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8 and on behalf of all others similarly situated.

9 *[Additional counsel listed on following page]*

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF INYO**
12

13 SHARON KAY PROVOST, individually and on
14 behalf of all others similarly situated,

15 Plaintiffs,

16 vs.

17 DEATH VALLEY LODGING COMPANY LLC;
18 NEG282, LLC; ORTEGA NATIONAL PARKS
LLC; and DOES 1 through 20, inclusive,

19 Defendants.
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Case No. CVCV22-68280

JOINT STIPULATION OF SETTLEMENT

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10 *Attorneys for Defendants:*
11 NEG282, LLC and Ortega National Parks LLC
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1 It is stipulated and agreed by and among the undersigned Parties, subject to the approval of
2 the Court pursuant to the California Rules of Court, that the Settlement of this Action shall be
3 effectuated upon and subject to the following terms and conditions. Capitalized terms used herein
4 shall have the meanings set forth in Article I or as defined elsewhere in this Joint Stipulation of
5 Settlement ("Agreement" or "Settlement").

6 This Agreement is made by and between Named Plaintiff Sharon Kay Provost ("Named
7 Plaintiff") and the Class Members, on the one hand, and Defendants Neg282, LLC and Ortega
8 National Parks LLC (collectively "Defendants"), on the other hand. Defendant Death Valley Lodging
9 Company LLC is not a party to this settlement and will be dismissed from the Action. Named
10 Plaintiff and Defendants collectively are referred to in this Agreement as "the Parties."

11 The Parties agree that the Action shall be, and hereby is, ended, settled, resolved, and
12 concluded by agreement of Defendants to pay the settlement amount of One Hundred Thirty-Two
13 Thousand, Six Hundred Sixty-Eight and Zero Cents (\$132,668.00) as provided in Section 3.06(a)
14 below ("Gross Settlement Amount") pursuant to the terms and conditions of this Agreement and for
15 the consideration set forth herein, including but not limited to, a release of all claims by Named
16 Plaintiff and the Class Members as set forth herein.

17 ARTICLE I

18 DEFINITIONS

19 Unless otherwise defined herein, the following terms used in this Agreement shall have the
20 meanings ascribed to them as set forth below:

21 a. "Action" means the action described as follows: *Sharon Kay Provost, individually*
22 *and on behalf of all others similarly situated v. Death Valley Lodging Co., LLC et al.*; and DOES 1
23 through 20, inclusive," Case No. CVC22-68280, commenced on August 30, 2022, in the Superior
24 Court of the State of California for the County of Inyo.

25 b. "Agreement" means this Joint Stipulation of Settlement, including the attached
26 Exhibit(s).

27 c. "Class" means all current and former non-exempt employees employed by NEG282,
28 LLC in California at any time during the Class Period.

- 1 d. "Class Counsel" means the attorneys for the Class and the Class Members, who are:
2 AEGIS LAW FIRM, PC
3 Kashif Haque
4 Samuel A. Wong
5 Jessica L. Campbell
6 Daniel E. Ishu
7 9811 Irvine Center Drive, Suite 100
8 Irvine, California 92618
9 Telephone: (949) 379-6250
10 Facsimile: (949) 379-6251
- 11 e. "Class List" means a list based on Defendant's business records that identifies each
12 Class Member's name, last known home or mailing address, Social Security number or, as
13 applicable, other taxpayer identification number, dates of employment, and the number of Qualifying
14 Workweeks worked during the Class Period.
- 15 f. "Class Member(s)" means all members of the Class.
- 16 g. "Class Period" means November 1, 2019 through July 13, 2023.
- 17 h. "Court" means the California Superior Court for the County of Inyo, where the Action
18 is currently pending.
- 19 i. "Date of Finality" means the later of the following: (1) the date the Final Order is
20 signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and no
21 appeal is taken of the Final Order, sixty-five (65) days after the Final Order; or (3) if an appeal or
22 other judicial review is taken from the Court's overruling of objections to the settlement, ten (10)
23 days after the appeal is withdrawn or after an appellate decision affirming the Final Order becomes
24 final.
- 25 j. "Defendants" means Defendants Neg282, LLC and Ortega National Parks LLC.
- 26 k. "Defense Counsel" means counsel for Defendants:
27 **LANDEGGER VERANO & DAVIS, ALC**
28 Alfred Landegger
Arthur Connors
15760 Ventura Blvd, Ste 1200
Encino, CA 91436
P: (818) 986-7561
F: (818) 986-5147
Attorneys for Defendant:
NEG282, LLC and Ortega National Parks LLC

1 l. “Disposition” means the method by which the Court approves the terms of the
2 Settlement and retains jurisdiction over its enforcement, implementation, construction,
3 administration, and interpretation.

4 m. “Final Order Approving Settlement of Class Action” or “Final Order” means the final
5 formal court order signed by the Court following the Final Fairness and Approval Hearing in
6 accordance with the terms herein, approving this Agreement.

7 n. “Gross Settlement Amount” means One Hundred Thirty-Two Thousand, Six
8 Hundred Sixty-Eight and Zero Cents (\$132,668.00) to be paid by Defendants as provided by this
9 Agreement to settle this Action. All payments to the Class, administration costs, attorney’s fees and
10 costs, and Incentive Awards, pursuant to Section 3.06(a) below, shall be paid out of the Gross
11 Settlement Amount. The employer’s share of payroll taxes arising from the payments made under
12 this settlement shall be paid by Defendants separate from and in addition to the Gross Settlement
13 Amount. The Gross Settlement Amount is subject to a pro rata increase pursuant to Section 3.04(e)
14 below. No part of the Gross Settlement Amount shall revert to Defendants.

15 o. “Incentive Awards” means a monetary amount of up to Ten Thousand Dollars and
16 Zero Cents (\$10,000.00) for the Named Plaintiff, subject to Court approval, in recognition of her
17 effort and work in prosecuting the Action on behalf of Class Members, and for her general release
18 of claims.

19 p. “Individual Settlement Payment(s)” means each Participating Class Member’s
20 respective share of the Net Settlement Amount. Individual Settlement Payments will be determined
21 by the calculations provided in this Agreement.

