any circumstances.

18 12. TAXATION

19 12.1 It is the sole obligation of Plaintiff, each of the Participating Class Members, and
20 each of the PAGA Members to pay appropriate federal, state, and local income taxes on any
21 amounts they receive under this Agreement that lawfully qualify as taxable income.

22 12.2 CIRCULAR 230 DISCLAIMER: EACH PARTY TO THIS AGREEMENT (FOR
23 PURPOSES OF THIS SECTION, THE “ACKNOWLEDGING PARTY” AND EACH PARTY
24 TO THIS AGREEMENT OTHER THAN THE ACKNOWLEDGING PARTY, AN “OTHER
25 PARTY”) ACKNOWLEDGES AND AGREES THAT (1) NO PROVISION OF THIS
26 AGREEMENT, AND NO WRITTEN COMMUNICATION OR DISCLOSURE BETWEEN OR
27 AMONG THE PARTIES OR THEIR ATTORNEYS AND OTHER ADVISERS, IS OR WAS
28 INTENDED TO BE, NOR SHALL ANY SUCH COMMUNICATION OR DISCLOSURE

1 CONSTITUTE OR BE CONSTRUED OR BE RELIED UPON AS, TAX ADVICE WITHIN
2 THE MEANING OF UNITED STATES TREASURY DEPARTMENT CIRCULAR 230 (31
3 CFR PART 10, AS AMENDED); (2) THE ACKNOWLEDGING PARTY (A) HAS RELIED
4 EXCLUSIVELY UPON HIS, HER, OR ITS OWN, INDEPENDENT LEGAL AND TAX
5 ADVISERS FOR ADVICE (INCLUDING TAX ADVICE) IN CONNECTION WITH THIS
6 AGREEMENT, (B) HAS NOT ENTERED INTO THIS AGREEMENT BASED UPON THE
7 RECOMMENDATION OF ANY OTHER PARTY OR ANY ATTORNEY OR ADVISOR TO
8 ANY OTHER PARTY, AND (C) IS NOT ENTITLED TO RELY UPON ANY
9 COMMUNICATION OR DISCLOSURE BY ANY ATTORNEY OR ADVISER TO ANY
10 OTHER PARTY TO AVOID ANY TAX PENALTY THAT MAY BE IMPOSED ON THE
11 ACKNOWLEDGING PARTY; AND (3) NO ATTORNEY OR ADVISER TO ANY OTHER
12 PARTY HAS IMPOSED ANY LIMITATION THAT PROTECTS THE CONFIDENTIALITY
13 OF ANY SUCH ATTORNEY'S OR ADVISER'S TAX STRATEGIES (REGARDLESS OF
14 WHETHER SUCH LIMITATION IS LEGALLY BINDING) UPON DISCLOSURE BY THE
15 ACKNOWLEDGING PARTY OF THE TAX TREATMENT OR TAX STRUCTURE OF ANY
16 TRANSACTION, INCLUDING ANY TRANSACTION CONTEMPLATED BY THIS
17 AGREEMENT.

18 13. **COURT APPROVAL**

19 13.1 Following the Preliminary Approval Order, if Defendant does not exercise its right
20 to cancel the Settlement solely as provided for herein, a motion for final approval of the
21 Settlement will be filed by Class Counsel, which, if not separately filed by Class Counsel, will
22 include a request for Attorneys' Fees, Litigation Costs and Expenses, and Service Award as
23 provided for herein, which Defendant will not oppose. The Parties agree to take all steps as may
24 be reasonably necessary to secure final approval of the Settlement as quickly as possible, to the
25 extent not inconsistent with the terms of this Agreement, and will not take any action adverse to
26 each other in obtaining Court approval, and, if necessary, appellate approval, of the Agreement in
27 all respects.

28

1 13.2 If the Court does not grant preliminary approval and/or final approval of the
2 Settlement, or if the Court's Final Approval Order and Final Judgement are reversed or materially
3 modified on appeal, then this Settlement will become null and void.

4 13.3 In the event the Court declines to enter the Final Approval Order and Final
5 Judgment, this Agreement shall be null and void and any order or judgment entered by the Court
6 in furtherance of this Agreement shall be treated as void. In such a case, the Parties and any funds
7 to be awarded under this Settlement shall be returned to their respective statuses as of the date and
8 time immediately prior to the execution of this Agreement, and the Parties shall proceed in all
9 respects as if this Agreement had not been executed, except that any fees and expenses already
10 reasonably incurred by the Settlement Administrator shall be paid by Defendant.

