

1 **PAGA SETTLEMENT AGREEMENT**

2 This PAGA Settlement Agreement ("Agreement") is made by and between Plaintiff Mina  
3 Lally ("Plaintiff") and Defendant Pacifica Companies, LLC and Prospect Hospitality, LP (dba La  
4 Valencia Hotel) ("Defendants"). The Agreement refers to Plaintiff and Defendants collectively as  
5 "Parties," or individually as "Party."

6 **1. DEFINITIONS.**

7 1.1. "Action" means the Plaintiff's currently pending PAGA lawsuit alleging wage and  
8 hour violations against Defendants captioned *MINA LALLY, an Individual, Plaintiff v.*  
9 *PACIFICA COMPANIES, LLC; PROSPECT HOSPITALITY, LP and DOES 1*  
10 *through 20, Defendants*, San Diego Superior Court Case No. 37-2023-00020893-CU-  
11 OE-CTL, initiated on May 16, 2023, as consolidated with the lead matter of *KODY*  
12 *HORNBURG, individually and on behalf of all others similarly situated, Plaintiff, v.*  
13 *PACIFICA COMPANIES LLC; PROSPECT HOSPITALITY LP, and DOES 1 through*  
14 *50, inclusive, Defendants*, San Diego Superior Court Case No. 37-2023-00002433-  
15 CU-OE-CTL initiated on January 19, 2023, and pending in Superior Court of the  
16 State of California, County of San Diego.

17 1.2. "Administrator" means Phoenix Class Action Administration Solutions, the neutral  
18 entity the Parties have agreed to appoint to administer the Settlement.

19 1.3. "Administration Expenses Payment" means the amount the Administrator will be  
20 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses  
21 in accordance with the Administrator's "not to exceed" bid submitted to the Court in  
22 connection with approval of this Settlement.

23 1.4. "Aggrieved Employee" means a person employed by Defendant Prospect Hospitality  
24 at the La Valencia Hotel and classified as a non-exempt employee who worked  
25 during the PAGA Period.

26 1.5. "Aggrieved Employee Data" means Aggrieved Employee identifying information in  
27 Defendants' possession including the Aggrieved Employee's name, last-known  
28 mailing address, Social Security number, and number of PAGA Pay Periods.

- 1 1.6. "Aggrieved Employee Address Search" means the Administrator's investigation and  
2 search for current Aggrieved Employee mailing addresses using all reasonably  
3 available sources, methods and means including, but not limited to, the National  
4 Change of Address database, skip traces, and direct contact by the Administrator with  
5 Aggrieved Employees.
- 6 1.7. "Court" means the Superior Court of California, County of San Diego.
- 7 1.8. "Defendants" means named Defendants Pacifica Companies, LLC and Prospect  
8 Hospitality, LP (dba La Valencia Hotel).
- 9 1.9. "Defense Counsel" means Robert S. Blumberg and Brooke S. Hammond of Littler  
10 Mendelson P.C.
- 11 1.10. "Effective Date" means the date by when the Court enters a Judgment on its Order  
12 Approving the PAGA Settlement.
- 13 1.11. "Gross Settlement Amount" means three hundred thirty three thousand three hundred  
14 thirty four dollars and zero cents (\$333,334.00) which is the total amount Defendants  
15 agree to pay under the Settlement except as provided in Paragraph 9 below.<sup>1</sup> The  
16 Gross Settlement Amount will be used to pay Individual PAGA Payments, PAGA  
17 Representative Plaintiff Enhancement, the LWDA PAGA Payment, PAGA Counsel  
18 Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administrator's  
19 Expenses Payment.
- 20 1.12. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25%  
21 of the PAGA Penalties calculated according to the number of Pay Periods the  
22 Aggrieved Employee worked during the PAGA Period.
- 23 1.13. "Judgment" means the judgment entered by the Court based upon the Final Approval.
- 24 1.14. "LWDA" means the California Labor and Workforce Development Agency, the  
25 agency entitled, under Labor Code section 2699, subd. (i).
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- 27

28 <sup>1</sup> The Parties have separately agreed to settle the individual arbitration claims of Plaintiffs Mina Lally and the successor in interest to Plaintiff Kody Hornburg.