22 q. “LWDA” means The State of California Labor and Workforce Development Agency.

23 r. “LWDA Payment” means 75% of the \$10,000.00 allocated to the settlement of PAGA
24 claims which, subject to Court approval, will be paid to the LWDA pursuant to Section 3.06(e) of
25 this Agreement, as provided for below.

26 s. “Motion for Final Approval” means Plaintiffs’ submission of a written motion,
27 including any evidence as may be required for the Court to conduct an inquiry into the fairness of
28

1 the Settlement as set forth in this Agreement, to conduct a Final Fairness and Approval Hearing, and
2 to enter a Final Order in this Action.

3 t. "Motion for Preliminary Approval" means Plaintiffs' submission of a written motion,
4 including any evidence as may be required for the Court to grant preliminary approval of the
5 Settlement as required by Rule 3.769 of the California Rules of Court.

6 u. "Named Plaintiff" means Sharon Kay Provost.

7 v. "Net Settlement Amount" means the Gross Settlement Amount less Court-approved
8 administration costs, Class Counsels' attorney's fees and costs, Incentive Awards, and LWDA
9 Payment, pursuant to Section 3.06(a)-(f) below.

10 w. "Non-Participating Class Member(s)" means any Class Member(s) who submit to the
11 Settlement Administrator a valid and timely written request to be excluded from the Class pursuant
12 to Section 3.04(b) below.

13 x. "Notice Packet" means the Notice of Proposed Class Action Settlement in a form
14 substantially similar to the Notice Packet attached hereto as **Exhibit A**, subject to Court approval.

15 y. "PAGA" means the California Private Attorneys General Act of 2004, which is
16 codified in California Labor Code §§ 2698 *et seq.*

17 z. "PAGA Settlement Amount" means the portion of the Gross Settlement Amount
18 allocated to the resolution of PAGA Group Members' claims arising under PAGA. The Parties have
19 agreed that the PAGA Settlement Amount is Ten Thousand Dollars and Zero Cents (\$10,000.00),
20 subject to Court approval. Of the PAGA Settlement Amount, 75% will be considered the LWDA
21 Payment (or \$7,500.00), and the remaining 25% (or \$2,500.00) will be added to the Net Settlement
22 Amount and distributed to PAGA Group Members.

23 aa. "PAGA Group Members" means all Class Members employed by Defendants at any
24 time between August 29, 2021 through July 13, 2023 ("PAGA Period").

25 bb. "Participating Class Member(s)" is defined as a Class Member who does not timely
26 exclude himself or herself from the Settlement and will therefore receive his or her share of the Net
27 Settlement Amount automatically without the need to return a claim form. Each Participating Class
28 Member will be paid his/her Individual Settlement Payment.

1 cc. "Preliminary Approval Date" means the date the Court preliminarily approves the
2 Settlement embodied in this Agreement.

3 dd. "Qualified Settlement Fund" or "QSF" means a fund within the meaning of Treasury
4 Regulation § 1.468B-1, 26 CFR § 1.468B-1 *et seq.*, that is established by the Settlement
5 Administrator for the benefit of Participating Class Members.

6 ee. "Qualifying Workweeks" means the number of weeks that Class Members worked
7 for Defendants as non-exempt employees during the Class Period.

8 ff. "Released Parties" means Defendants and each of their former and present parents,
9 subsidiaries, affiliates, and other officers, directors, owners, employees, partners, agents, and any
10 other successors, assigns, or legal representatives.

11 gg. "Response Deadline" means the deadline by which Class Members must postmark or
12 fax to the Settlement Administrator requests for exclusion or written notices of objection. The
13 Response Deadline will be sixty (60) calendar days after the initial mailing of the Notice Packet by
14 the Settlement Administrator, unless the sixtieth (60th) calendar day falls on a Sunday or federal
15 holiday, in which case the Response Deadline will be extended to the next day on which the U.S.
16 Postal Service is open. The Response Deadline will be extended as set forth herein if there is a re-
17 mailing.

18 hh. "Settlement Administration Costs" means all costs incurred by the Settlement
19 Administrator in administration of the Settlement, including, but not limited to, mailing of notice to
20 the class, calculation of Individual Settlement Payments, generation of Individual Settlement
21 Payment checks and related tax reporting forms, administration of unclaimed checks, and generation
22 of checks to Class Counsel for attorneys' fees and costs, to Named Plaintiff for their Incentive
23 Awards, and to the LWDA. The Settlement Administration Costs shall be paid from the Gross
24 Settlement Amount.

25 ii. "Settlement Administrator" means ILYM Group Class Action Settlement
26 Administrators which the Parties have agreed will be responsible for the administration of the
27 Individual Settlement Payments to be made by Defendants from the Gross Settlement Amount and
28 related matters under this Agreement.

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ARTICLE II

CONTINGENT NATURE OF THE AGREEMENT

Section 2.01: Stipulation of Class Certification for Settlement Purposes

Because the Parties have stipulated to the certification of the Class with respect to all causes of action alleged in the Action for settlement purposes only, this Agreement requires preliminary and final approval by the Court. Accordingly, the Parties enter into this Agreement on a conditional basis. This Agreement is contingent upon the approval and certification by the Court. If the Date of Finality does not occur, the fact that the Parties were willing to stipulate for the purposes of this Agreement to a Class shall have no bearing on, nor be admissible in connection with, the issue of certification of the Class with respect to all causes of action alleged in the Action. Defendants do not consent to certification of the Class for any purpose other than to effectuate settlement of the Action. If the Date of Finality does not occur, or if Disposition of this Action is not effectuated, any certification of the Class as to Defendants will be vacated and Named Plaintiff, Defendants, and the Class will be returned to their positions with respect to the Action as if the Agreement had not been entered into. In the event that the Date of Finality does not occur: (a) any Court orders preliminarily or finally approving certification of any class contemplated by this Agreement shall be null, void, and vacated, and shall not be used or cited thereafter by any person or entity; and (b) the fact of the settlement reflected in this Agreement, the fact that Defendants did not oppose the certification of a Class under this Agreement, or that the Court preliminarily approved the certification of the Class, shall not be used or cited thereafter by any person or entity, including in any manner whatsoever, including without limitation any contested proceeding relating to the certification of any class. If the Date of Finality does not occur, this Agreement shall be deemed null and void, shall be of no force or effect whatsoever, and shall not be referred to or used for any purpose whatsoever. Defendants expressly reserve the right to challenge the propriety of class certification in the Action for any purpose, if the Date of Finality does not occur.

