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1 be fair, adequate, and reasonable, and that any final determination of those issues will be made at
2 the final hearing. The Court will make a determination at the hearing on the motion for final
3 approval of class action settlement (the “Final Approval Hearing”) as to whether the Settlement
4 is fair, adequate and reasonable to the Settlement Class.

5 2. For purposes of this Preliminary Approval Order, the “Settlement Class” means
6 non-exempt, hourly employees, who worked for Defendants anytime during the Class Period. The
7 “Class Period” shall mean the period of time from September 25, 2019, through the date of
8 preliminary approval of this Settlement. The Class does not include the hourly, non-exempt
9 employees who worked at Defendant Prospect Hotel Management, LLC’s corporate
10 headquarters.

11 3. Based on their records, Defendants estimate that, as of the date of the Settlement
12 Agreement, (1) there are 284 Class Members who worked a total of 14,283 Work Weeks during
13 the Class period and (2) there were 139 Aggrieved Employees who worked a total of 3,000 PAGA
14 Pay Periods during the PAGA Period. If the Work Weeks and/or Class Members as of the date
15 the Court approves the settlement exceeds the referenced 14,283 Work Weeks and/or 284 Class
16 Members by more than 10%, the Gross Settlement Amount, including the Class Counsel Fees
17 Payment, the Class Representative Service Payment, and the LWDA payment, will increase
18 proportionally according to the number of additional Work Weeks or Class Members, whichever
19 results in a higher increase in the Gross Settlement Amount.

20 4. “Effective Date” means the later of the following: (1) the date the Final Approval
21 is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and
22 no appeal is taken of the Final Approval Order, sixty (60) days after the Final Approval is signed;
23 or (3) if an appeal is taken from the Court’s overruling of objections to the Settlement, ten (10)
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1 days after the appeal is withdrawn or after an appellate decision affirming the final approval
2 decision becomes final.

3 5. This action is provisionally certified pursuant to section 382 of the California Code
4 of Civil Procedure and Rule 3.760, et seq. of the California Rules of Court as a class action for
5 purposes of settlement only with respect to the proposed Settlement Class.

6 6. Not later than 15 days after the Court grants Preliminary Approval of the
7 Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in the
8 form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the
9 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
10 of the Settlement and for no other purpose, and restrict access to the Class Data to Administrator
11 employees who need access to the Class Data to effect and perform under the Settlement
12 Agreement. Defendants have a continuing duty to immediately notify Class Counsel if they
13 discover that the Class Data omitted class member identifying information and to provide
14 corrected or updated Class Data as soon as reasonably feasible. Without any extension of the
15 deadline by which Defendants must send the Class Data to the Administrator, the Parties and their
16 counsel will expeditiously use best efforts, in good faith, to reconstruct or otherwise resolve any
17 issues related to missing or omitted Class Data.

18 7. No later than three (3) business days after receipt of the Class Data, the
19 Administrator shall notify Class Counsel that the list has been received and state the number of
20 Class Members, PAGA Members, Work Weeks, and PAGA Pay Periods in the Class Data.

21 8. Using best efforts to perform as soon as possible, and in no event later than 14
22 days after receiving the Class Data, the Administrator will send to all Class Members identified
23 in the Class Data, via first-class United States Postal Service ("USPS") mail, the Notice Packet
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1 with Spanish translation, if applicable substantially in the forms attached to this order as **Exhibits**
2 **A, B, C, and D.** The first page of the Class Notice shall prominently estimate the dollar amounts
3 of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member,
4 and the number of Work Weeks and PAGA Pay Periods (if applicable) used to calculate these
5 amounts. Before mailing Notice Packets, the Administrator shall update Class Member addresses
6 using the National Change of Address database.
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8 9. Not later than three (3) business days after the Administrator's receipt of any
9 Notice Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice
10 Packet using any forwarding address provided by the USPS. If the USPS does not provide a
11 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail
12 the Notice Packet to the most current address obtained. The Administrator has no obligation to
13 make further attempts to locate or send Notice Packet to Class Members whose Notice Packet is
14 returned by the USPS a second time.
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16 10. Class Counsel's contact information is David Glenn Spivak, Esq., The Spivak Law
17 Firm, 8605 Santa Monica Bl, PMB 42554, West Hollywood, CA 90069. Defense Counsel's
18 contact information is Nicole Sheth, Esq. and Christina Ricci, Esq., Kaufman, Borgeest, and Ryan
19 LLP, 21700 W Oxnard St. Suite 1450, Woodland Hills, CA 91367 and Robert B. Forouzandeh,
20 Esq., Reicker, Pfau, Pyle & McRoy, LLP, 1421 State Street, Suite B, Santa Barbara, CA, 93101.
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22 11. The deadlines for Class Members' written objections, Challenges to Work Weeks
23 and/or PAGA Pay Periods (disputes), and Requests for Exclusion will be extended an additional
24 14 days beyond the 60 days otherwise provided in the Class Notice for all Class Members whose
25 notice is re-mailed. The Administrator will inform the Class Member of the extended deadline
26 with the re-mailed Notice Packet.
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12. If the Administrator, Defendants or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Notice Packet, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Notice Packet requiring them to exercise options under the Settlement Agreement not later than 14 days after receipt of Notice Packet, or the deadline dates in the Notice Packet, whichever are later.