- 1.15. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).
- 1.16. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: Individual PAGA Payments, PAGA Representative Plaintiff Enhancement, the LWDA PAGA Payment, PAGA Counsel Fees Payment, PAGA Counsel Litigation Expenses Payment, and the Administration Expenses Payment. The Net Settlement Amount is to be paid to Aggrieved Employees as Individual PAGA Payments.
- 1.17. "PAGA Counsel" means Geoffrey C. Chackel of Chackel Law, PC, and Nicholas J. Ferraro and Lauren N. Vega of Ferraro Vega Employment Lawyers, Inc., the attorneys representing the Plaintiff in the Action.
- 1.18. "PAGA Counsel Fees Payment" and "PAGA Counsel Litigation Expenses Payment" mean the amounts allocated to PAGA Counsel for reimbursement of reasonable attorneys' fees and expenses, respectively, incurred to prosecute the Action.
- 1.19. "PAGA Pay Period" means any Pay Period during which an Aggrieved Employee worked for Defendants on at least one day during the PAGA Period.
- 1.20. "PAGA Period" means the period from January 19, 2022 to November 10, 2024.
- 1.21. "PAGA" means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).
- 1.22. "PAGA Notice" means Plaintiff's letters to Defendants and the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a), as amended.
- 1.23. "PAGA Penalties" means the total amount of PAGA civil penalties to be paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees and the 75% to LWDA in settlement of PAGA claims.
- 1.24. PAGA Representative Plaintiff Enhancement means the additional payment awarded to Plaintiff for her service as Plaintiff in the Action, as approved by the Court.
- 1.25. "Plaintiff" means Mina Lally, the named Plaintiff in the Action.
- 1.26. "Approval Order" means the proposed Court Order Granting Approval of PAGA Settlement.

- 1.27. "Released PAGA Claims" means the claims being released by Plaintiff, PAGA Counsel, Aggrieved Employees, the LWDA and the State of California and as described in Paragraph 5 below.
- 1.28. "Released Parties" means Defendants and each of their former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns affiliates, third party service providers including management company Pacifica Hosts, Inc., and any Professional Employer Organization ("PEO") that provided service to Defendants during the PAGA Period including, without limitation, Oasis Outsourcing, LLC and its former and present directors, officers, shareholders, owners, members, attorneys, insurers, predecessors, successors, assigns, and affiliates. Released Parties are intended beneficiaries of this Agreement and are accordingly entitled to rely on and enforce this Agreement. .
- 1.29. "Settlement" means the disposition of the Action effected by this Agreement and the Judgment.

## 2. RECITALS.

- 2.1. On January 19, 2023, Plaintiff Kody Hornburg commenced an Action by filing a Complaint alleging causes of action against Defendants for: 1) failure to pay overtime wages; (2) meal period violations; (3) rest period violations; (4) failure to pay sick leave wages; (5) untimely payment of wages; (6) wage statement violations; (7) waiting time penalties; and (8) unfair competition. On March 22, 2023, Hornburg filed a First Amended Complaint adding a claim for penalties under PAGA. On May 16, 2023, Plaintiff Mina Lally filed her Complaint alleging claims arising out of her employment with Defendants.
- 2.2. On May 30, 2023, Plaintiff Hornburg died and the Court subsequently granted Lally's motion to intervene in Hornburg's Complaint. The Court also appointed Kayla Saycocie as the Guardian Ad Litem for the minor child, Julian Saycocie, who is Kody Hornburg's sole surviving heir and the lawful successor in interest to Mr. Hornburg's individual claims. Thereafter, on March 4, 2024, Lally filed a Second Amended

1 Complaint ("SAC") asserting ten causes of action on a class action basis: (1) failure  
2 to pay overtime wages; (2) failure to pay minimum wages; (3) meal period violations;  
3 (4) rest period violations; (5) failure to pay sick leave wages; (6) untimely payment of  
4 wages; (7) wage statement violations; (8) waiting time penalties; (9) unfair  
5 competition and (10) penalties under PAGA. The SAC is the operative complaint in  
6 the Action (the "Operative Complaint."). Thereafter, on April 19, 2023, the Court  
7 granted Defendants' Motion to Compel Arbitration, ordering Plaintiff to arbitrate her  
8 individual claims, dismissing Plaintiff's class claims, and staying her representative  
9 PAGA claims.