The Parties and their respective counsel shall take all steps that may be requested by the Court relating to the approval and implementation of this Agreement and shall otherwise use their respective best efforts to obtain Court approval and implement this Agreement. If the Court does not

1 grant the Motion for Preliminary Approval and/or the Motion for Final Approval, the Parties agree
2 to meet and confer to address the Court's concerns. If the Parties are unable to agree upon a
3 resolution, the Parties agree to seek the assistance of mediator Gig Kyriacou to resolve the dispute.

4 **ARTICLE III**

5 **PROCEDURE FOR APPROVAL AND IMPLEMENTATION OF THE SETTLEMENT**

6 The procedure for obtaining Court approval of and implementing this Agreement shall be as
7 follows:

8 **Section 3.01: Motion for Conditional Class Certification and Preliminary Approval**

9 Named Plaintiff will bring a motion before the Court for an order conditionally certifying the
10 Class to include all claims pled in the Action based on the preliminary approval of this Agreement.
11 The date that the Court grants preliminary approval of this Agreement will be the "Preliminary
12 Approval Date."

13 **Section 3.02: The Settlement Administrator**

14 The Parties have chosen ILYM Group Class Action Settlement Administrators to administer
15 this Settlement and to act as the Settlement Administrator, including but not limited to distributing
16 and responding to inquiries about the Notice Packet, determining the validity of exclusions/opt-outs,
17 calculating the Net Settlement Amount and the Individual Settlement Payments, issuing the
18 Individual Settlement Payment checks and distributing them to Participating Class Members,
19 establishing and maintaining the QSF, and issuing the payment to Class Counsel for attorneys' fees
20 and costs, the Incentive Award checks to Named Plaintiff, and the employer payroll taxes to the
21 appropriate taxing authorities. The Settlement Administrator shall expressly agree to all of the terms
22 and conditions of this Agreement.

23 All costs of administering the Settlement, including but not limited to all costs and fees
24 associated with preparing, issuing and mailing any and all notices to Class Members and/or
25 Participating Class Members, all costs and fees associated with computing, processing, reviewing,
26 and mailing the Individual Settlement Payments, all costs and fees associated with preparing any tax
27 returns and any other filings required by any governmental taxing authority or agency, all costs and
28 fees associated with preparing any other checks, notices, reports, or filings to be prepared in the

1 course of administering disbursements from the Net Settlement Amount, and any other costs and fees
2 incurred and/or charged by the Settlement Administrator in connection with the execution of its
3 duties under this Agreement ("Settlement Administration Costs"), shall be paid to the Settlement
4 Administrator from the Gross Settlement Amount.

5 **Section 3.03: Notice to Class Members**

6 No later than fifteen (15) days after the Preliminary Approval Date, Defendants will provide
7 the Settlement Administrator with a "Class List" in electronic format based on its business records,
8 identifying the names of the Class Members, their last known home addresses, Social Security
9 numbers or, as applicable, other taxpayer identification number, their dates of employment and weeks
10 worked during the Class Period.

11 Within ten (10) business days of receiving a Class List from Defendants, the Settlement
12 Administrator will send Class Members, by first-class mail, at their last known address, the Court
13 approved Notice Packet, including notice of this Settlement and of the opportunity to opt out of the
14 Settlement Class. The Notice Packet will include a calculation of the Class Member's approximate
15 share of the Net Settlement Amount. Class Members will have sixty (60) days from the date of
16 mailing in which to postmark or fax objections or requests for exclusion. Prior to the initial mailing,
17 the Settlement Administrator will check all Class Member addresses against the National Change of
18 Address database and shall update any addresses before mailing. The Settlement Administrator will
19 skip trace and re-mail all returned, undelivered mail within five (5) days of receiving notice that a
20 Notice Packet was undeliverable. If a Class Member's notice is re-mailed, the Class Member shall
21 have fifteen (15) calendar days from the re-mailing, or sixty (60) calendar days from the date of the
22 initial mailing, whichever is later, in which to postmark or fax objections or requests for exclusion.
23 Class Members shall not be required to submit claim forms in order to receive a proportional share
24 of the Net Settlement Amount.

25 If the Notice Packet is returned with a forwarding address, the Settlement Administrator shall
26 re-mail the Notice Packet to the forwarding address. With respect to those Class Members whose
27 Notice Packet is returned to the Settlement Administrator as undeliverable, the Settlement
28 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or

1 mass search on LexisNexis or comparable databases based on set criteria and, if another address is
2 identified, shall mail the Notice Packet to the newly identified address. It is the intent of the parties
3 that reasonable means be used to locate Class Members and that the Settlement Administrator be
4 given discretion to take steps in order to facilitate notice of the Settlement and delivery of the
5 Individual Settlement Payments to all Participating Class Members.

6 If the Notice Packet is re-mailed, the Settlement Administrator will note for its own records
7 and notify Class Counsel and Defense Counsel of the date of each such re-mailing as part of a weekly
8 status report provided to the Parties.

9 In the event a Class Member's Notice Packet remains undeliverable sixty (60) calendar days
10 after the Notice Packet was initially mailed, the Settlement Administrator will not mail the Class
11 Member's Individual Settlement Payment. The Settlement Administrator will hold the Class
12 Member's Individual Settlement Payment during the check cashing period on behalf of the Class
13 Member. If at the conclusion of the check cashing period the Class Member's Notice Packet and
14 Individual Settlement Payment remain undeliverable and/or unclaimed and uncashed, the Settlement
15 Administrator will distribute the funds from unclaimed/uncashed checks in accordance with the
16 procedures set forth in Section 3.06(g) below.

