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8 KEVIN LYNUM, and all others similarly situated
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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **FOR THE COUNTY OF MARIPOSA**

12 **(UNLIMITED JURISDICTION)**

13 KEVIN LYNUM, on behalf of himself and all
14 others similarly situated, and as an “aggrieved
employee” on behalf of other “aggrieved
15 employees” under the Labor Code Private
Attorneys General Act of 2004,

16 *Plaintiff(s),*

17 vs.

18
19 PROSPECT HOTEL SERVICES, LLC, a
Delaware limited liability company; PROSPECT
20 HOTEL MANAGEMENT LLC, a Delaware
limited liability company; and DOES 1–50,
21 inclusive,

22 *Defendant(s).*
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Case No. 23-CVCV-0012034

**CLASS ACTION AND PAGA
SETTLEMENT AGREEMENT AND
CLASS NOTICE**

Action filed: September 25, 2023
Dept: Dept. 03, The Honorable
Anita Bryant

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1 This Class Action and PAGA Settlement Agreement (“Agreement”) is made by and
2 between plaintiff Kevin Lynam (“Plaintiff”) and defendants PROSPECT HOTEL SERVICES,
3 LLC and PROSPECT HOTEL MANAGEMENT, LLC (collectively “Defendants”), following a
4 full day mediation session on July 8, 2024 with Henry Bongiovi, Esq. and is subject to the
5 approval of the Court pursuant to the California Rules of Court. The Agreement refers to Plaintiff
6 and Defendants collectively as “Parties,” or individually as “Party” and shall be effectuated upon
and subject to the following terms and conditions.

7 The Parties agree that the Action shall be, and is, ended, settled, resolved, and concluded
8 by agreement of Defendants to pay the settlement amount of Four Hundred and Twenty Nine
9 Thousand Dollars and Zero Cents (\$429,000), as provided in Section 1.22 below (“Gross
10 Settlement Amount”) pursuant to the terms and conditions of this Settlement and for the
11 consideration set forth herein, including but not limited to, a full, final, and forever release of all
claims by Plaintiff, Class, and Aggrieved Employees as set forth herein.

12 **1. DEFINITIONS.**

13 1.1. “Action” means the Plaintiff’s lawsuit alleging wage and hour violations against
14 PROSPECT HOTEL SERVICES, LLC and PROSPECT HOTEL MANAGEMENT, LLC
15 captioned “Kevin Lynam, on behalf of himself, and all others similarly situated, and as an
16 ‘aggrieved employee’ on behalf of other ‘aggrieved employees’ under the Labor Code Private
17 Attorneys General Act of 2004, *Plaintiff(s)*, vs. defendants PROSPECT HOTEL SERVICES,
18 LLC and PROSPECT HOTEL MANAGEMENT, LLC, and DOES 1 through 50, inclusive,
19 *Defendant(s)*,” Case No. 23-CVCV-0012034 initiated on September 25, 2023 and pending in
Superior Court of the State of California, County of Mariposa.

20 1.2. “Administrator” means Phoenix Class Action Administration Solutions, the
21 neutral entity the Parties have agreed to appoint to administer the Settlement and who will be
22 responsible for the administration of Individual Settlement Payments to be made by Defendants
23 from the Gross Settlement Amount and related matters under this Settlement. The Parties each
24 represent that they do not have any financial interest in the Administrator or otherwise have a
relationship with the Administrator that could create a conflict of interest

25 1.3. “Administration Expenses Payment” means the amount the Administrator will be
26 paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in
27 accordance with the Administrator’s “not to exceed” bid submitted to the Court in connection

1 with Preliminary Approval of the Settlement, as defined in Section 3.2.3.

2 1.4. “Aggrieved Employee” means a person currently or formerly employed by
3 Defendants in California and classified as an hourly, non-exempt employee who worked for
4 Defendants at any time during the PAGA Period. The Aggrieved Employees do not include the
5 hourly, non-exempt employees who worked at Defendant Prospect Hotel Management, LLC’s
6 corporate headquarters.

7 1.5. “Class” means all persons currently or formerly employed by Defendants in
8 California and classified as hourly, non-exempt employees who worked for Defendants at any time
9 during the Class Period. The Class does not include the hourly, non-exempt employees who
10 worked at Defendant Prospect Hotel Management, LLC’s corporate headquarters.

11 1.6. “Class Counsel” means David Glenn Spivak of The Spivak Law Firm and Walter
12 L. Haines of United Employees Law Group.

13 1.7. “Class Counsel Fees Payment” and “Class Counsel Litigation Expenses Payment”
14 mean the amounts allocated to Class Counsel for reimbursement of reasonable attorneys’ fees and
15 expenses, respectively, incurred to prosecute the Action, as defined in Section 3.2.1.

16 1.8. “Class Data” means Class Member identifying information in Defendants’
17 possession including the Class Member’s name, last-known mailing address, Social Security
18 number, or as applicable, other taxpayer identification number and number of Class Period Work
19 Weeks and PAGA Pay Periods.

20 1.9. “Class Member” or “Settlement Class Member” means a member of the Class, as
21 either a Participating Class Member or Non-Participating Class Member (including a Non-
22 Participating Class Member who qualifies as an Aggrieved Employee).

23 1.10. “Class Member Address Search” means the Administrator’s investigation and
24 search for current Class Member mailing addresses using all reasonably available sources,
25 methods and means including, but not limited to, the National Change of Address database, skip
26 traces, and direct contact by the Administrator with Class Members.

27 1.11. “Class Notice” means the COURT APPROVED NOTICE OF CLASS ACTION
28 SETTLEMENT AND HEARING DATE FOR FINAL COURT APPROVAL, to be mailed to
Class Members in English with a Spanish translation in the form, without material variation,
attached as Exhibit A and incorporated by reference into this Agreement.

1.12. “Class Period” means the period from September 25, 2019 to the date of

1 preliminary approval of the settlement.

2 1.13. "Class Representative" means the named Plaintiff in the operative complaint in the
3 Action seeking Court approval to serve as a Class Representative.