10 2.3. Defendants deny the allegations in the Operative Complaint, deny any failure to  
11 comply with the laws identified in in the Operative Complaint and deny any and all  
12 liability for the causes of action alleged.

13 2.4. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice  
14 to Defendants and the LWDA by sending the PAGA Notice. Plaintiff will amend the  
15 PAGA Notice as necessary to conform to this Settlement Agreement.

16 2.5. On September 11, 2023 the Parties participated in an all-day mediation presided over  
17 by Tagore Subramaniam, Esq., an experienced mediator specializing in wage and  
18 hour claims which led a Mediator's Proposal which both parties accepted resulting in  
19 this Settlement Agreement.

20 2.6. Prior to mediation, Defendant provided Plaintiffs' Counsel with extensive  
21 documentation, including applicable policies, and a 35% sample of wage records and  
22 time records of the Aggrieved Employees.

23 2.7. The Parties acknowledge the existence of the representative PAGA action *Rogers v*  
24 *Pacifica Companies, LLC et al.*, Case No. 37-2023-00023685, which was filed on  
25 June 6, 2023, and which has been deemed related to the Action. It is Defendants'  
26 understanding and intention in seeking the Court's approval of this PAGA settlement  
27 that such approval will result in the release and dismissal of the pending claims in the  
28 *Rogers Action*. The Parties, PAGA Counsel and Defense Counsel represent that, other

1 than the *Rogers Action*, they are not aware of any other pending matter or action  
2 asserting claims that will be extinguished or affected by the Settlement.

3 **3. MONETARY TERMS.**

4 3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below,  
5 Defendants promises to pay three hundred thirty three thousand three hundred thirty  
6 four dollars and zero cents (\$333,334.00) and no more as the Gross Settlement  
7 Amount. Defendants have no obligation to pay the Gross Settlement Amount prior to  
8 the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will  
9 disburse the entire Gross Settlement Amount without asking or requiring Aggrieved  
10 Employees to submit any claim as a condition of payment. None of the Gross  
11 Settlement Amount will revert to Defendants.

12 3.2. Payments from the Gross Settlement Amount. The Administrator will make and  
13 deduct the following payments from the Gross Settlement Amount, in the amounts  
14 specified by the Court in the Final Approval:

15 3.2.1. To PAGA Counsel: A PAGA Counsel Fees Payment of not more than 33%  
16 which is currently estimated to be \$111,100 and PAGA Counsel Litigation  
17 Expenses Payment of not more than \$20,000. Defendants will not oppose  
18 requests for Court approval of these payments provided that they do not  
19 exceed these amounts. Plaintiff and/or PAGA Counsel will file an application  
20 or motion seeking approval of this Settlement, including approval of PAGA  
21 Counsel Fees Payment and PAGA Litigation Expenses Payment. If the Court  
22 approves a PAGA Counsel Fees Payment and/or a PAGA Counsel Litigation  
23 Expenses Payment less than the amounts requested, the Administrator will  
24 allocate the remainder to the Net Settlement Amount. Released Parties shall  
25 have no liability to PAGA Counsel or any other Plaintiff's Counsel arising  
26 from any claim to any portion any PAGA Counsel Fee Payment and/or PAGA  
27 Counsel Litigation Expenses Payment. The Administrator will pay the PAGA  
28 Counsel Fees Payment and PAGA Counsel Expenses Payment using one or

1 more IRS 1099 Forms using joint instructions to be provided by PAGA  
2 Counsel. PAGA Counsel assumes full responsibility and liability for taxes  
3 owed on the PAGA Counsel Fees Payment and the PAGA Counsel Litigation  
4 Expenses Payment and holds Defendants harmless, and indemnifies  
5 Defendants, from any dispute or controversy regarding any division or sharing  
6 of any of these Payments.

7 3.2.2. To the Administrator: An Administrator Expenses Payment not to exceed  
8 \$7,500.00 except for a showing of good cause and as approved by the Court.  
9 To the extent the Administration Expenses are less or the Court approves  
10 payment less than \$7,500.00, the Administrator will retain the remainder in  
11 the Net Settlement Amount.