13. Requests for Exclusion. Class Members who wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than 60 days after the Administrator mails the Notice Packet (plus an additional 14 days for Class Members whose Notice Packet is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her representative that reasonably communicates the Class Member's election to be excluded from the Settlement and includes the Class Member's name, address and email address or telephone number. To be valid, a Request for Exclusion must be timely faxed, emailed, or postmarked by the Response Deadline. An Election Not to Participate in Settlement form, attached as Exhibit B, may be used for this purpose but is not required. The date of the initial mailing of the Notice Packet, and the date the signed request for exclusion was postmarked, shall be conclusively determined according to the records of the Settlement Administrator. The Settlement Administrator shall immediately provide copies of all Requests for Exclusion to Class Counsel and Defense Counsel and shall report the number of Requests for Exclusion that it receives, to the Court, in its declaration to be provided in advance of the Final Approval Hearing.

14. The Administrator may not reject a Request for Exclusion as invalid because it fails to contain all the information specified in the Class Notice. The Administrator shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the identity of the person as a Class Member and the Class Member's desire to be excluded. The Administrator's determination shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

15. Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under the Settlement Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases under Paragraphs 6.2 and 6.3 of the Settlement, regardless whether the Participating Class Member actually receives the Notice Packet or objects to the Settlement. A Class Member cannot submit both a Request for Exclusion and an Objection. If a Class Member subjects both an Objection and Request for Exclusion, the Request for Exclusion will control and the Objection will be void.

16. Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Plaintiff releases all claims for civil penalties that could have been sought by the Labor Commissioner for the violations identified in Plaintiffs pre-filing letter to the LWDA; Plaintiff does not release the claim for wages or damages of any Aggrieved Employee unless such Aggrieved Employee is a Participating Class

1 Member.

2 17. Challenges to Calculation of Work Weeks and/or PAGA Pay Periods. Each Class
3 Member shall have 60 days after the Administrator mails the Notice Packet (plus an additional
4 14 days for Class Members whose Notice Packet is re-mailed) to challenge the number of Class
5 Work Weeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice.
6 This is also known as a dispute. A Work Week Dispute form, attached as Exhibit C, may be used
7 for this purpose but is not required. The Class Member may challenge the allocation by
8 communicating with the Administrator via fax, email or mail. All written disputes must contain
9 the Class Member's address, telephone number, and a reference to the Action. The Administrator
10 must encourage the challenging Class Member to submit supporting documentation. In the
11 absence of any contrary documentation, the Administrator is entitled to presume that the Work
12 Weeks contained in the Class Notice are correct so long as they are consistent with the Class Data.
13 The Administrator's determination of each Class Member's allocation of Work Weeks and/or Pay
14 Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator
15 shall promptly provide copies of all challenges to calculation of Work Weeks and/or Pay Periods
16 to Defense Counsel and Class Counsel and the Administrator's determination the challenges.