4 1.14. "Class Representative Service Payment" means the payment to the Class
5 Representative from the Gross Settlement Amount, subject to Court approval, in exchange for her
6 general release and in recognition of Plaintiff's efforts initiating the Action and providing services
in support of the Action.

7 1.15. "Court" means the Superior Court of California, County of Mariposa.

8 1.16. "Defendants" means named Defendants PROSPECT HOTEL SERVICES, LLC
9 and PROSPECT HOTEL MANAGEMENT, LLC.

10 1.17. "Defense Counsel" means Robert B. Forouzandeh of Reicker, Pfau, Pyle &
11 McRoy, LLP and Christina Ricci and Nicole Sheth of Kaufman Borgeest & Ryan LLP.

12 1.18. "Effective Date" means the later of the following: (1) the date the Final Approval
13 is signed if no objections are filed to the Settlement; (2) if objections are filed and overruled, and
14 no appeal is taken of the Final Approval Order, sixty (60) days after the Final Approval is signed;
15 or (3) if an appeal is taken from the Court's overruling of objections to the Settlement, ten (10)
16 days after the appeal is withdrawn or after an appellate decision affirming the final approval
decision becomes final.

17 1.19. "Final Approval" means final formal court order signed by the Court and entering
18 a judgment approving this Settlement on substantially the terms provided herein or as the same
19 may be modified by subsequent written agreement of the Parties as approved by the Court
following the Final Approval Hearing in accordance with the terms herein.

20 1.20. "Final Approval Hearing" means the Court's hearing on the Motion for Final
21 Approval of the Settlement.

22 1.21. "Final Judgment" means the Judgment Entered by the Court upon Granting Final
23 Approval of the Settlement.

24 1.22. "Gross Settlement Amount" means \$429,000 which is the total amount Defendants
25 agree to pay under the Settlement except as provided in Paragraph 9 below. The Gross Settlement
26 Amount will be used to pay Individual Class Payments, Individual PAGA Payments, the LWDA
27 PAGA Payment, Class Counsel Fees Payment, Class Counsel Expenses Payment, Class
Representative Service Payment and the Administration Expenses Payment.

1 1.23. “Individual Class Payment” means the Participating Class Member’s pro rata
2 share of the Net Settlement Amount, less the employee’s portion of required federal and state
3 withholdings, calculated according to the number of Work Weeks worked by the Participating
4 Class Member during the Class Period.

5 1.24. “Individual PAGA Payment” means the Aggrieved Employee’s pro rata share of
6 25% of the PAGA Penalties calculated according to the number of PAGA Pay Periods the
7 Aggrieved Employee worked during the PAGA Period.

8 1.25. “Judgment” means the judgment entered by the Court based upon the Final
9 Approval.

10 1.26. “LWDA” means the California Labor and Workforce Development Agency, the
11 agency entitled, under Labor Code section 2699, subd. (i).

12 1.27. “LWDA PAGA Payment” means the 75% share of the total amount allocated
13 toward PAGA Penalties paid to the LWDA under Labor Code section 2699, subd. (i).

14 1.28. “Net Settlement Amount” means the Gross Settlement Amount, less the following
15 payments in the amounts approved by the Court: Individual PAGA Payments, the LWDA PAGA
16 Payment, Class Representative Service Payment, Class Counsel Fees Payment, Class Counsel
17 Litigation Expenses Payment, and the Administration Expenses Payment. The remainder is to be
18 paid to Participating Class Members as Individual Class Payments.

19 1.29. “Non-Participating Class Member” means any Class Member who opts out of the
20 Settlement by sending the Administrator a valid and timely Request for Exclusion.

21 1.30. “Notice Packet” means the Class Notice (Exhibit A), the Election Not to
22 Participate in Settlement form (Exhibit B), the Work Week Dispute form (Exhibit C), and the
23 Objection form (Exhibit D) in English with Spanish translations.

24 1.31. “PAGA Pay Period” means any Pay Period during which an Aggrieved Employee
25 worked for Defendants for at least one day during the PAGA Period.

26 1.32. “PAGA Period” means the period from September 25, 2022 to the date of
27 preliminary approval of this Settlement.

28 1.33. “PAGA” means the Private Attorneys General Act (Labor Code §§ 2698. et seq.).

1.34. “PAGA Notice” means Plaintiff’s September 25, 2023 letter to Defendants and
the LWDA providing notice pursuant to Labor Code section 2699.3, subd.(a).

1.35. “PAGA Penalties” means the total amount of \$5,000 PAGA civil penalties to be

1 paid from the Gross Settlement Amount, allocated 25% to the Aggrieved Employees (\$1,250) and
2 the 75% to LWDA (\$3,750) in settlement of PAGA claims, subject to Court approval.

3 1.36. "Participating Class Member" means a Class Member who does not submit a valid
4 and timely Request for Exclusion from the Settlement.

5 1.37. "Plaintiff" means Kevin Lylum, the named plaintiff in the Action.

6 1.38. "Preliminary Approval" means the Court's Order Granting Preliminary Approval
of the Settlement.

7 1.39. "Preliminary Approval Order" means the proposed Order Granting Preliminary
8 Approval and Approval of PAGA Settlement.

9 1.40. "Released Class Claims" means the claims being released as described in
10 Paragraph 6.2 below.

11 1.41. "Released PAGA Claims" means the claims being released as described in
Paragraph 6.2 below.

12 1.42. "Released Parties" means: Defendants and each of their former, present and future
13 parents, affiliated or related entities, fictitious business names, franchisors, boards, directors,
14 officers, shareholders, owners, members, trustees, heirs, administrators, attorneys, insurers,
15 predecessors, successors, assigns, subsidiaries, representatives, agents, payroll processors,
16 independent contractors, managers, employees and affiliates.

17 1.43. "Request for Exclusion" means a Class Member's submission of a written request
18 to be excluded from the Class Settlement signed by the Class Member. An Election Not to
Participate in Settlement form is attached as Exhibit B.