12 3.2.3. To Plaintiff: Plaintiff and/or PAGA Counsel will file an application or motion  
13 seeking approval of this Settlement, including approval of PAGA  
14 Representative Plaintiff Enhancement in the amount of \$10,000 for her  
15 service as Plaintiff in the Action as approved by the Court. If the Court  
16 approves a PAGA Representative Plaintiff Enhancement less than the  
17 amounts requested, the Administrator will allocate the remainder to the Net  
18 Settlement Amount. The Administrator will pay the PAGA Representative  
19 Plaintiff Enhancement using an IRS 1099 Form. Plaintiff assumes full  
20 responsibility and liability for taxes owed on the PAGA Representative  
21 Plaintiff Enhancement and holds Defendants harmless, and indemnifies  
22 Defendants, from any dispute or controversy regarding the PAGA  
23 Representative Plaintiff Enhancement Payment.

24 3.2.4. To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of  
25 \$184,734.00 to be paid from the Gross Settlement Amount, with 75%  
26 (\$138,550.50) allocated to the LWDA PAGA Payment and 25% (\$46,183.50)  
27 allocated to the Individual PAGA Payments.  
28

1 3.2.4.1. The Administrator will calculate each Individual PAGA Payment by  
2 (a) dividing the amount of the Aggrieved Employees' 25% share of  
3 PAGA Penalties (\$46,183.50) by the total number of PAGA Period  
4 Pay Periods worked by all Aggrieved Employees during the PAGA  
5 Period and (b) multiplying the result by each Aggrieved Employee's  
6 PAGA Period Pay Periods. Aggrieved Employees assume full  
7 responsibility and liability for any taxes owed on their Individual  
8 PAGA Payment.

9 3.2.4.2. If the Court approves PAGA Penalties of less than the amount  
10 requested, the Administrator will allocate the remainder to the Net  
11 Settlement Amount. The Administrator will report the Individual  
12 PAGA Payments on IRS 1099 Forms.

13 **4. SETTLEMENT FUNDING AND PAYMENTS.**

14 4.1. Aggrieved Employee Pay Periods. Based on a review of its records, Defendants  
15 estimate that as of the date of Mediation there are approximately 364 Aggrieved  
16 Employees who worked a total 9,561 of PAGA Pay Periods.

17 4.2. Aggrieved Employee Data. Within twenty-one days of the filing of a Joint  
18 Stipulation Seeking Approval of this Settlement, Defendants will deliver the  
19 Aggrieved Employee Data to the Administrator in the form of a Microsoft Excel  
20 spreadsheet. To protect Aggrieved Employee' privacy rights, the Administrator must  
21 maintain the Aggrieved Employee Data in confidence, use the Aggrieved Employee  
22 Data only for purposes of this Settlement and for no other purpose, and restrict access  
23 to the Aggrieved Employee Data to Administrator employees who need access to the  
24 Aggrieved Employee Data to effect and perform under this Agreement. Defendants  
25 have a continuing duty to immediately notify PAGA Counsel if it discovers that the  
26 Aggrieved Employee Data omitted employee identifying information and to provide  
27 corrected or updated Aggrieved Employee Data as soon as reasonably feasible.  
28 Without any extension of the deadline by which Defendants must send the Aggrieved

1 Employee Data to the Administrator, the Parties and their counsel will expeditiously  
2 use best efforts, in good faith, to reconstruct or otherwise resolve any issues related to  
3 missing or omitted Aggrieved Employee Data.

4 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross  
5 Settlement Amount by transmitting the funds to the Administrator no later than thirty  
6 (30) days after the Effective Date.

7 4.4. Payments from the Gross Settlement Amount. Within fourteen (14) days after  
8 Defendants fund the Gross Settlement Amount, the Administrator will mail checks  
9 for all Individual PAGA Payments, the LWDA PAGA Payment, the Administration  
10 Expenses Payment, the PAGA Counsel Expenses Payment, and PAGA  
11 Representative Plaintiff Enhancement. Disbursement of the PAGA Counsel Litigation  
12 Expenses Payment shall not precede disbursement of Individual PAGA Payments.