11 14. **MISCELLANEOUS PROVISIONS**

12 14.1 No Effect on Regular Rate or Overtime Compensation

13 Participating Class Members and PAGA Members will receive payment under the
14 Settlement, as determined by the Settlement Administrator in accordance with this Agreement. The
15 Parties agree that this payment is not viewed as additional compensation for purposes of calculating
16 a "regular rate" of pay under California or federal law for the period during which it is received, and
17 no additional overtime compensation is required as a result of such payment; further, any claim to
18 entitlement to any additional overtime compensation is expressly waived under the terms of this
19 Agreement. No person or entity shall have any claim against Defendant, Defendant's Counsel,
20 Plaintiff, any Class Members or PAGA Members, Class Counsel, or the Settlement Administrator
21 based upon distributions and payments made in accordance with this Agreement.

22 14.2 No Effect on Employee Benefits

23 The Individual Settlement Payments and/or Individual PAGA Payments to be paid to
24 Plaintiff, Participating Class Members, and PAGA Members, and the Service Award to be paid to
25 Plaintiff, shall be deemed not to be pensionable earnings and shall not have any effect on the
26 eligibility for, or calculation of, any of the employee benefits (e.g., vacations, holiday pay,
27 retirement plans, etc.) of Plaintiff, any Participating Class Members, or any PAGA Members. Such
28 payments do not represent any modification of Plaintiff's, Participating Class Members', or PAGA

Members' previously credited hours of service or other eligibility criteria under any employee pension benefit plan or employee welfare benefit plan sponsored by Defendant. Further, any Individual Settlement Payment, Individual PAGA Payment, or Service Award shall not be considered "compensation" in any year for purposes of determining eligibility for, or benefit accrual within, an employee pension benefit plan or employee welfare benefit plan sponsored by Defendant.

14.3 Headings

The descriptive headings of any paragraphs or sections of this Agreement are inserted for convenience of reference only and do not constitute a part of this Agreement.

14.4 Final Agreement

This Agreement constitutes the exclusive and final understanding and expression of all agreements between the Parties with respect to the resolution of the Action, and supersedes all prior agreements and understandings between the Parties relating to the subject matter hereof. Plaintiff, on behalf of herself and on behalf of the Class Members, PAGA Members, and LWDA, and Defendant enter into this Agreement based solely upon its terms and not in reliance upon any representations or promises other than those contained in this Agreement.

14.5 Amendment or Modification

This Agreement may be amended or modified only by a written instrument signed by counsel for the Parties, or their successors, and approved by the Court.

14.6 Counterparts/Facsimile

This Agreement may be executed in one or more actual or telecopied counterparts, all of which will be considered one and the same instrument and all of which will be considered duplicate originals. A signature by facsimile or DocuSign on this Agreement shall be as legally binding as an original signature.

14.7 Authority

Counsel for all Parties represent and warrant they are expressly authorized by the Parties whom they represent to negotiate this Agreement and to take all appropriate actions required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to

1 execute any other documents required to effectuate the terms of this Agreement. The Parties and
2 their counsel will cooperate with each other and use their best efforts to effectuate the
3 implementation of the Settlement. In the event that the Parties are unable to reach agreement on
4 the form or content of any document needed to implement the Settlement, or on any supplemental
5 provisions that may become necessary to effectuate the terms of the Settlement, the Parties shall
6 seek the assistance of the Court to resolve such disagreement. The person signing this Agreement
7 on behalf of Defendant represents and warrants that she is authorized to sign this Agreement on its
8 behalf.

9 14.8 Binding on Successors and Assigns

10 This Agreement shall be binding upon, and inure to the benefit of, the successors or assigns
11 of the Parties hereto, as previously defined.

12 14.9 Interim Stay of Proceedings.

13 The Parties agree to stay and hold all proceedings in the Action in abeyance, except such
14 proceedings necessary to implement and complete the Settlement, pending the Final Approval
15 Hearing to be conducted by the Court.

16 14.10 Fair, Adequate, and Reasonable Settlement.