19 1.44. "Response Deadline" means 60 days after the Administrator mails Notice to Class
20 Members and Aggrieved Employees, and shall be the last date on which Class Members may: (a)
21 fax, email, or mail Requests for Exclusion from the Settlement, or (b) fax, email, or mail his or
22 her Objection to the Settlement. Class Members to whom Notice Packets are resent after having
23 been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond
the Response Deadline has expired.

24 1.45. "Settlement" means the disposition of the Action effected by this Agreement and
25 the Judgment.

26 1.46. "Work Week" means any week during which a Class Member worked for
27 Defendants for at least one day, during the Class Period excluding the workweeks the Class

Member worked at Defendant Prospect Hotel Management, LLC's corporate headquarters.

1.47. A Work Week Dispute form is attached as Exhibit C.

2. RECITALS.

2.1. On September 25, 2023, Plaintiff commenced this Action by filing a Complaint alleging causes of action against Defendants for failure to pay wages, failure to authorize and permit rest periods, failure to indemnify for business expenses, failure to issue proper wage statements, failure to timely pay wages, failure to properly pay vacation time, failure to provide meal periods, and related claims. On December 4, 2023, Plaintiff filed a First Amended Complaint adding a PAGA cause of action. The First Amended Complaint is the operative complaint in the Action (the "Operative Complaint.") Defendants deny the allegations in the Operative Complaint, deny any failure to comply with the laws identified in in the Operative Complaint and deny any and all liability for the causes of action alleged.

2.2. Pursuant to Labor Code section 2699.3, subd.(a), Plaintiff gave timely written notice to Defendants and the LWDA by sending the PAGA Notice.

2.3. On July 08, 2024, the Parties participated in an all-day mediation presided over by Mr. Henry Bongiovi, Esq. which led to this Agreement to settle the Action.

2.4. Prior to mediation, Plaintiff obtained, through informal discovery, written policies, sample payroll records, sample time records, the number of comparable employees, the number of workweeks, the number of pay periods, and related information. Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.5. The Court has not granted class certification.

2.6. The Parties, Class Counsel and Defense Counsel represent that they are not aware of any other pending matter or action asserting claims that will be extinguished or affected by the Settlement.

3. MONETARY TERMS.

3.1. Gross Settlement Amount. Except as otherwise provided by Paragraph 9 below, Defendants promise to pay \$429,000 as the Gross Settlement Amount. In no event will Defendants be required to pay more than the Gross Settlement Amount, except to separately pay

any and all employer payroll taxes owed on the Wage Portions of the Individual Class Payments. Defendants have no obligation to pay the Gross Settlement Amount (or any payroll taxes) prior to the deadline stated in Paragraph 6.1 of this Agreement. The Administrator will disburse the entire Gross Settlement Amount without asking or requiring Participating Class Members or Aggrieved Employees to submit any claim as a condition of payment. None of the Gross Settlement Amount will revert to Defendants.

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

3.2.1. To Plaintiff: Class Representative Service Payment to the Class Representative of not more than \$15,000 (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive as a Participating Class Member). Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees Payment and Class Litigation Expenses Payment, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

3.2.2. To Class Counsel: A Class Counsel Fees Payment of not more than 33.33%, which is currently estimated to be \$143,000 and a Class Counsel Litigation Expenses Payment of not more than \$15,000. Defendants will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees Payment and Class Litigation Expenses Payment no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Counsel Fees Payment and/or a Class Counsel Litigation Expenses Payment less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fee Payment and/or Class Counsel Litigation Expenses Payment. The Administrator will pay the Class Counsel Fees Payment and Class Counsel Expenses Payment using one or more

1 IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the
2 Class Counsel Fees Payment and the Class Counsel Litigation Expenses Payment and holds
3 Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any
4 division or sharing of any of these Payments.

5 3.2.3. To the Administrator: An Administrator Expenses Payment not to exceed
6 \$10,000 except for a showing of good cause and as approved by the Court. To the extent the
7 Administration Expenses are less or the Court approves payment less than \$10,000, the
8 Administrator will retain the remainder in the Net Settlement Amount.

9 3.2.4. To Each Participating Class Member: The Settlement Administrator will
10 calculate the total number of Work Weeks for all Participating Class Members who worked during
11 the Class Period. An Individual Class Payment is calculated by (a) dividing the Net Settlement
12 Amount by the total number of Work Weeks worked by all Participating Class Members during
13 the Class Period and (b) multiplying the result by each Participating Class Member's Work
14 Weeks. The Settlement Administrator will determine the total number of Work Weeks worked
15 during the Class Period for each Participating Class Member.

16 3.2.4.1. Tax Allocation of Individual Class Payments. 20% of each
17 Participating Class Member's Individual Class Payment will be allocated to settlement of wage
18 claims (the "Wage Portion"). The Wage Portions are subject to tax withholdings customarily
19 made from an employee's wages and all other authorized and required withholdings and will be
20 reported on an IRS W-2 Form. The 80% of each Participating Class Member's Individual Class
21 Payment will be allocated to settlement of claims for statutory damages, reimbursements, interest
22 and penalties (the "Non-Wage Portion"). The Non-Wage Portions shall be subject to all
23 authorized and required withholdings other than the tax withholdings customarily made from
24 employees' wages and shall be reported on IRS 1099 Forms. Participating Class Members
25 assume full responsibility and liability for any employee taxes owed on their Individual Class
26 Payment. Defendants shall not make as part of this Settlement, nor be required to make, any
27 deductions, nor pay any monthly contributions for any insurance, retirement, 401(k) or profit-
28 sharing plans, or any benefit plans related to monies paid as a result of this Settlement.

3.2.4.2. Effect of Non-Participating Class Members on Calculation
of Individual Class Payments. Non-Participating Class Members will not receive any Individual
Class Payments. The Administrator will retain amounts equal to their Individual Class Payments

1 in the Net Settlement Amount for distribution to Participating Class Members on a pro rata basis.