13 4.4.1. The Administrator will issue checks for the Individual PAGA Payments and  
14 send them to the Aggrieved Employees via First Class U.S. Mail, postage  
15 prepaid. The face of each check shall prominently state the date (not less than  
16 180 days after the date of mailing) when the check will be voided. The  
17 Administrator will cancel all checks not cashed by the void date. Before  
18 mailing any checks, the Settlement Administrator must update the recipients'  
19 mailing addresses using the National Change of Address Database.

20 4.4.2. The Administrator must conduct an Aggrieved Employee Address Search for  
21 all Aggrieved Employees whose checks are returned undelivered without  
22 USPS forwarding address. Within seven (7) days of receiving a returned  
23 check the Administrator must re-mail checks to the USPS forwarding address  
24 provided or to an address ascertained through the Aggrieved Employee  
25 Address Search. The Administrator need not take further steps to deliver  
26 checks to Aggrieved Employees whose re-mailed checks are returned as  
27 undelivered. The Administrator shall promptly send a replacement check to  
28

any Aggrieved Employee whose original check was lost or misplaced,  
requested by the Aggrieved Employee prior to the void date.

4.4.3. For any Aggrieved Employee whose Individual PAGA Payment check is  
uncashed and cancelled after the void date, the Administrator shall transmit  
the funds represented by such checks to the California Controller's Unclaimed  
Property Fund in the name of the Aggrieved Employee.

4.4.4. The payment of Individual PAGA Payments shall not obligate Defendants to  
confer any additional benefits or make any additional payments to the  
Aggrieved Employees (such as 401(k) contributions or bonuses) beyond those  
specified in this Agreement.

**5. RELEASES OF CLAIMS.** Effective on the date when Defendants fully funds the entire  
Gross Settlement Amount, Plaintiff will release claims against all Released Parties as  
follows:

5.1. Plaintiff's Release. Plaintiff and her representatives, agents, heirs, administrators,  
successors, and assigns generally, release and discharge Released Parties from all  
claims, transactions, or occurrences that occurred during the PAGA Period, including,  
but not limited to: (a) all claims that were, or reasonably could have been, alleged,  
based on the facts contained in the Operative Complaint and the PAGA Notice, as  
amended including any claim to recover attorneys' fees or costs contained therein  
("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to  
enforce this Agreement, or to any claims for vested benefits, unemployment benefits,  
disability benefits, social security benefits, workers' compensation benefits that arose  
at any time. Plaintiff acknowledges that Plaintiff may discover facts or law different  
from, or in addition to, the facts or law that Plaintiff now knows or believes to be true  
but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all  
respects, notwithstanding such different or additional facts or Plaintiff's discovery of  
them.

1           5.1.1. Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For  
2           purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the  
3           provisions, rights, and benefits, if any, of section 1542 of the California Civil  
4           Code, which reads:

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

8           5.2. Release by the State of California, LWDA and Aggrieved Employees:

9           The State of California and all Aggrieved Employees are deemed to release, on behalf  
10          of themselves and their respective former and present representatives, agents,  
11          attorneys, heirs, administrators, successors, and assigns, the Released Parties from all  
12          claims for PAGA penalties that were alleged, or reasonably could have been alleged,  
13          based on the PAGA Period facts stated in the Operative Complaint and the PAGA  
14          Notice, including all claims under Labor Code Sections 201, 202, 203, 204, 210,  
15          218.5, 226, 226.3, 226.7, 246-248.7, 256, 510, 512, 558, 1174, 1174.5, 1194, 1197.1,  
16          1198, 1198.5, 1199, 2800, 2802 and 2698 et seq. and the applicable Industrial  
17          Welfare Commission Wage Orders.

18          5.3. Release by PAGA Counsel:

19          PAGA Counsel release on behalf of their present and former attorneys, employees, agents,  
20          successors and assigns the Released Parties from all claims for PAGA Fees incurred in connection  
21          with the Operative Complaint and the PAGA Period facts stated in the Operative Complaint and the  
22          amended PAGA Notice.

23          **6. MOTION OR APPLICATION FOR APPROVAL OF SETTLEMENT.** The Parties  
24          agree to jointly prepare and file a Joint Stipulation, application or motion for approval of this  
25          Settlement as required by the Court.