17 The Parties and their respective counsel believe and warrant that this Agreement reflects a
18 fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through
19 arm's-length negotiations, considering all relevant factors, current and potential.

20 14.11 Cooperation and Drafting

21 Each of the Parties has cooperated in the drafting and preparation of this Agreement.
22 Hence, in any construction made to this Agreement, the same shall not be construed against any of
23 the Parties.

24 14.12 Invalidity of Any Provision

25 Before declaring any provision of this Agreement invalid, the Court shall first attempt to
26 construe the provisions valid to the fullest extent possible consistent with applicable precedents so
27 as to define all provisions of this Agreement as valid and enforceable.

28

1 14.13 Plaintiff's Waiver of Right to Be Excluded

2 By signing this Agreement, Plaintiff is bound by the terms herein stated and further agrees
3 not to submit a Request for Exclusion from the Settlement. Any such Request for Exclusion shall
4 therefore be void and of no force or effect. Plaintiff also agrees to not disparage the Settlement to
5 Class Members or PAGA Members or encourage, in any way, Class Members to submit or not to
6 submit a Request for Exclusion. In addition, neither Plaintiff nor Class Counsel will initiate any
7 contact with Class Members or PAGA Members about the amount or terms of the Settlement.

8 14.14 Publicity

9 Plaintiff and Class Counsel, and each of them, agree that they (i) will keep the fact, amount
10 or terms of the Settlement strictly confidential (except as required by law or Court order and only
11 until such time as the Settlement becomes a matter of public record); (ii) will not issue any press
12 releases, initiate any contact with the press, respond to any press inquiry or have any
13 communication with the press about the fact, amount or terms of the Settlement; and (iii) will not
14 engage in any advertising or distribute any marketing materials that disclose or mention the fact,
15 amount or terms of the Settlement of this case, including but not limited to any postings on any
16 websites maintained by Class Counsel; provided, however, that following the filing of preliminary
17 approval papers, (i) Plaintiff and Class Counsel may respond to (but not initiate) press inquiries by
18 stating only that the matter has been resolved and referring the press to court filings; and (ii) Class
19 Counsel may post the preliminary approval papers on their website solely to provide information
20 about the Settlement to the Class and can communicate with the Class about the Settlement. This
21 paragraph does not preclude referring any third party to Court filings. At all times, though, the
22 Plaintiff and Class Counsel remain bound by Section 7.5 above.

23 14.15 Defense

24 To the extent permitted by law, this Settlement may be plead as a full and complete defense
25 to, and may be used as the basis for an injunction against, any action, suit, or other proceeding that
26 may be instituted, prosecuted, or attempted with respect to the Released Claims against the
27 Released Parties in breach of or contrary to the Settlement.
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14.16 Final Judgment

The Parties agree that, upon final approval of the Settlement, a Final Judgment will be made and entered, resolving the Action in its entirety.

WHEREFORE, Plaintiff, on behalf of herself, the Participating Class Members, PAGA Members, and LWDA, and Defendant, have executed this Agreement as of the dates set forth below.

Executed on: 08 / 02 / 2024



PLAINTIFF GABRIELA BUSTAMANTE

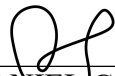
Executed on: 08/05/24



DEFENDANT MARRIOTT HOTEL SERVICES, INC. (*now known as* MARRIOTT HOTEL SERVICES, LLC)

GAINES & GAINES, APLC

Executed on: 8/2/2024



DANIEL GAINES
ALEX KATOFISKY
For Plaintiff Gabriela Bustamante and the Class

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

Executed on: 8/5/24



GREG S. LABATE
ERIC T. ANGEL
For Defendants Marriott Hotel Services, Inc. (*now known as* Marriott Hotel Services, LLC)

EXHIBIT 1

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND
CLASS ACTION SETTLEMENT HEARING**

IMPORTANT LEGAL NOTICE

This is not an advertisement

Bustamante v. Marriott Hotel Services, Inc.