2 3.2.5. To the LWDA and Aggrieved Employees: PAGA Penalties in the
3 amount of \$5,000 to be paid from the Gross Settlement Amount, with 75% (\$3,750) allocated to
4 the LWDA PAGA Payment and 25% (\$1,250) allocated to the Individual PAGA Payments.

5 3.2.5.1. The Administrator will calculate each Individual PAGA Payment
6 for all Aggrieved Employees worked during the PAGA Period by (a) dividing the amount of the
7 Aggrieved Employees' 25% share of PAGA Penalties \$1,250 by the total number of PAGA Pay
8 Periods worked by all Aggrieved Employees during the PAGA Period and (b) multiplying the
9 result by each Aggrieved Employee's PAGA Pay Periods. The Settlement Administrator will
10 determine the total number of Pay Periods worked during the PAGA Period for each Aggrieved
11 Employee. Aggrieved Employees assume full responsibility and liability for any taxes owed on
12 their Individual PAGA Payment.

13 3.2.5.2. If the Court approves PAGA Penalties of less than the amount
14 requested, the Administrator will allocate the remainder to the Net Settlement Amount. The
15 Administrator will report the Individual PAGA Payments on IRS 1099 Forms.

16 **4. SETTLEMENT FUNDING AND PAYMENTS.**

17 4.1. Class Work Weeks and Aggrieved Employee PAGA Pay Periods. Based on a
18 review their records to date, Defendants estimate there are 284 Class Members who collectively
19 worked a total of 14,283 Work Weeks, and 139 Aggrieved Employees who worked a total of 3,000
20 of PAGA Pay Periods.

21 4.2. Class Data. Not later than 15 days after the Court grants Preliminary Approval
22 of the Settlement, Defendants will simultaneously deliver the Class Data to the Administrator, in
23 the form of a Microsoft Excel spreadsheet. To protect Class Members' privacy rights, the
24 Administrator must maintain the Class Data in confidence, use the Class Data only for purposes
25 of this Settlement and for no other purpose, and restrict access to the Class Data to Administrator
26 employees who need access to the Class Data to effect and perform under this Agreement. The
27 Class Data shall not be disclosed to Plaintiff, Class Counsel or any other person without prior
28 approval from Defendants' counsel. However, for purposes of determining whether the escalation
provision of Section 9 of this Settlement is triggered, the Administrator will disclose to Class
Counsel the number of Class Members, Aggrieved Employees, Work Weeks, and PAGA Pay

1 Periods before notifying the Class of the Settlement. Defendants have a continuing duty to
2 immediately notify Class Counsel if they discover that the Class Data omitted class member
3 identifying information and to provide corrected or updated Class Data as soon as reasonably
4 feasible. Without any extension of the deadline by which Defendants must send the Class Data to
5 the Administrator, the Parties and their counsel will expeditiously use best efforts, in good faith,
to reconstruct or otherwise resolve any issues related to missing or omitted Class Data.

6 4.3. Funding of Gross Settlement Amount. Defendants shall fully fund the Gross
7 Settlement Amount, and also fund the amounts necessary to fully pay Defendants' share of payroll
8 taxes by transmitting the funds to the Administrator no later than 14 days after the Effective Date.

9 4.4. Payments from the Gross Settlement Amount. Within 14 days after Defendants
10 fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class
11 Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administration
12 Expenses Payment, the Class Counsel Fees Payment, the Class Counsel Litigation Expenses
13 Payment, and the Class Representative Service Payment. Disbursement of the Class Counsel Fees
14 Payment, the Class Counsel Litigation Expenses Payment and the Class Representative Service
15 Payment shall not precede disbursement of Individual Class Payments and Individual PAGA
Payments.

16 4.4.1. The Administrator will issue checks for the Individual Class Payments
17 and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail,
18 postage prepaid. The face of each check shall prominently state the date (not less than 180 days
19 after the date of mailing) when the check will be voided. The Administrator will cancel all checks
20 not cashed by the void date. The Administrator will send checks for Individual Settlement
21 Payments to all Participating Class Members (including those for whom Notice Packet was
22 returned undelivered). The Administrator will send checks for Individual PAGA Payments to all
23 Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved
24 Employees (including those for whom Notice Packet was returned undelivered). The
25 Administrator may send Participating Class Members a single check combining the Individual
26 Class Payment and the Individual PAGA Payment. Before mailing any checks, the Administrator
27 must update the recipients' mailing addresses using the National Change of Address Database.

28 4.4.2. The Administrator must conduct a Class Member Address Search for all
other Class Members whose checks are returned undelivered without USPS forwarding address.

1 Within seven (7) days of receiving a returned check the Administrator must re-mail checks to the
2 USPS forwarding address provided or to an address ascertained through the Class Member
3 Address Search. The Administrator need not take further steps to deliver checks to Class Members
4 whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a
5 replacement check to any Class Member whose original check was lost or misplaced, requested
by the Class Member prior to the void date.

6 4.4.3. For any Class Member whose Individual Class Payment check or
7 Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator
8 shall transmit the funds represented by such checks to the California Controller's Unclaimed
9 Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to
10 the requirements of California Code of Civil Procedure Section 384, subd. (b).

11 4.4.4. The payment of Individual Class Payments and Individual PAGA
12 Payments shall not obligate Defendants to confer any additional benefits or make any additional
13 payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in
this Agreement.