17 No later than twenty (20) court days prior to the Final Fairness and Approval Hearing, the
18 Settlement Administrator shall provide Defense Counsel and Class Counsel with a declaration
19 attesting to completion of the notice process, including any attempts to obtain valid mailing addresses
20 for and re-sending of any returned Notice Packets, as well as the number of valid requests for
21 exclusion and objections that the Settlement Administrator received.

22 **Section 3.04: Responses to Notice**

23 **a. Class Member Disputes**

24 If any Class Member disagrees with Defendant's records as to his or her Qualifying
25 Workweeks during the Class Period as reflected in the Notice Packet, the Class Member shall set
26 forth in writing the Qualifying Workweeks he/she claims to have worked during the Class Period
27 and submit such writing to the Settlement Administrator by the Response Deadline, along with any
28 supporting documentation. The Notice will also provide a method for the Class Member to challenge

1 the employment data on which his or her Individual Settlement Payment is based. The Settlement
2 Administrator shall contact the Parties regarding the dispute and the Parties will work in good faith
3 to resolve it. If the Parties are unable to resolve the dispute, the Settlement Administrator will be the
4 final arbiter of the Qualifying Workweeks for each Class Member during the Class Period based on
5 the information provided to it.

6 **b. Requests for Exclusion from Class**

7 In order for any Class Member to validly exclude himself or herself from the Class and this
8 Settlement (*i.e.*, to validly opt out), a written request for exclusion must be signed by the Class
9 Member or his or her authorized representative, and must be sent to the Settlement Administrator,
10 postmarked or faxed no later than the Response Deadline (or fifteen (15) days after the Settlement
11 Administrator re-mails the Notice to the Class Member, whichever is later). The Notice Packet shall
12 contain instructions on how to validly exclude himself or herself from the Class and this Settlement
13 (*i.e.*, opt out), including the language to be used in a request for exclusion. The date of the initial
14 mailing of the Notice Packet, and the date the signed request for exclusion was postmarked or faxed,
15 shall be conclusively determined according to the records of the Settlement Administrator. Any Class
16 Member who timely and validly requests exclusion from the Class and this Settlement will not be
17 entitled to any Individual Settlement Payment, will not be bound by the terms and conditions of this
18 Agreement, and will not have any right to object, appeal, or comment thereon.

19 Any Class Member who fails to timely submit a request for exclusion shall automatically be
20 deemed a Class Member whose rights and claims with respect to the issues raised in the Action are
21 determined by the Court's Final Order Approving Settlement of Class Action, and by the other
22 rulings in the Action. Thus, said Class Member's rights to pursue any claims covered by the Action
23 and/or released in this Agreement will be extinguished.

24 **c. Objections to Settlement**

25 For any Class Member to object to this Agreement, or any term of it, the person making the
26 objection must not submit a request for exclusion (*i.e.*, must not opt out), and should send to the
27 Settlement Administrator, postmarked or faxed no later than the Response Deadline (or fifteen (15)
28 days after the Settlement Administrator re-mails the Notice to the Class Member, whichever is later),

1 a written statement of the grounds of objection, signed by the objecting Class Member or his or her
2 attorney, along with all supporting papers. The date of the initial mailing of the Notice Packet, and
3 the date the signed objection was postmarked or faxed, shall be conclusively determined according
4 to the records of the Settlement Administrator. The Settlement Administrator shall send any
5 objections it receives to Defense Counsel and Class Counsel within three (3) business days of receipt.
6 Class Members may also appear at the final approval hearing to object. The Court retains final
7 authority with respect to the consideration and admissibility of any Class Member objections.

8 **d. Encouragement of Class Members**

9 The Parties to this Agreement and the counsel representing such Parties shall not, directly or
10 indirectly, through any person, encourage or solicit any Class Member to exclude him or herself from
11 this Settlement (opt out), or to object to it. However, Class Counsel may respond to inquiries from
12 Class Members.

13 **e. Right of Plaintiff to Adjust Gross Settlement Amount**

14 Defendants have represented that the number of class members are 305, with 8,844
15 workweeks. If the number of Class Members or workweeks increases by more than 10% (which is
16 more than 335 class members, or 9,728 workweeks) as of the end of the Class Period, there will be
17 a pro rata adjustment to the Gross Settlement Amount.

18 **Section 3.05: Final Fairness and Approval Hearing**

19 On the date set forth in the Order for Preliminary Approval and Notice Packet, a Final
20 Fairness and Approval Hearing shall be held before the Court in order to (1) review this Agreement
21 and determine whether the Court should give it final approval, and (2) consider any objections made
22 and all responses by the Parties to such objections. At the Final Fairness and Approval Hearing, the
23 Parties shall ask the Court to grant final approval to this Agreement and shall submit to the Court a
24 Proposed Final Order Approving Settlement of Class Action.

25 **Section 3.06: Settlement Payment Procedures**

26 **a. Settlement Amount**

27 In exchange for the Released Claims set forth in this Agreement, Defendants agree to pay the
28 Gross Settlement Amount in the amount of One Hundred Thirty-Two Thousand, Six Hundred Sixty-

1 Eight and Zero Cents (\$132,668.00), subject to a pro rata increase under the condition set forth in
2 Section 3.04(e). The Gross Settlement Amount includes all Individual Settlement Amounts to
3 Participating Class Members, all administration costs, Class Counsel's attorney's fees and costs,
4 PAGA Settlement Amount, and the Incentive Payments.

5 Within sixty (60) calendar days after the Court signs the Final Order, Defendants shall
6 transfer the Gross Settlement Amount plus Defendant's share of employer-side payroll taxes, as set
7 forth herein, into a QSF established by the Settlement Administrator either directly or by sending the
8 funds to the Settlement Administer to be deposited and distributed. The Settlement Administrator
9 will use these funds to fund payment of the Individual Settlement Payments to Participating Class
10 Members, Class Counsel's attorneys' fees and costs, the Incentive Awards, the LWDA Payment, and
11 the Settlement Administration Costs.