Superior Court for the County of Santa Clara, Case No. 22CV400968

**THIS NOTICE IS BEING SENT AS PART OF A SETTLEMENT FROM A COURT AND CONTAINS
IMPORTANT INFORMATION THAT MAY AFFECT YOU**

YOU ARE NOT BEING SUED

TO: ALL PERSONS EMPLOYED BY MARRIOTT HOTEL SERVICES, INC. (*now known as* MARRIOTT HOTEL SERVICES, LLC) AS A NON-EXEMPT EMPLOYEE AT THE MONTEREY MARRIOTT IN CALIFORNIA FOR ANY PORTION OF TIME BETWEEN JULY 21, 2018 AND NOVEMBER 24, 2023 (THE “CLASS MEMBERS”)

1. Why Did I Receive This Notice?

A proposed settlement has been reached in a lawsuit that may affect your rights.

This lawsuit is against Marriott Hotel Services, Inc. (*now known as* Marriott Hotel Services, LLC) (referred to in this notice as “Defendant”). Gabriela Bustamante is a former employee of Defendant at the Monterey Marriott in California. She filed this lawsuit. This notice refers to Ms. Bustamante as “Plaintiff.”

You are receiving this notice because Defendant’s records indicate that you worked for Defendant at the Monterey Marriott in California as a non-exempt employee for some time between July 21, 2018 and November 24, 2023 (“Class Period”). This means you are a potential Class Member, and you have a right to know about the proposed settlement. This notice explains the lawsuit, the proposed settlement, your legal rights, what payments may be available, and how to get them.

2. What Is the Lawsuit About?

Plaintiff filed a proposed class action lawsuit on behalf of herself and other Class Members. Plaintiff claims that Defendant violated California law by:

- (1) failing to pay all wages due;
- (2) failing to provide legally required rest periods;
- (3) failing to provide legally required meal periods;
- (4) failing to provide accurate wage statements;
- (5) failing to pay wages due at separation of employment;
- (6) violating Business and Professions Code § 17200 *et seq.*; and
- (7) violating the Private Attorneys General Act of 2004 (“PAGA”)

Plaintiff sought unpaid wages, interest, and penalties, as well as attorneys’ fees and costs for Class Members. Defendant denies each and every one of Plaintiff’s allegations, and believes that it has treated, and continues to treat, Class Members in accordance with all applicable laws at all times. The Court has not made any decision on whether the claims in this lawsuit have merit or not.

3. What Is a Class Action?

A class action lawsuit is a legal proceeding where one or more persons sue not just for themselves, but for other people who have similar claims (forming a “class” or group of people).

4. Background of Settlement

The claims in this case are contested. Defendant denies that it committed any wrongdoing. Plaintiff’s lawyers have received sufficient information from Defendant in order to evaluate the strengths and weaknesses of Plaintiff’s claims and Defendant’s defenses and reached a settlement with Defendant after extensive arm’s-length negotiations. The Court did not decide in favor of Plaintiff or Defendant.

Plaintiff and her lawyers believe the settlement is in the best interests of the Class Members considering the uncertain outcome, and the risks, costs, and time involved in further litigation, trial, and possible appeals.

5. What Are the Terms of the Proposed Settlement?

Defendant has agreed to pay a total of Two Hundred Ninety Thousand Dollars and Zero Cents (\$290,000.00) (the “Settlement Amount”) to settle this case. This money will be divided among all Class Members. It will also be used to pay approximately \$96,666.67 in Plaintiff’s lawyers’ fees and no more than \$20,000 for Plaintiff’s lawyers’ costs of litigation, a payment in the amount of \$18,750.00 to the State of California Labor Workforce Development Agency for its share of penalties under PAGA, payment to the Plaintiff in the amount of \$4,500 for her service to the Class, and payment not to exceed \$10,000 to the Settlement Administrator for calculating and distributing payments.

6. How Much Will My Settlement Payment Be?

Individual Settlement Payments to Class Members will be determined by comparing the number of weeks that you worked as a non-exempt employee of Defendant at the Monterey Marriott in California during the Class Period to the total number of weeks worked by all Class Members during the Class Period.

In addition, Individual PAGA Payments to PAGA Members will be determined by comparing the number of weeks that you worked as a non-exempt employee of Defendant at the Monterey Marriott in California between July 21, 2021 and November 24, 2023 (the “PAGA Period”) to the total number of weeks worked by all PAGA Members during the PAGA Period.

More detail on the formula for determining each Class Member’s share and each PAGA Member’s share has been provided to the Court and can be obtained from Class Counsel.

Based on Defendant’s records, you worked ____ workweeks **during the Class Period** and ____ workweeks **during the PAGA Period**.