14 **5. [OMITTED]**

15 **6. RELEASES OF CLAIMS.** Effective on the date when Defendants fully fund the entire
16 Gross Settlement Amount and funds all employer payroll taxes owed on the Wage Portion of the
17 Individual Class Payments, Plaintiff, Class Members, and Class Counsel will release claims
against all Released Parties as follows:

18 6.1.1 Plaintiff's Release. Plaintiff and his respective former and present
19 spouses, representatives, agents, attorneys, heirs, administrators, predecessors, successors, and
20 assigns generally, forever release and discharge Released Parties from any and all claims,
21 transactions, debts, liabilities, demands, actions, causes of action or occurrences of every nature
22 and description that accrued during the Class Period, under state law and the Wage Orders of the
23 California Industrial Welfare Commission, that were alleged or which could have been alleged
24 based on the factual allegations in the First Amended Complaint in the Action, including, but not
25 limited to: (a) all claims that were, or reasonably could have been, alleged, based on the facts
26 contained, in the Operative Complaint, (b) all PAGA claims that were, or reasonably could have
27 been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or
ascertained during the Action and released under 6.2, below and (c) all claims arising under

1 California Labor Code Sections 201-204, 206, 218.6, 226, 226.7, 510, 512, 1182.12, 1194,
2 1194.2, 1197, 1198, 2800, 2802, and/or those arising under the Industrial Welfare Commission
3 Wage Orders, California Business and Professions Code section 17200 et seq., California Code
4 of Regulations, title 8, Section 11160, California Civil Code sections 3287, 3289, and 3294, and
5 California Code of Civil Procedure section 1021.5. ("Plaintiff's Release.") Plaintiff's Release
6 does not extend to any claims or actions to enforce this Agreement, or to any claims for vested
7 benefits, unemployment benefits, disability benefits, social security benefits, workers'
8 compensation benefits that arose at any time, or based on occurrences outside the Class Period.
9 Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to,
10 the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that
11 Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or
12 additional facts or Plaintiff's discovery of them. The above release language shall also be included
13 in the Class Notice.

12 6.1.2 Plaintiff's Waiver of Rights Under California Civil Code Section 1542. For
13 purposes of Plaintiff's Release, Plaintiff expressly waives and relinquishes the provisions, rights,
14 and benefits, if any, of section 1542 of the California Civil Code, which reads:

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

19
20 Thus, subject to and in accordance with this Agreement, even if Plaintiff
21 may hereafter discover facts in addition to or different from those she now knows or believes to
22 be true, Plaintiff, upon the Effective Date, shall be deemed to have fully, finally, and forever
23 settled and released any and all claims against the Released Parties that were alleged or could
24 have been alleged in the Action, as well as any other claims, whether known or unknown,
25 suspected or unsuspected, contingent or non-contingent, that now exist, upon any theory of law
26 or equity, including without limitation, conduct which is negligent, intentional, with or without
27 malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or
28 existence of such different or additional facts.

1 6.2 Release by Participating Class Members: All Participating Class Members, on
2 behalf of themselves and their respective former and present representatives, agents, attorneys,
3 heirs, administrators, successors, and assigns, release Released Parties from (i) all claims
4 transactions, debts, liabilities, demands, actions, causes of action or occurrences of every nature
5 and description that accrued during the Class Period, under state law and the Wage Orders of the
6 California Industrial Welfare Commission, that were alleged or which could have been alleged
7 based on the factual allegations in the First Amended Complaint in the Action, including, but not
8 limited to: failure to pay wages, failure to authorize and permit rest periods, failure to indemnify
9 for business expenses, failure to issue proper wage statements, failure to timely pay wages, failure
10 to properly pay vacation time, failure to provide meal periods, and related allegations for the Class
11 Period. This shall include all claims arising from the factual allegations in the First Amended
12 Complaint in the Action that can support violations of California Labor Code Sections 201-204,
13 206, 218.6, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2802, and/or those
14 arising under the Industrial Welfare Commission Wage Orders, California Business and
15 Professions Code section 17200 et seq., California Code of Regulations, title 8, Section 11160,
16 California Civil Code sections 3287, 3289, and 3294, and California Code of Civil Procedure
17 section 1021.5. Except as set forth in Section 6.3 of this Agreement, Participating Class Members
18 do not release any other claims, including claims for vested benefits, wrongful termination,
19 violation of the Fair Employment and Housing Act, unemployment insurance, disability, social
20 security, workers' compensation, or claims based on facts occurring outside the Class Period. The
21 above release language shall also be included in the Class Notice.

22 6.3 Release by Non-Participating Class Members Who Are Aggrieved Employees:
23 All Non-Participating Class Members who are Aggrieved Employees are deemed to release, on
24 behalf of themselves and their respective former and present representatives, agents, attorneys,
25 heirs, administrators, successors, and assigns, the Released Parties from any and all claims, debts,
26 liabilities, demands, actions, or causes of action of every nature and description that accrued
27 during the PAGA Period, under state law and the California Labor Code, that were alleged or
28 which could have been alleged based on the exhausted claims and factual allegations in Plaintiff's
29 notices sent to the LWDA and alleged in the operative complaint, regardless of whether the
30 Aggrieved Employees opt-out of the Settlement Agreement, including claims for civil penalties
31 based on unpaid wages, including but not limited to failure to pay minimum wages, straight time

1 compensation, overtime compensation, double time compensation and interest; failure to timely
2 pay regular and final wages; failure to reimburse business expenses; failure to properly pay
3 vacation time; missed meal period and rest period wages and premiums; meal period waivers and
4 on-duty meal period waivers; payment for all hours worked; wage statements and paystubs,
5 including wage statements and paystubs furnished or available in physical, electronic, or other
6 forms; failure to keep accurate records; penalties, including recordkeeping penalties, wage
7 statement penalties, minimum-wage penalties, and waiting-time penalties; statutory penalties and
8 civil penalties; and attorneys' fees and costs. This shall include all claims arising from the factual
9 allegations in the First Amended Complaint in the Action that can support recovery of civil
10 penalties for violations of California Labor Code Sections 201, 202, 203, 204, 206, 210, 226,
11 226.3, 226.7, 227.3, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198, 2698 et seq.,
12 2800, and 2802, and/or those arising under the Industrial Welfare Commission Wage Orders;
13 PAGA; and/or those arising under the Industrial Welfare Commission Wage Orders; California
14 Code of Regulations, title 8, Section 11160; and California Code of Civil Procedure section
15 1021.5 ("PAGA Released Claims"). The above release language shall also be included in the
16 Class Notice.

17
18 **7. MOTION FOR PRELIMINARY APPROVAL.** The Parties agree to jointly prepare and
19 file a motion for preliminary approval ("Motion for Preliminary Approval") that complies with
20 the Court's current checklist for Preliminary Approvals.