12 Within ten (10) calendar days after receiving Defendants' final payment, funding the Gross
13 Settlement Amount in full, the Settlement Administrator will pay the Individual Settlement Payments
14 to Participating Class Members, Class Counsel's attorneys' fees and costs, LWDA Payment, the
15 Incentive Awards, and employer and employee tax withholdings applicable to the Net Settlement
16 Amount allocated to wages. Prior to this distribution, the Settlement Administrator will perform a
17 search based on the National Change of Address Database to update and correct for any known or
18 identifiable address changes.

19 **b. Payment of Attorneys' Fees and Costs**

20 Class Counsel shall submit an application for an award of attorneys' fees of up to one-third
21 of the Gross Settlement Amount, which, based on the current Gross Settlement Amount, is Forty
22 Four Thousand, Two-Hundred and Twenty-Two Dollars and Sixty Seven Cents (\$44,222.67). Class
23 Counsel shall submit an application for an award of costs not to exceed Twenty-Thousand Dollars
24 and Zero Cents (\$20,000.00) Such application for attorneys' fees and costs shall be heard by the
25 Court at the Final Fairness and Approval Hearing. Defendants shall not object to or oppose any such
26 application in these amounts. Class Counsel shall serve Defendants with copies of all documents
27 submitted in support of their application for an award of attorneys' fees and costs.
28

1 Any attorneys' fees and costs awarded to Class Counsel by the Court shall be paid from the
2 Gross Settlement Amount and shall not constitute payment to any Class Member(s). The attorneys'
3 fees and costs for Class Counsel approved by the Court shall encompass all work performed, costs,
4 and expenses related to the investigation, prosecution, and settlement of the Action incurred through
5 the Date of Finality. To the extent that the Court approves less than the amount of attorney's fees
6 and/or costs that Class Counsel requests, the difference between the requested and awarded amounts
7 will be reallocated to the Net Settlement Amount.

8 **c. Payment of Settlement Administration Costs**

9 The Settlement Administration Costs shall be paid out of the Gross Settlement Amount and
10 shall not constitute payment to any Participating Class Member(s). The amount shall not exceed
11 Eight Thousand Dollars and Zero Cents (\$8,000.00)

12 **d. Payment of Incentive Award to Named Plaintiff**

13 Subject to Court approval, the Named Plaintiff shall receive an Incentive Award of up to Ten
14 Thousand Dollars and Zero Cents (\$10,000.00), the request for which Defendants will not object to
15 or oppose. The Incentive Awards shall be paid out of the Gross Settlement Amount and shall not
16 constitute payment to any Participating Class Member(s) other than Named Plaintiff. To the extent
17 that the Court approves less than the amount of incentive award that Class Counsel request, the
18 difference between the requested and awarded amounts will be reallocated to the Net Settlement
19 Amount.

20 Because it is the intent of the Parties that the Incentive Awards represent payment to Named
21 Plaintiff for their service to the Class Members, and not wages, the Settlement Administrator will not
22 withhold any taxes from the Incentive Awards. The Incentive Awards will be reported on a Form
23 1099, which the Settlement Administrator will provide to Named Plaintiff and to the pertinent taxing
24 authorities as required by law.

25 **e. Payment to the Labor and Workforce Development Agency**

26 In consideration of claims made under PAGA, Class Counsel will request that the Court
27 approve allocation of Ten Thousand Dollars and Zero Cents (\$10,000.00) of the Gross Settlement
28 Amount to these claims. Seventy-five percent (75%) of this payment will be paid to the California

1 Labor and Workforce Development Agency ("LWDA Payment"), and twenty-five percent (25%)
2 will be paid to the Net Settlement Amount for distribution to PAGA Group Members. Defendants
3 will not oppose this request. The entire PAGA Settlement Amount will be paid out of the Gross
4 Settlement Amount. The Court's adjustment, if any, of the amount allocated to Named Plaintiffs'
5 PAGA claim in the Action, will not invalidate this Agreement.

6 **f. Payment of Individual Settlement Payments to Participating Class Members**

7 The Parties agree that the Net Settlement Amount shall be used to fund Individual Settlement
8 Payments. The Parties agree that the Net Settlement Amount shall be divided between all
9 Participating Class Members in proportion to the number of individual Qualifying Workweeks for
10 each Class Member. To calculate the minimum amount each Class Member will receive based on
11 their individual Qualifying Workweeks, the Net Settlement Amount will be divided by the total
12 number of Qualifying Workweeks by all Class Members during the Class Period and then allocated
13 on a pro rata basis. Qualifying Workweeks will be rounded up to the next whole integer. Each Class
14 Member's approximate Individual Settlement Payment amount will be included in his or her Notice
15 Packet. After final approval by the Court, the Net Settlement Amount will be dispersed to
16 Participating Class Members (those who did not exclude themselves) on a pro rata basis based on the
17 individual Qualifying Workweeks worked during the Class Period by each Participating Class
18 Member.

19 Each Individual Settlement Payment will represent wages and penalties allocated using the
20 following formula: 20% allocated to wages; 80% allocated to penalties and interest. The amounts
21 paid as wages shall be subject to all tax withholdings customarily made from an employee's wages
22 and all other authorized and required withholdings and shall be reported by W-2 forms. The
23 employer-side taxes will be paid separate from and in addition to the Gross Settlement Amount. The
24 amounts paid as penalties and interest shall be subject to all authorized and required withholdings
25 other than the tax withholdings customarily made from employees' wages and shall be reported by
26 IRS 1099 forms.