26          6.1. PAGA Counsel's Responsibilities. PAGA Counsel will file Notice to the LWDA of  
27          the Settlement, a copy of which will be served on Defense Counsel. PAGA Counsel  
28          will prepare and deliver to Defense Counsel all documents necessary for obtaining

1 approval of this Settlement under Labor Code Section 2699, subd. (f)(2)) including (i)  
2 a draft proposed Order Granting Approval of PAGA Settlement; (ii) a signed  
3 declaration from the Administrator attaching its "not to exceed" bid for administering  
4 the Settlement and attesting to its willingness to serve; competency; operative  
5 procedures for protecting the security of Aggrieved Employee Data; amounts of  
6 insurance coverage for any data breach, defalcation of funds or other misfeasance; all  
7 facts relevant to any actual or potential conflicts of interest with Aggrieved  
8 Employees or the LWDA; and the nature and extent of any financial relationship with  
9 Plaintiff, PAGA Counsel or Defense Counsel; (iii) a signed declaration from PAGA  
10 Counsel firm attesting to its timely transmission to the LWDA of all necessary PAGA  
11 documents (initial notice of violations (Labor Code section 2699.3, subd. (a)),  
12 Operative Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor  
13 Code section 2699, subd. (l)(2)); and (iv) all facts relevant to any actual or potential  
14 conflict of interest with Aggrieved Employees and/or the Administrator. In their  
15 Declarations, Plaintiff and PAGA shall aver that they are not aware of any other  
16 pending matter or action asserting claims that will be extinguished or adversely  
17 affected by the Settlement except as set forth herein.

18 6.2. Duty to Cooperate. PAGA Counsel and Defense Counsel are jointly responsible for  
19 expeditiously finalizing and filing the application or motion for approval of this  
20 Settlement no later than thirty (30) days after the full execution of this Agreement  
21 and, if necessary, obtaining a prompt hearing date for the motion and appearing in  
22 Court to advocate in favor of the motion. PAGA Counsel is responsible for delivering  
23 the Court's Order approving the Settlement to the Administrator. If the Parties  
24 disagree on any aspect of the proposed application or motion for approval of this  
25 Settlement and/or the supporting declarations and documents, PAGA Counsel and  
26 Defense Counsel will expeditiously work together on behalf of the Parties by meeting  
27 in person or by telephone, and in good faith, to resolve the disagreement. If the Court  
28 does not grant the Joint Stipulation for approval of this Settlement or conditions its

1 approval on any material change to this Agreement, PAGA Counsel and Defense  
2 Counsel will expeditiously work together on behalf of the Parties by meeting in  
3 person or by telephone, and in good faith, to modify the Agreement and otherwise  
4 satisfy the Court's concerns.

5 **7. SETTLEMENT ADMINISTRATION.**

6 7.1. Selection of Administrator. The Parties have jointly selected Phoenix Class Action  
7 Administrative Solutions to serve as the Administrator and verified that, as a  
8 condition of appointment, it agrees to be bound by this Agreement and to perform, as  
9 a fiduciary, all duties specified in this Agreement in exchange for payment of  
10 Administration Expenses. The Parties and their Counsel represent that they have no  
11 interest or relationship, financial or otherwise, with the Administrator other than a  
12 professional relationship arising out of prior experiences administering settlements.

13 7.2. Employer Identification Number. The Administrator shall have and use its own  
14 Employer Identification Number for purposes of calculating payroll tax withholdings  
15 and providing reports state and federal tax authorities.

16 7.3. Qualified Settlement Fund. The Administrator shall establish a settlement fund that  
17 meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury  
18 Regulation section 468B-1.

19 7.4. Administrator Duties. The Administrator has a duty to perform or observe all tasks to  
20 be performed or observed by the Administrator contained in this Agreement or  
21 otherwise.

22 **8. AGGRIEVED EMPLOYEE SIZE ESTIMATES and ESCALATOR CLAUSE**

23 Based on its records, Defendants estimate that, as of the Mediation date, Aggrieved  
24 Employees worked 9561 Pay Periods during the PAGA Period. If Defendants' representation  
25 of the number of pay periods as of the date of mediation is inaccurate by more than ten  
26 percent (10%), then the Gross Settlement Amount will be increased in proportion to the  
27 amount in excess of this ten percent threshold, i.e. if the represented pay periods was  
28

understated by twelve percent (12%), then the Gross Settlement Amount will increase by two percent (2%).