21 **7.1 Defendants' Declaration in Support of Preliminary Approval.** Within ten (10)
22 days of the full execution of this Agreement, Defendants will prepare and deliver to Class Counsel
23 a signed Declaration from Defendants and Defense Counsel disclosing all facts relevant to any
24 actual or potential conflicts of interest with the Administrator and Cy Pres Recipient. In their
25 Declarations, Defense Counsel and Defendants shall aver that they are not aware of any other
26 pending matter or action asserting claims that will be extinguished or adversely affected by the
27 Settlement.

28 **7.2 Plaintiff's Responsibilities.** Plaintiff will prepare and deliver to Defense Counsel
all documents necessary for obtaining Preliminary Approval, including: (i) a draft of the notice,
and memorandum in support, of the Motion for Preliminary Approval that includes an analysis
of the Settlement under *Dunk/Kullar* and a request for approval of the PAGA Settlement under

1 Labor Code Section 2699, subd. (f)(2)); (ii) a draft proposed Order Granting Preliminary Approval
2 and Approval of PAGA Settlement; (iii) a draft proposed Notice Packet; (iv) a signed declaration
3 from the Administrator attaching its “not to exceed” bid for administering the Settlement and
4 attesting to its willingness to serve; competency; operative procedures for protecting the security
5 of Class Data; amounts of insurance coverage for any data breach, defalcation of funds or other
6 misfeasance; all facts relevant to any actual or potential conflicts of interest with Class Members;
7 and the nature and extent of any financial relationship with Plaintiff, Class Counsel or Defense
8 Counsel; (v) a signed declaration from Plaintiff confirming willingness and competency to serve
9 and disclosing all facts relevant to any actual or potential conflicts of interest with Class Members,
10 and/or the Administrator; (v) a signed declaration from each Class Counsel firm attesting to its
11 competency to represent the Class Members; its timely transmission to the LWDA of all necessary
12 PAGA documents (initial notice of violations (Labor Code section 2699.3, subd. (a)), Operative
13 Complaint (Labor Code section 2699, subd. (l)(1)), this Agreement (Labor Code section 2699,
14 subd. (l)(2)); (vi) a redlined version of the parties’ Agreement showing all modifications made to
15 the Model Agreement ready for filing with the Court; and (vii) all facts relevant to any actual or
16 potential conflict of interest with Class Members, the Administrator and/or the Cy Pres Recipient.
17 In their Declarations, Plaintiff and Class Counsel Declaration shall aver that they are not aware
18 of any other pending matter or action asserting claims that will be extinguished or adversely
19 affected by the Settlement.

20 7.3 Responsibilities of Counsel. Class Counsel and Defense Counsel are jointly
21 responsible for expeditiously finalizing and filing the Motion for Preliminary Approval no later
22 than 60 days after the full execution of this Agreement; obtaining a prompt hearing date for the
23 Motion for Preliminary Approval; and for appearing in Court to advocate in favor of the Motion
24 for Preliminary Approval. Class Counsel is responsible for delivering the Court’s Preliminary
25 Approval to the Administrator.

26 7.4 Duty to Cooperate. If the Parties disagree on any aspect of the proposed Motion
27 for Preliminary Approval and/or the supporting declarations and documents, Class Counsel and
28 Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person
or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant
Preliminary Approval or conditions Preliminary Approval on any material change to this
Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of

the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

8. SETTLEMENT ADMINISTRATION.

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

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

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

8.4 Notice to Class Members.

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

8.4.2 Using best efforts to perform as soon as possible, and in no event later than 14 days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Notice Packet with Spanish and translation, of the forms attached to this Agreement as **Exhibits A, B, C, and D.** The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member, and the number of Work Weeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Notice Packets, the Administrator shall update Class Member addresses using the National Change of Address database.

8.4.3 Not later than three (3) business days after the Administrator's receipt of

1 any Notice Packet returned by the USPS as undelivered, the Administrator shall re-mail the Notice
2 Packet using any forwarding address provided by the USPS. If the USPS does not provide a
3 forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail
4 the Notice Packet to the most current address obtained. The Administrator has no obligation to
5 make further attempts to locate or send Notice Packet to Class Members whose Notice Packet is
6 returned by the USPS a second time.

7 8.4.4 The deadlines for Class Members' written objections, Challenges to Work
8 Weeks and/or PAGA Pay Periods, and Requests for Exclusion will be extended an additional 14
9 days beyond the 60 days otherwise provided in the Notice Packet for all Class Members whose
10 notice is re-mailed. The Administrator will inform the Class Member of the extended deadline
11 with the re-mailed Notice Packet.

12 8.4.5 If the Administrator, any of the Defendants or Class Counsel is contacted
13 by or otherwise discovers any persons who believe they should have been included in the Class
14 Data and should have received Notice Packet, the Parties will expeditiously meet and confer in
15 person or by telephone, and in good faith in an effort to agree on whether to include them as Class
16 Members. If the Parties agree, such persons will be Class Members entitled to the same rights as
17 other Class Members, and the Administrator will send, via email or overnight delivery, a Notice
18 Packet requiring them to exercise options under this Agreement not later than 14 days after receipt
19 of Notice Packet, or the deadline dates in the Notice Packet, whichever are later.

20 8.5 Requests for Exclusion (Opt-Outs).

21 8.5.1 Plaintiff may not request exclusion from the Class. Class Members who
22 wish to exclude themselves (opt-out of) the Class Settlement must send the Administrator, by fax,
23 email, or mail, a signed written Request for Exclusion not later than 60 days after the
24 Administrator mails the Notice Packet (plus an additional 14 days for Class Members whose
25 Notice Packet is re-mailed). A Request for Exclusion is a letter from a Class Member or his/her
26 representative that reasonably communicates the Class Member's election to be excluded from
27 the Settlement and includes the Class Member's name, address and email address or telephone
28 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

1 determined according to the records of the Settlement Administrator. The Settlement
2 Administrator shall immediately provide copies of all Requests for Exclusion to Class Counsel
3 and Defense Counsel and shall report the number of Requests for Exclusion that it receives, to
4 the Court, in its declaration to be provided in advance of the Final Approval Hearing.