27 No later than ten (10) business days after receiving the Gross Settlement Amount from
28 Defendants, the Settlement Administrator shall prepare and mail the checks for the Individual

1 Settlement Payments to Participating Class Members. Individual Settlement Payments paid from the
2 Net Settlement Amount allocated to wages will be reduced by applicable employer and employee
3 tax withholdings, and the Settlement Administrator will issue a Form W-2 for the wage portion of
4 the Individual Settlement Payments. The Settlement Administrator will issue a Form 1099 to the
5 extent required by law for the interest and penalty portions of the Individual Settlement Payments.
6 Participating Class Members shall have 180 days from the date their Individual Settlement Payment
7 checks are dated to cash their Settlement checks. Any checks that are not cashed upon the expiration
8 of that 180-day time period will be void, and the uncashed funds shall be paid to the State Controller
9 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

10 If a check is returned to the Settlement Administrator as undeliverable, the Settlement
11 Administrator shall promptly attempt to obtain a valid mailing address by performing a skip trace or
12 a mass search on LexisNexis or a comparable databases based on set criteria and, if another address
13 is identified, the Settlement Administrator shall mail the check to the newly identified address. If the
14 Settlement Administrator is unable to obtain a valid mailing address through this process, the
15 Settlement Administrator will tender the funds from the undeliverable checks to the State Controller
16 Unclaimed Property Fund in the name of the Class Member for whom the funds are designated.

17 **g. Default on Payment.**

18 Defendant's failure to fund the Gross Settlement Amount within sixty (60) calendar days after
19 the date that the Court grants final approval of the Settlement shall be considered a default. In the
20 event Defendants fails to timely fund the Gross Settlement Amount, the Settlement Administrator
21 will provide notice to Class Counsel and Defendant's counsel within three (3) business days of the
22 missed payment. Thereafter, Defendants will have seven (7) days to cure the default and tender
23 payment to the Settlement Administrator. In the event Defendants fails to cure the default within the
24 times set forth herein, Named Plaintiff may elect to enter judgment against Defendants, on an ex
25 parte basis, for the balance of the unpaid Gross Settlement Amount to date, and Named Plaintiff will
26 be entitled to recover interest at ten percent (10%) per year from the due date for such payment and
27 reasonable attorneys' fees and costs.

28

1 **h. No Credit Toward Benefit Plans.**

2 The Individual Settlement Payments made to Participating Class Members under this
3 Agreement, as well as any other payments made pursuant to this Agreement, will not be utilized to
4 calculate any additional benefits under any benefit plans to which any Class Members may be
5 eligible, including, but not limited to: profit-sharing plans, bonus plans, 401(k) plans, stock purchase
6 plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties'
7 intention that this Agreement will not affect any rights, contributions, or amounts to which any Class
8 Members may be entitled under any benefit plans.

9 **ARTICLE IV**

10 **LIMITATIONS ON USE OF THIS SETTLEMENT**

11 **Section 4.01: No Admission**

12 Defendants dispute the allegations in the Action and dispute that, but for this Settlement, a
13 Class should not have been certified in the Action. This Agreement is entered into solely for the
14 purpose of settling highly disputed claims. Nothing in this Agreement is intended nor will be
15 construed as an admission of liability or wrongdoing by Defendants.

16 **Section 4.02: Non-Evidentiary Use**

17 Whether or not the Date of Finality occurs, neither this Agreement, nor any of its terms, nor
18 the Settlement itself, will be: (a) construed as, offered, or admitted in evidence as, received as, or
19 deemed to be evidence for any purpose adverse to Defendants or any other of the Released Parties,
20 including but not limited to, evidence of a presumption, concession, indication, or admission by any
21 of the Released Parties of any liability, fault, wrongdoing, omission, concession, or damage, or
22 (b) disclosed, referred to, or offered in evidence against any of the Released Parties in any further
23 proceeding in the Action, except for the purposes of effectuating the Settlement pursuant to this
24 Agreement or for Defendants to establish that a Class Member has resolved any of his or her claims
25 released through this Agreement.

26 **Section 4.03: Nullification**

27 The Parties have agreed to the certification of the Class encompassing all claims alleged in
28 the Action for the sole purpose of effectuating this Agreement. If (a) the Court should for any reason

1 fail to certify this Class for settlement, or (b) the Court should for any reason fail to approve this
2 Settlement, or (c) the Court should for any reason fail to enter the Final Order, or (d) the Final Order
3 is reversed, or declared or rendered void, or (e) the Court should for any reason fail to dispose of the
4 Action in its entirety, then (i) this Agreement shall be considered null and void; (ii) neither this
5 Agreement nor any of the related negotiations or proceedings shall be of any force or effect; (iii) all
6 Parties to this Agreement shall stand in the same position, without prejudice, as if the Agreement had
7 been neither entered into nor filed with the Court; and (iv) the fact that the Parties were willing to
8 stipulate to class certification of all causes of action pled in the Action as part of the Settlement will
9 have no bearing on, and will not be admissible in connection with, the issue of whether the Class
10 should be certified by the Court in a non-settlement context in this Action or any other action, and in
11 any of those events, Defendants expressly reserves the right to oppose certification of the Class.

12 In the event of a timely appeal from the Final Order, the Final Order shall be stayed and the
13 Gross Settlement Amount shall not be distributed pending the completion of the appeal.

14 **ARTICLE V**

15 **RELEASES**

16 **Section 5.01: Released Claims by Class Members**

17 Upon the date Defendants transfer the Gross Settlement Amount, all Participating Class
18 Members, on behalf of themselves and their respective former and present representatives, agents,
19 attorneys, heirs, administrators, successors, and assigns, release Released Parties from all claims that
20 were alleged in the Operative Complaint that arose during the Class Period including with respect to
21 the following claims: (a) failure to pay all overtime wages owed; (b) failure to pay minimum wages
22 owed; (c) failure to provide meal periods, or premium pay for non-compliant meal periods; (d) failure
23 to authorize and permit rest periods, or premium pay for non-compliant rest periods; (e) failure to
24 issue accurate, itemized wage statements and maintain payroll records; (f) failure to pay all wages
25 due upon separation of employment; (g) all claims under California Business & Professions Code §
26 17200 for unfair business practices that could have been premised on the facts, claims, causes of
27 action or legal theories described above; (h) violation of or claims under the following sections of
28 the California Labor Code sections 201, 202, 203, 204, 206, 218.6, 226, 226.3, 226.7, 510, 512, 1174,

1 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and (i) violation of the California Industrial Wage Orders
2 that could have been premised on the facts, claims, causes of action or legal theories described above,
3 as well as any potential penalties, interest or attorneys' fees associated with all of such causes of
4 action under California law. ("Released Class Claims").