Based on this data, your *estimated* settlement payment is shown in the chart below. This is just an estimate. Your final share will be determined by the Settlement Administrator.

Member	Time credited as a Class Member and PAGA Member	Your Estimated Share
Class Member	____ WORKWEEKS (During Class Period)	\$INSERT (Individual Settlement Payment)
PAGA Member	____ PAY PERIODS (During PAGA Period)	\$INSERT (Individual PAGA Payment)

For tax reporting purposes, 50% of the Individual Settlement Payment to Class Members will be assigned to wages, which are subject to legally required state and federal withholdings and deductions, reported on a form

W-2, and 50% to penalties, reported on an IRS Form 1099, with no withholding taken. All Individual PAGA Payments will be allocated as 100% penalties and interest and PAGA Members will be issued an IRS Form 1099 for their Individual PAGA Payment.

7. When Will I Receive My Payment and What Do I Have To Do?

Class Members who do not opt out will be sent their Individual Settlement Payments and Individual PAGA Payments within 51 days after final court approval of the settlement and after all rights to appeal or review are exhausted or any appeal or review has been resolved in favor of the settlement.

Class Members who opt out of the settlement but who qualify as a PAGA Member, or for those who never were Class Members but are a PAGA Member, your Individual PAGA Payment will be sent within 51 days after final court approval of the settlement and after all rights to appeal or review are exhausted or any appeal or review has been resolved in favor of the settlement.

You must cash your check within 180 days of when the check is issued. The check will be void after 180 days, and the settlement provides that money will be distributed to UNICEF USA pursuant to California Code of Civil Procedure § 384.

8. What if I Dispute the Information on My Workweeks?

If you believe the information shown above regarding your workweeks is incorrect, you may challenge it with any documents or other supporting evidence sent to the Settlement Administrator. Any challenge must be postmarked by no later than **[THE RESPONSE DEADLINE]**.

The Settlement Administrator will presume that Defendant's records are correct but may change its calculations of your workweeks after considering your evidence. The Settlement Administrator's decision on your time worked is final and binding, meaning that it cannot be appealed.

9. What Are My Legal Rights and Options Under the Settlement?

Do Nothing	If you do nothing, you will receive a payment under the settlement if the Court finally approves the settlement. You will release all claims covered by the settlement. You do not have to do anything to receive a payment.
Exclude Yourself or "Opt Out"	If you do <u>not</u> wish to participate in the settlement or give up your right to sue on the Released Claims (described in Section 15 below), you may "opt-out" of the settlement of the class claims. If you choose to opt-out, you must submit a Request for Exclusion by [REDACTED], 2024 (see Section 12 for details on how to opt-out). If you opt-out, you will no longer be a Class Member, and you (1) will <u>not</u> receive an Individual Settlement Payment, (2) will <u>not</u> give up your right to sue on the Released Claims, and (3) will be barred from filing an objection to the settlement. You cannot opt-out of the PAGA portion of the proposed Settlement. If the settlement receives final approval from the court, Defendant must pay Individual PAGA Payments to all PAGA Members and the PAGA Members must give up their rights to pursue Released Claims that arose under PAGA during the PAGA Period.

Object to the Settlement	Any Class Member who does not request to be excluded from the settlement may object to the settlement. If you wish to object, you can do so in writing by stating the basis for your objection(s) or you may appear at the Final Fairness Hearing to object in person. All written objections must include: (1) the objector's full name, address, last four digits of his or her Social Security number, and signature; (2) the case name and number; (3) the factual and legal basis, with supporting documents, if any, on which the objection is based; (4) whether the objector is represented by an attorney and providing the contact information of any such attorney; and (5) whether the objector plans to appear at the Final Approval Hearing. To object, you <u>must</u> prepare and complete your objection, <u>sign it</u> and submit it to the Settlement Administrator. Alternatively, a Class Member can object (or personally retain a lawyer to object at your own cost) by attending the Final Approval Hearing. If the Court rejects your objection, you will be bound by the terms of the settlement, including the Released Claims, unless you have submitted a timely request to be excluded. But, Class Members who also qualify as PAGA Members cannot exclude themselves from the release of PAGA claims during the PAGA Period.
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10. What if I Have Questions?