5 8.5.2 The Administrator may not reject a Request for Exclusion as invalid
6 because it fails to contain all the information specified in the Notice Packet. The Administrator
7 shall accept any Request for Exclusion as valid if the Administrator can reasonably ascertain the
8 identity of the person as a Class Member and the Class Member's desire to be excluded. The
9 Administrator's determination shall be final and not appealable or otherwise susceptible to
10 challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion,
11 the Administrator may demand additional proof of the Class Member's identity. The
12 Administrator's determination of authenticity shall be final and not appealable or otherwise
13 susceptible to challenge.

14 8.5.3 Every Class Member who does not submit a timely and valid Request for
15 Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all
16 benefits and bound by all terms and conditions of the Settlement, including the Participating Class
17 Members' Releases under Paragraphs 6.2 and 6.3 of this Agreement, regardless whether the
18 Participating Class Member actually receives the Notice Packet or objects to the Settlement. A
19 Class Member cannot submit both a Request for Exclusion and an Objection. If a Class Member
20 subjects both an Objection and Request for Exclusion, the Request for Exclusion will control and
21 the Objection will be void.

22 8.5.4 Every Class Member who submits a valid and timely Request for
23 Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment
24 or have the right to object to the class action components of the Settlement. Because future PAGA
25 claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class
26 Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph
27 6.4 of this Agreement and are eligible for an Individual PAGA Payment.

28 8.6 Challenges to Calculation of Work Weeks. Each Class Member shall have 60
days after the Administrator mails the Notice Packet (plus an additional 14 days for Class
Members whose Notice Packet is re-mailed) to challenge the number of Class Work Weeks and/or
PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. This is also known

1 as a dispute. A Work Week Dispute form, attached as Exhibit C, may be used for this purpose
2 but is not required. The Class Member may challenge the allocation by communicating with the
3 Administrator via fax, email or mail. All written disputes must contain the Class Member's
4 address, telephone number, and a reference to the Action. The Administrator must encourage the
5 challenging Class Member to submit supporting documentation. In the absence of any contrary
6 documentation, the Administrator is entitled to presume that the Work Weeks contained in the
7 Class Notice are correct so long as they are consistent with the Class Data. The Administrator's
8 determination of each Class Member's allocation of Work Weeks and/or PAGA Pay Periods shall
9 be final and not appealable or otherwise susceptible to challenge. The Administrator shall
10 promptly provide copies of all challenges to calculation of Work Weeks and/or PAGA Pay
11 Periods to Defense Counsel and Class Counsel and the Administrator's determination the
12 challenges.

11 8.7 Objections to Settlement.

12 8.7.1 The Plaintiff may not object to the Settlement. Only Participating Class
13 Members may object to the class action components of the Settlement and/or this Agreement,
14 including contesting the fairness of the Settlement, and/or amounts requested for the Class
15 Counsel Fees Payment, Class Counsel Litigation Expenses Payment and/or Class Representative
16 Service Payment.

17 8.7.2 Participating Class Members may send written objections, signed by the
18 Objecting Class Member or his or her attorney, along with supporting papers, to the
19 Administrator, by fax, email, or mail. All written objections must contain the Class Member's
20 address, telephone number, and reference to the Action. In the alternative, Participating Class
21 Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections
22 at the Final Approval Hearing. A Participating Class Member who elects to send a written
23 objection to the Administrator must do so not later than 60 days after the Administrator's mailing
24 of the Notice Packet (plus an additional 14 days for Class Members whose Notice Packet was re-
25 mailed). The Objection form attached as Exhibit D may be used for this purpose but is not
26 required. The date of the initial mailing of the Notice Packet, and the date the signed objection
27 was postmarked, shall be conclusively determined according to the records of the Settlement
28 Administrator. The Settlement Administrator shall send any objections it receives to Defense
Counsel and Class Counsel within five (5) business days of receipt. The Court retains final

1 authority with respect to consideration and admissibility of any Class Member objections. If a
2 Class Member objects to the Settlement, the Class Member will remain a member of the Class
3 and if the Court approves this Agreement, the Class Member will be bound by the terms of the
4 Settlement in the same way and to the same extent as a Class Member who does not object.

5 8.7.3 Non-Participating Class Members have no right to object to any of the class
6 action components of the Settlement.

7 8.8 Administrator Duties. The Administrator has a duty to perform or observe all
8 tasks to be performed or observed by the Administrator contained in this Agreement or otherwise.

9 8.8.1 Website, Email Address and Toll-Free Number. The Administrator will
10 establish and maintain and use an internet website to post information of interest to Class
11 Members including the date, time and location for the Final Approval Hearing and copies of the
12 Settlement Agreement, Motion for Preliminary Approval, the Preliminary Approval, the Notice
13 Packet, the Motion for Final Approval, the Motion for Class Counsel Fees Payment, Class
14 Counsel Litigation Expenses Payment and Class Representative Service Payment, the Final
15 Approval and the Judgment. The Administrator will also maintain and monitor an email address
16 and a toll-free telephone number to receive Class Member calls, faxes and emails.

17 8.8.2 Requests for Exclusion (Opt-outs) and Exclusion List. The Administrator
18 will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not
19 later than five (5) days after the expiration of the deadline for submitting Requests for Exclusion,
20 the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the
21 names and other identifying information of Class Members who have timely submitted valid
22 Requests for Exclusion (“Exclusion List”); (b) the names and other identifying information of
23 Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for
24 Exclusion from Settlement submitted (whether valid or invalid).

25 8.8.3 Weekly Reports. The Administrator must, on a weekly basis, provide
26 written reports to Class Counsel and Defense Counsel that, among other things, tally the number
27 of: Notice Packets mailed or re-mailed, Notice Packets returned undelivered, Requests for
28 Exclusion (whether valid or invalid) received, objections received, challenges to Work Weeks
and/or PAGA Pay Periods received and/or resolved, and checks mailed for Individual Class
Payments and Individual PAGA Payments (“Weekly Report”). The Weekly Reports must include
provide the Administrator’s assessment of the validity of Requests for Exclusion and attach copies

1 of all Requests for Exclusion and objections received.