5 **Section 5.02: Released Claims by PAGA Group Members**

6 Upon the date of funding the GSA, the State of California and all PAGA Group Members,
7 regardless of whether they opt out of the Class Settlement, are deemed to release, on behalf of
8 themselves and their respective former and present representatives, agents, attorneys, heirs,
9 administrators, successors, and assigns, the Released Parties from all claims, demands, rights,
10 liabilities and causes of action under the California Labor Code Private Attorneys General Act that
11 were alleged, or reasonably could have been alleged, based on the claims asserted in the Operative
12 Complaint, the PAGA Notice and ascertained in the course of the Action, arising during or with
13 respect to the PAGA Period. ("Released PAGA Claims"). The foregoing release shall be binding on
14 Plaintiff, the PAGA Group Members, and the State of California, and shall bar by res judicata any
15 claim under the PAGA brought by any person, including the PAGA Group Members, on behalf of
16 the State of California, as to any claims predicated on the Released PAGA Claims.

17 **Section 5.03: Named Plaintiff's Release of Unknown Claims**

18 Upon the date of funding the GSA, Named Plaintiff, waives, releases, acquits, and forever
19 discharges the Released Parties from any and all claims, actions, charges, complaints, grievances,
20 and causes of action, of any nature arising from Named Plaintiff's employment with Defendants,
21 whether known or unknown, which exist or may exist as of the Parties' execution of this Agreement.

22 Section 1542 of the California Civil Code provides as follows:

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

27 Plaintiff's general release provided herein is made with an express waiver and relinquishment
28 of any claim, right, or benefit under California Civil Code § 1542.

1 **ARTICLE VI**

2 **MISCELLANEOUS PROVISIONS**

3 **Section 6.01: Amendments or Modification**

4 The terms and provisions of this Agreement may be amended or modified only by an express
5 written agreement that is signed by all the Parties (or their successors-in-interest) and their counsel,
6 and approved by the Court.

7 **Section 6.02: Assignment**

8 None of the rights, commitments, or obligations recognized under this Agreement may be
9 assigned by any Party, Class Member, Class Counsel, or Defense Counsel without the express written
10 consent of each other Party and their respective counsel. The representations, warranties, covenants,
11 and agreements contained in this Agreement are for the sole benefit of the Parties under this
12 Agreement and shall not be construed to confer any right or to avail any remedy to any other person.

13 **Section 6.03: Governing Law**

14 This Agreement shall be governed, construed, and interpreted, and the rights of the Parties
15 shall be determined, in accordance with the laws of the State of California, without regard to conflicts
16 of laws.

17 **Section 6.04: Entire Agreement**

18 This Agreement, including the Exhibits referred to herein, which form an integral part hereof,
19 contains the entire understanding of the Parties with respect to the subject matter contained herein.
20 In case of any conflict between text contained in Articles I through VI of this Agreement and text
21 contained in the Exhibits to this Agreement, the former (*i.e.*, Articles I through VI) shall be
22 controlling, unless the Exhibits are changed by or in response to a Court order. There are no
23 restrictions, promises, representations, warranties, covenants, or undertakings governing the subject
24 matter of this Agreement other than those expressly set forth or referred to herein. This Agreement
25 supersedes all prior agreements and understandings among the Parties with respect to the settlement
26 of the Action, including correspondence between Class Counsel and Defense Counsel and drafts of
27 prior agreements or proposals.
28

1 **Section 6.05: Waiver of Compliance**

2 Any failure of any Party, Defense Counsel, or Class Counsel hereto to comply with any
3 obligation, covenant, agreement, or condition set forth in this Agreement may be expressly waived
4 in writing, to the extent permitted under applicable law, by the Party or Parties and their respective
5 counsel entitled to the benefit of such obligation, covenant, agreement, or condition. A waiver or
6 failure to insist upon strict compliance with any representation, warranty, covenant, agreement, or
7 condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure.

8 **Section 6.06: Counterparts and Fax/PDF Signatures**

9 This Agreement, and any amendments hereto, may be executed in any number of counterparts
10 and any Party and/or their respective counsel may execute any such counterpart, each of which when
11 executed and delivered shall be deemed to be an original. All counterparts taken together shall
12 constitute one instrument. A fax or PDF signature on this Agreement shall be as valid as an original
13 signature.

14 **Section 6.07: Meet and Confer Regarding Disputes**

15 Should any dispute arise among the Parties or their respective counsel regarding the
16 implementation or interpretation of this Agreement, a representative of Class Counsel and a
17 representative of Defense Counsel shall meet and confer in an attempt to resolve such disputes prior
18 to submitting such disputes to the Court.

19 **Section 6.08: Agreement Binding on Successors**

20 This Agreement will be binding upon, and inure to the benefit of, the successors in interest
21 of each of the Parties.

22 **Section 6.09: Cooperation in Drafting**

23 The Parties have cooperated in the negotiation and preparation of this Agreement. This
24 Agreement will not be construed against any Party on the basis that the Party, or the Party's counsel,
25 was the drafter or participated in the drafting of this Agreement.

26 **Section 6.10: Fair and Reasonable Settlement**

27 The Parties believe that this Agreement reflects a fair, reasonable, and adequate settlement of
28 the Action and have arrived at this Agreement through arm's-length negotiation and in the context

1 of adversarial litigation, taking into account all relevant factors, current and potential. The Parties
2 further believe that the Settlement is and is consistent with public policy, and fully complies with
3 applicable law.

4 **Section 6.11: Headings**

5 The descriptive heading of any section or paragraph of this Agreement is inserted for
6 convenience of reference only and does not constitute a part of this Agreement and shall not be
7 considered in interpreting this Agreement.