9. **CONTINUING JURISDICTION OF THE COURT.** The Parties agree that, after entry of Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement pursuant to California Code of Civil Procedure section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

9.1. Waiver of Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, specifically including the PAGA Counsel Fees Payment and PAGA Counsel Litigation Expenses Payment, and PAGA Representative Plaintiff Enhancement, the Parties, their respective counsel waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If another person appeals the Judgment, including Plaintiff or Counsel in the *Rogers* action, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

10. **ADDITIONAL PROVISIONS.**

10.1. No Admission of Liability or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that representative treatment is for purposes of this Settlement only. If, for any reason the Court does not approve this Settlement,

1 Defendants reserve all available defenses to the claims in the Action, and Plaintiff  
2 reserves the right to contest Defendants' defenses. The Settlement, this Agreement  
3 and Parties' willingness to settle the Action will have no bearing on, and will not be  
4 admissible in connection with, any litigation (except for proceedings to enforce or  
5 effectuate the Settlement and this Agreement).

6 10.2. Integrated Agreement. Upon execution by all Parties and their counsel, this  
7 Agreement together with its attached exhibits shall constitute the entire agreement  
8 between the Parties relating to the Settlement, superseding any and all oral  
9 representations, warranties, covenants, or inducements made to or by any Party.

10 10.3. Attorney Authorization. PAGA Counsel and Defense Counsel separately warrant and  
11 represent that they are authorized by Plaintiff and Defendants, respectively, to take all  
12 appropriate action required or permitted to be taken by such Parties pursuant to this  
13 Agreement to effectuate its terms, and to execute any other documents reasonably  
14 required to effectuate the terms of this Agreement including any amendments to this  
15 Agreement.

16 10.4. Cooperation. The Parties and their counsel will cooperate with each other and use  
17 their best efforts, in good faith, to implement the Settlement by, among other things,  
18 modifying the Settlement Agreement, submitting supplemental evidence and  
19 supplementing points and authorities as requested by the Court. In the event the  
20 Parties are unable to agree upon the form or content of any document necessary to  
21 implement the Settlement, or on any modification of the Agreement that may become  
22 necessary to implement the Settlement, the Parties will seek the assistance of a  
23 mediator and/or the Court for resolution.

24 10.5. No Prior Assignments. The Parties separately represent and warrant that they have  
25 not directly or indirectly assigned, transferred, encumbered, or purported to assign,  
26 transfer, or encumber to any person or entity and portion of any liability, claim,  
27 demand, action, cause of action, or right released and discharged by the Party in this  
28 Settlement.

- 1           10.6. No Tax Advice. Neither Plaintiff, PAGA Counsel, Defendants nor Defense Counsel  
2           are providing any advice regarding taxes or taxability, nor shall anything in this  
3           Settlement be relied upon as such within the meaning of United States Treasury  
4           Department Circular 230 (31 CFR Part 10, as amended) or otherwise.
- 5           10.7. Modification of Agreement. This Agreement, and all parts of it, may be amended,  
6           modified, changed, or waived only by an express written instrument signed by all  
7           Parties or their representatives, and approved by the Court.
- 8           10.8. Agreement Binding on Successors. The Parties warrant that they understand and  
9           have full authority to enter into this settlement, and further intend that this Settlement  
10          Agreement will be fully enforceable and binding on all Parties, and agree that it will  
11          be admissible and subject to disclosure in any proceeding to enforce its terms,  
12          notwithstanding any mediation confidentiality provisions that otherwise might apply  
13          under federal or state law. This Agreement will be binding upon, and inure to the  
14          benefit of, the successors of each of the Parties.
- 15          10.9. Applicable Law. All terms and conditions of this Agreement and its exhibits will be  
16          governed by and interpreted according to the internal laws of the state of California,  
17          without regard to conflict of law principles.
- 18          10.10. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation  
19          of this Agreement. This Agreement will not be construed against any Party on the  
20          basis that the Party was the drafter or participated in the drafting.
- 21          10.11. Confidentiality. To the extent permitted by law, all agreements made, and orders  
22          entered during Action and in this Agreement relating to the confidentiality of  
23          information shall survive the execution of this Agreement.
- 24          10.12. Use and Return of Aggrieved Employee Data. Information provided to PAGA  
25          Counsel pursuant to Cal. Evid. Code §1152, and all copies and summaries of the  
26          PAGA Data provided to PAGA Counsel by Defendants in connection with the  
27          mediation, other settlement negotiations, or in connection with the Settlement, may be  
28          used only with respect to this Settlement, and no other purpose, and may not be used