If you have questions, please contact the lawyers for the Class Members or the Settlement Administrator. The Plaintiff's and Class Members' lawyers are:

GAINES & GAINES, APLC
Daniel F. Gaines, Esq.
Alex P. Katofsky, Esq.
4550 E. Thousand Oaks Blvd., Suite 100
Westlake Village, CA 91362
(866) 550-0855

DO NOT CONTACT THE COURT FOR INFORMATION REGARDING THE SETTLEMENT OR THE CLAIM PROCESS.

11. Who Is the Settlement Administrator?

The Settlement Administrator is a company hired by the Plaintiff and Defendant to administer the settlement. The Settlement Administrator's contact information is:

Settlement Administrator
ILYM Group Mailing Address Telephone Number

The Settlement Administrator's duties include processing challenges, objections and exclusions, making payments to the Class Members and PAGA Members, tax reporting, and getting answers to any questions you may have. The costs of administering the settlement, which are estimated not to exceed \$10,000, will be deducted from the gross settlement amount.

12. How Do I Opt-Out of the Class Settlement?

You will be treated as a Participating Class Member, participating fully in the settlement, unless you complete and send to the Settlement Administrator a letter/card postmarked no later than [REDACTED], 2024 with your full name, address, telephone number, last four digits of your social security number, your date of birth, and signature. The Request for Exclusion should state:

“I WISH TO BE EXCLUDED FROM THE SETTLEMENT CLASS IN THE BUSTAMANTE V. MARRIOTT HOTEL SERVICES LAWSUIT. I UNDERSTAND THAT IF I ASK TO BE EXCLUDED FROM THE SETTLEMENT CLASS, I WILL NOT RECEIVE ANY MONEY FROM THE SETTLEMENT OF THIS LAWSUIT.”

Complete and send the Request for Exclusion directly to the Settlement Administrator at the address in Section 11 above, postmarked on or before **DATE**, 2024.

Any person who submits a valid and timely Request for Exclusion (1) will not receive an Individual Settlement Payment, (2) will not give up his/her right to sue on the Released Claims, and (3) will be barred from filing an objection to the settlement.

You cannot opt-out of the PAGA portion of the Settlement. If the settlement receives final approval from the court, Defendant must pay Individual PAGA Payments to all PAGA Members and the PAGA Members must give up their rights to pursue Released Claims that arose under PAGA during the PAGA Period.

13. How Will the Lawyers and the Representative for the Class Be Paid?

The lawyers for Plaintiff will request Court approval for payment of attorneys' fees of up to \$96,666.67, plus reimbursement of actual litigation costs up to \$20,000. The Court decides whether or not to award attorneys' fees. The attorneys' fees are for legal services provided, and to be provided, to Plaintiff and the Class.

The lawyers for Plaintiff will also ask the Court to approve a class representative service award of \$4,500 to Plaintiff, for her time and willingness to accept the risks of bringing this case. This award would be in addition to the amount she is owed under the settlement as a Class Member and PAGA Member.

14. Notice of Hearing on Final Approval and Objections to Class Action Settlement.

A Final Fairness Hearing will be held on [REDACTED], at 8:30 a.m., in the Courtroom of Judge Theodore C. Zayner of the Santa Clara County Superior Court, Department D19, located at 161 North First Street, San Jose, California 95113, to determine whether the proposed settlement is fair, reasonable, and adequate. The hearing may be continued without further notice.

You do not need to appear at this hearing unless you wish to object to the settlement. If you have sent a written objection, you may appear at the hearing if you choose to do so.

Class members may appear at the final approval hearing in person or remotely using the Microsoft Teams link for Department 19 (Afternoon Session). Instructions for appearing remotely are provided at https://www.scscourt.org/general_info/ra_teams/video_hearings_teams.shtml and should be reviewed in advance. Class members who wish to appear remotely are encouraged to contact class counsel at least three days before the hearing if possible, so that potential technology or audibility issues can be avoided or minimized.