8 **Section 6.12: Notice**

9 Except as otherwise expressly provided in the Agreement, all notices, demands, and other
10 communications under this Agreement must be in writing and addressed as follows:

11 *To Named Plaintiff and the Class:*

12 Kashif Haque
13 Samuel A. Wong
14 Jessica L. Campbell
15 Daniel E. Ishu
16 AEGIS LAW FIRM, PC
17 9811 Irvine Center Drive, Suite 100
18 Irvine, California 92618
19 Telephone: (949) 379-6250
20 Facsimile: (949) 379-6251

21 And

22 *To Defendants:*

23 Alfred Landegger
24 Arthur Connors
25 LANDEGGER VERANO & DAVIS, ALC
26 15760 Ventura Blvd, Ste 1200
27 Encino, CA 91436
28 P: (818) 986-7561
F: (818) 986-5147
Attorneys for Defendants:
NEG282, LLC and ORTEGA NATIONAL PARKS LLC

29 **Section 6.13: Enforcement of Settlement and Continuing Court Jurisdiction**

30 To the extent consistent with class action procedure, this Agreement shall be enforceable by
31 the Court pursuant to California Code of Civil Procedure section 664.6 and California Rule of Court
32 3.769(h). The Final Order entered by the Court will not adjudicate the merits of the Action or the

1 liability of the Parties resulting from the allegations of the Action. Its sole purpose is to adopt the
2 terms of the Settlement and to retain jurisdiction over its enforcement. To that end, the Court shall
3 retain continuing jurisdiction over this Action and over all Parties and Class Members, to the fullest
4 extent to enforce and effectuate the terms and intent of this Agreement. In the event that one or more
5 of the Parties institutes any legal action or other proceeding against any other Party or Parties to
6 enforce the provisions of this Settlement, the successful Party or Parties will be entitled to recover
7 from the unsuccessful Party or Parties reasonable attorneys' fees and costs, including expert witness
8 fees incurred in connection with any enforcement actions.

9 **Section 6.14: Mutual Full Cooperation**

10 The Parties agree fully to cooperate with each other to accomplish the terms of this
11 Agreement, including but not limited to the execution of such documents, and the taking of such
12 other action, as may reasonably be necessary to implement the terms of this Agreement. The Parties
13 to this Agreement shall use their best efforts, to effectuate and implement this Agreement and its
14 terms. In the event the Parties are unable to reach agreement on the form or content of any document
15 needed to implement the Settlement, or on any supplemental provisions that may become necessary
16 to effectuate the terms of the Settlement, the Parties agree to seek the assistance of the Court.

17 **Section 6.15: Authorization to Act**

18 Class Counsel warrants and represents that they are authorized by Named Plaintiff, and
19 Defense Counsel warrants that they are authorized by Defendants, to take all appropriate action
20 required to effectuate the terms of this Agreement, except for signing documents, including but not
21 limited to this Agreement, that are required to be signed by the Parties themselves. Defendants
22 represents and warrants that the individual executing this Agreement on its behalf has the full right,
23 power, and authority to enter into this Agreement and to carry out the transactions contemplated
24 herein.

25 **Section 6.16: No Reliance on Representations**

26 The Parties have made such investigation of the facts and the law pertaining to the matters
27 described herein and to this Agreement as they deem necessary, and have not relied, and do not rely,
28 on any statement, promise, or representation of fact or law, made by any of the other parties, or any

1 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
2 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect
3 to any other matters. No representations, warranties, or inducements, except as expressly set forth
4 herein, have been made to any party concerning this Agreement.

5 **EXECUTION BY PARTIES AND COUNSEL**

6 The Parties and their counsel hereby execute this Agreement.

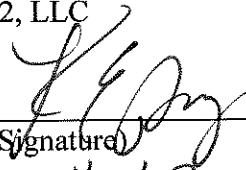
7 Dated: _____

SHARON KAY PROVOST

8
9 By: _____
Named Plaintiff

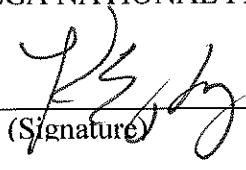
10
11 Dated: 9/26/2023

NEG282, LLC

12
13 By: 
14 (Signature)
15 KIRK PAYNE
16 (Printed Name)
17 CEO
(Title)

18 Dated: 9/26/2023

ORTEGA NATIONAL PARKS, LLC

19
20 By: 
21 (Signature)
22 KIRK PAYNE
(Printed Name)
23 CEO
(Title)
24
25
26
27
28

1 **APPROVED AS TO FORM ONLY:**

2

3

4 Dated: September 15, 2023

AEGIS LAW FIRM, PC

5

6

By: _____

7

Jessica L. Campbell

8

Daniel E. Ishu

9

Attorneys for Named Plaintiff Sharon Kay
Provost

10

11 Dated: September 15, 2023

LANDEGGER VERANO & DAVIS, ALC

12

By: Arthur Connors

13

Arthur Connors

14

Attorneys for Defendant NEG282, LLC and
ORTEGA NATIONAL PARKS LLC

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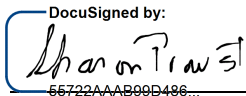
1 of their agents, employees, attorneys, or representatives, with regard to any of their rights or asserted
2 rights, or with regard to the advisability of entering into and executing this Agreement, or with respect
3 to any other matters. No representations, warranties, or inducements, except as expressly set forth
4 herein, have been made to any party concerning this Agreement.

5 **EXECUTION BY PARTIES AND COUNSEL**

6 The Parties and their counsel hereby execute this Agreement.

7 Dated: 8/09/23 _____

SHARON KAY PROVOST

8 Bv:  _____
9 Named Plaintiff

11 Dated: _____

NEG2:

12 X
13 Bv: _____

14 _____
15 (Printed Name)

16 _____
17 (Title)

18 Dated: _____
19

ORTEGA NATIONAL PARKS, LLC

20 By: _____
21 (Signature)

22 _____
23 (Printed Name)

24 _____
25 (Title)

1 **APPROVED AS TO FORM ONLY:**

2
3 Dated: September 8, 2023

AEGIS LAW FIRM, PC

4
5
6 By: 

Jessica L. Campbell

Daniel E. Ishu

7
8 Attorneys for Named Plaintiff Sharon Kay
Provost

9
10 Dated: _____

LANDEGGER VERANO & DAVIS, ALC

11 By: _____

Arthur Connors

12
13 Attorneys for Defendant NEG282, LLC and
14 ORTEGA NATIONAL PARKS LLC
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