1 in any way that violates any existing contractual agreement, statute, or rule of court.  
2 Not later than 90 days after the Administrator discharges its obligation to pay out of  
3 all Settlement funds, Plaintiff shall destroy all paper and electronic versions of  
4 Aggrieved Employee Data received from Defendants unless, prior to the  
5 Administrator's payment of all Settlement Funds, Defendants make a written request  
6 to PAGA Counsel for the return, rather than the destructions, of Aggrieved Employee  
7 Data.

8 10.13. Headings. The descriptive heading of any section or paragraph of this Agreement is  
9 inserted for convenience of reference only and does not constitute a part of this  
10 Agreement.

11 10.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement  
12 shall be to calendar days. In the event any date or deadline set forth in this Agreement  
13 falls on a weekend or federal legal holiday, such date or deadline shall be on the first  
14 business day thereafter.

15 10.15. Notice. All notices, demands or other communications between the Parties in  
16 connection with this Agreement will be in writing and deemed to have been duly  
17 given as of the third business day after mailing by United States mail, or the day sent  
18 by email or messenger, addressed as follows:

19  
20 To Plaintiff: Geoffrey C. Chackel  
21 [geoff@chakellaw.com](mailto:geoff@chakellaw.com)  
22 CHACKEL LAW, PC  
23 11440 West Bernardo Court, Suite 300  
24 San Diego, CA 92127  
25 TEL: 619.567.2454  
26 FAX: 619.452.1212

27 Nicholas J. Ferrero  
28 [nick@ferrarovega.com](mailto:nick@ferrarovega.com)  
Lauren N. Vega  
[lauren@ferrarovega.com](mailto:lauren@ferrarovega.com)  
Ferraro Vega Employment Lawyers, Inc.  
3333 Camino del Rio South Suite 300  
San Diego 92108  
Telephone: 619.693.7727

1 Fax: 619.350.6855

2 To Defendants:

3 Robert S. Blumberg  
4 rblumberg@littler.com  
5 Brooke S. Hammond  
6 bhammond@littler.com  
7 LITTLER MENDELSON P.C.  
8 2049 Century Park East  
9 5th Floor  
10 Los Angeles, California 90067.3107  
11 Telephone: 310.553.0308  
12 Fax No.: 800.715.1330

13 10.16. Execution in Counterparts. This Agreement may be executed in one or more  
14 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes  
15 of this Agreement shall be accepted as an original. All executed counterparts and each  
16 of them will be deemed to be one and the same instrument if counsel for the Parties  
17 will exchange between themselves signed counterparts. Any executed counterpart  
18 will be admissible in evidence to prove the existence and contents of this Agreement.

19 10.17. Stay of Litigation. The Parties agree that upon the execution of this Agreement the  
20 litigation shall be stayed, except to effectuate the terms of this Agreement. The  
21 Parties further agree that upon the signing of this Agreement that pursuant to CCP  
22 section 583.330 to extend the date to bring a case to trial under CCP section 583.310  
23 for the entire period of this settlement process.

24 Mina Lally  
25 Mina Lally (Oct 5, 2024 05:50 HST)

26 Oct 5, 2024

27 Sushil Israni Oct. 17, 2024

28 PLAINTIFF MINA LALLY

Sushil Israni, Authorized Signer  
DEFENDANTS Pacifica Companies, LLC and  
Prospect Hospitality, LP (dba La Valencia  
Hotel)

29 Jeff Quall  
30 Counsel For Plaintiff (Approved as to Form)

31 Robert S. Blumberg 10/17/2024  
32 Counsel For DEFENDANTS Pacifica  
33 Companies, LLC and Prospect Hospitality, LP  
34 (dba La Valencia Hotel) (Approved as to Form)