15. What Is Being Released as Part of the Settlement?

If the Court gives the settlement final approval, the Class Members who have not opted out will fully release the Released Parties (described below), and each of them, of and from any and all Released Claims arising out of

employment at the Monterey Marriott in a non-exempt position which arose at any time up through and including November 24, 2023. The “Released Claims” are defined as the claims, debts, liabilities, demands, actions, or causes of action pleaded or asserted in the Second Amended Complaint in the Action or that could have been pleaded or asserted based upon the facts alleged in the Second Amended Complaint in the Action, including but not limited to local, state, and/or federal wage and hour claims, failure to pay all wages due, including minimum wages, straight time compensation, overtime compensation, double-time compensation, and interest; the calculation of the regular rate of pay; failure to provide meal periods and/or rest periods; failure to pay proper meal and/or rest period penalties at all or at the proper rate of pay; payment for all hours worked, including off-the-clock work; failure to provide accurate itemized wage statements; failure to timely pay all wages during employment; failure to timely pay all wages due at separation of employment; unfair business practices; declaratory relief; penalties, including but not limited to PAGA penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; interest; and attorneys’ fees and costs. The Released Claims also expressly include all claims arising under the California Labor Code (including but not limited to Sections 200-204, 210, 218.5, 218.6, 221, 223, 226, 226.3, 226.7, 256, 510, 512, 552, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2698 *et seq.*, and 2699 *et seq.*); the Wage Orders of the California Industrial Welfare Commission, including but not limited to Wage Order No. 5-2001; PAGA; California Business and Professions Code Section 17200, *et seq.*; the California Civil Code, including but not limited to Sections 3287, 3336, and 3294; 8 CCR Sections 11010, 11040, and 11070; California Code of Civil Procedure, including but not limited to Section 1021.5; and the FLSA, 29 U.S.C. Section 201, *et seq.* The Released Claims also include claims for civil penalties that accrued during the PAGA Period under PAGA to the extent they were alleged or reasonably could have been alleged based on the factual allegations in the PAGA notice filed with the LWDA by Plaintiff or any pleadings filed in the Action by Plaintiff. Class Members who endorse their settlement checks waive and release any claims under the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.* arising up through and including November 24, 2023 and reasonably related to any or all of the aforementioned claims. However, Released Claims exclude the release of claims not permitted by law.

Further, if the Court gives the settlement final approval, Plaintiff, the LWDA, and each and all PAGA Members, on behalf of themselves and their heirs, successors, assigns, and/or agents, and each of them, will be deemed to have fully and finally released and discharged the Released Parties, and each of them, of any and all Released Claims arising out of employment at the Monterey Marriott in a non-exempt position which arose at any time up through and including November 24, 2023 that have been or may be asserted under PAGA seeking civil penalties.

In addition to releasing the claims just mentioned against Defendant, Class Members who do not opt out, and PAGA Members, will also release claims against each of the Released Parties. The “Released Parties” are Defendant, the owners and operators of the Monterey Marriott, and each of them, and each of their past, present, and future parent companies, subsidiaries, related companies, and affiliates, and their respective shareholders, members, partners, representatives, fiduciaries, agents (including, without limitation, any investment bankers, accountants, insurers, reinsurers, attorneys, trustees, equity sponsors, joint employers, alter-egos, joint venturers, auditors, consultants, and any past, present, or future officers, directors and employees), and each of their predecessors, successors, heirs, and assigns, and any individual or entity which could be jointly liable with Defendant, or any of them.

16. Can I Be Retaliated Against for Participating in the Settlement?

The law prohibits Defendant from retaliating against employees for exercising their rights under the law. Therefore, Defendant cannot and will not fire you, demote you, harass you, classify you as ineligible for rehire, or retaliate against you in any other way because you choose to participate, or not participate, in the settlement.

17. Getting More Information about the Settlement

This Notice contains a summary of the basic terms of the settlement. For the precise terms and conditions of the settlement, you should review the detailed “Amended and Restated Settlement Agreement” which is on file with the Clerk of the Court. The pleadings and other records in the Lawsuit may be examined at any time during regular business hours at the Office of the Clerk of the Santa Clara County Superior Court, located at 161 North First Street San Jose, California 95113. You may also contact the Settlement Administrator by phone at [NUMBER] or Counsel for the Class, Gaines & Gaines, APLC, at (866) 550-0855. Please do not telephone the Court for information about this settlement or the claims process.

IMPORTANT:

- 1. If you move or change your address, send the Settlement Administrator your new address. It is your responsibility to keep a current address on file with the Settlement Administrator to ensure receipt of your Settlement Payment.**
- 2. It is strongly recommended that you keep a copy of any challenge, request for exclusion and/or objection that you submit, and proof of timely mailing and/or faxing, until after the Final Approval hearing.**