17 18. Objections to Settlement. The Plaintiff may not object to the Settlement. Only
18 Participating Class Members may object to the class action components of the Settlement and/or
19 this Agreement, including contesting the fairness of the Settlement, and/or amounts requested for
20 the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class
21 Representative Service Payment.
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23 19. Participating Class Members may send written objections, signed by the Objecting
24 Class Member or his or her attorney, along with supporting papers, to the Administrator, by fax,
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1 email, or mail. All written objections must contain the Class Member's address, telephone
2 number, and reference to the Action. In the alternative, Participating Class Members may appear
3 in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval
4 Hearing. A Participating Class Member who elects to send a written objection to the
5 Administrator must do so not later than 60 days after the Administrator's mailing of the Notice
6 Packet (plus an additional 14 days for Class Members whose Notice Packet was re-mailed). The
7 Objection form attached as Exhibit D may be used for this purpose but is not required. The date
8 of the initial mailing of the Notice Packet, and the date the signed objection was postmarked, shall
9 be conclusively determined according to the records of the Settlement Administrator. The
10 Settlement Administrator shall send any objections it receives to Defense Counsel and Class
11 Counsel within five (5) business days of receipt. The Court retains final authority with respect to
12 consideration and admissibility of any Class Member objections. If a Class Member objects to
13 the Settlement, the Class Member will remain a member of the Class and if the Court approves
14 this Agreement, the Class Member will be bound by the terms of the Settlement in the same way
15 and to the same extent as a Class Member who does not object.

18 20. Non-Participating Class Members have no right to object to any of the class action
19 components of the Settlement.

20 21. Not later than 14 days before the date by which Plaintiff is required to file the
21 Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and
22 Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and
23 compliance with all of its obligations under the Settlement Agreement, including, but not limited
24 to, its mailing of the Notice Packets, the Notice Packets returned as undelivered, the re-mailing
25 of Notice Packets, attempts to locate Class Members, the total number of Requests for Exclusion
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1 from Settlement it received (both valid or invalid), the number of written objections and attach
2 the Exclusion List. The Administrator will supplement its declaration as needed or requested by
3 the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's
4 declaration(s) in Court.

5 22. The Court approves, as to form and content, the Class Notice in substantially the
6 form attached as Exhibit A to this Order, the Election Not to Participate in Settlement form in
7 substantially the form attached as Exhibit B to this Order, the Work Weeks Dispute form in
8 substantially the form attached as Exhibit C to this Order, and the Objection form in substantially
9 the form attached as Exhibit D to this Order.

10 23. The Court approves, for settlement purposes only, David Glenn Spivak of The
11 Spivak Law Firm and Walter L. Haines of United Employees Law Group as Class Counsel.

12 24. The Court approves, for settlement purposes only, Kevin Lynam as the Class
13 Representative.

14 25. The Court approves Phoenix Class Action Administration Solutions as the
15 Administrator.

16 26. The Court preliminarily approves Class Counsel's request for attorneys' fees and
17 costs subject to final review by the Court.

18 27. The Court preliminarily approves the estimated Administrator costs payable to the
19 Administrator subject to final review by the Court.

20 28. The Court preliminarily approves Plaintiff's Class Representative Service
21 Payment subject to final review by the Court.

22 29. A Final Approval Hearing shall be held on ____ at .m. in Department Dept. 03
23 of the Superior Court for the State of California, County of Mariposa, located at the , 5088 Bullion
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1 Street, Mariposa, CA 95338 to consider the fairness, adequacy and reasonableness of the proposed
2 Settlement preliminarily approved by this Preliminary Approval Order, and to consider the
3 application of Class Counsel for attorneys' fees and costs and the Class Representative Service
4 Payment to the Class Representative. The notice of motion and all briefs and materials in support
5 of the motion for final approval of class action settlement and motion for attorneys' fees and
6 litigation costs shall be served and filed with this Court on or before _____. Plaintiff's counsel must
7 give notice to any objecting party of any continuance of the hearing of the motion for final
8 approval.
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10 30. If for any reason the Court does not execute and file a Final Approval Order and
11 judgment, or if the Effective Date, as defined in the Settlement, does not occur for any reason, the
12 proposed Settlement that is the subject of this order, and all evidence and proceedings had in
13 connection therewith, shall be without prejudice to the status quo ante rights of the Parties to the
14 litigation, as more specifically set forth in the Settlement.
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16 31. The Court expressly reserves the right to adjourn or continue the Final Approval
17 Hearing from time to time without further notice to members of the Class. The Plaintiff shall give
18 prompt notice of any continuance to Settlement Class Members who object to the Settlement.
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20 **IT IS SO ORDERED.**

21 **DATE**

22 _____
23 **THE HONORABLE ANITA BRYANT**
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