2 8.8.4 Work Weeks and/or PAGA Pay Periods Challenges. The Administrator
3 has the authority to address and make final decisions consistent with the terms of this Agreement
4 on all Class Member challenges over the calculation of Work Weeks and/or PAGA Pay Periods.
5 The Administrator's decision shall be final and not appealable or otherwise susceptible to
6 challenge.

7 8.8.5 Administrator's Declaration. Not later than 14 days before the date by
8 which Plaintiff is required to file the Motion for Final Approval of the Settlement, the
9 Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable
10 for filing in Court attesting to its due diligence and compliance with all of its obligations under
11 this Agreement, including, but not limited to, its mailing of Notice Packet, the Notice Packets
12 returned as undelivered, the re-mailing of Notice Packets, attempts to locate Class Members, the
13 total number of Requests for Exclusion from Settlement it received (both valid or invalid), the
14 number of written objections and attach the Exclusion List. The Administrator will supplement
15 its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible
16 for filing the Administrator's declaration(s) in Court.

17 8.8.6 Final Report by Administrator. Within 10 days after the Administrator
18 disburses all funds in the Gross Settlement Amount, the Administrator will provide Class Counsel
19 and Defense Counsel with a final report detailing its disbursements by employee identification
20 number only of all payments made under this Agreement. At least 15 days before any deadline
21 set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense
22 Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all
23 payments required under this Agreement. Class Counsel is responsible for filing the
24 Administrator's declaration in Court.

25 **9. CLASS SIZE ESTIMATES and ESCALATOR CLAUSE.** Based on their records,
26 Defendants estimate that, as of the date of this Settlement Agreement, (1) there are 284 Class
27 Members who worked a total of 14,283 Work Weeks during the Class period and (2) there are
28 139 Aggrieved Employees who worked a total of 3,000 PAGA Pay Periods during the PAGA
Period. If the Work Weeks and/or Class Members as of the date the Court approves the settlement
exceeds the referenced 14,283 Work Weeks and/or 284 Class Members by more than 10%, the

1 Gross Settlement Amount, including the Class Counsel Fees Payment, the Class Representative
2 Payment, and the LWDA payment, will increase proportionally according to the number of
3 additional Work Weeks or Class Members, whichever results in a higher increase in the Gross
4 Settlement Amount.

5 **10. DEFENDANTS' RIGHT TO WITHDRAW.** If the number of valid Requests for
6 Exclusion identified in the Exclusion List exceeds 5% of the total of all Class Members,
7 Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties
8 agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect
9 whatsoever, and that neither Party will have any further obligation to perform under this
10 Agreement; provided, however, Defendants will remain responsible for paying all Settlement
11 Administration Expenses incurred to that point. Defendants must notify Class Counsel and the
12 Court of their election to withdraw not later than fourteen (14) days after the Administrator sends
13 the final Exclusion List to Defense Counsel; late elections will have no effect.

14 **11. MOTION FOR FINAL APPROVAL.** Not later than 16 court days before the calendared
15 Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement
16 that includes a request for approval of the PAGA settlement under Labor Code section 2699,
17 subd. (l), a Proposed Final Approval Order and a proposed Judgment (collectively "Motion for
18 Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later
19 than seven (7) days prior to filing the Motion for Final Approval. Class Counsel and Defense
20 Counsel will expeditiously meet and confer in person or by telephone, and in good faith, to resolve
21 any disagreements concerning the Motion for Final Approval.

22 **11.1 Response to Objections.** Each Party retains the right to respond to any objection
23 raised by a Participating Class Member, including the right to file responsive documents in Court
24 no later than five (5) court days prior to the Final Approval Hearing, or as otherwise ordered or
25 accepted by the Court.

26 **11.2 Duty to Cooperate.** If the Court does not grant Final Approval or conditions Final
27 Approval on any material change to the Settlement (including, but not limited to, the scope of
28 release to be granted by Class Members), the Parties will expeditiously work together in good
29 faith to address the Court's concerns by revising the Agreement as necessary to obtain Final
30 Approval. The Court's decision to award less than the amounts requested for the Class

1 Representative Service Payment, Class Counsel Fees Payment, Class Counsel Litigation
2 Expenses Payment and/or Administrator Expenses Payment shall not constitute a material
3 modification to the Agreement within the meaning of this paragraph.

4 11.3 Continuing Jurisdiction of the Court. The Parties agree that, after entry of
5 Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement solely for
6 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.

7 11.4 Waiver of Right to Appeal. Provided the Judgment is consistent with the terms
8 and conditions of this Agreement, specifically including the Class Counsel Fees Payment and
9 Class Counsel Litigation Expenses Payment reflected set forth in this Settlement, the Parties, their
10 respective counsel, and all Participating Class Members who did not object to the Settlement as
11 provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to
12 post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions
13 for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver
14 of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the
15 Parties' obligations to perform under this Agreement will be suspended until such time as the
16 appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect
the amount of the Net Settlement Amount.

17 11.5 Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If
18 the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a
19 material modification of this Agreement (including, but not limited to, the scope of release to be
20 granted by Class Members), the Plaintiff and Defendants shall each have the right, but not the
21 obligation, to void the Settlement, which either Party must do by giving written notice to the other
22 Party, the final reviewing court, and the Court no later than thirty (30) court days after the final
23 reviewing court's decision vacating, reversing, or materially modifying the Final Order becomes
24 final and non-appealable. The Parties shall nevertheless expeditiously work together in good faith
25 to address the appellate court's concerns and to obtain Final Approval and entry of Judgment,
26 sharing, on a 50-50 basis, any additional Administration Expenses reasonably incurred after
27 remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class
28 Representative Service Payment or any payments to Class Counsel shall not constitute a material
modification of the Judgment within the meaning of this paragraph, as long as the Gross

1 Settlement Amount remains unchanged.

2
3 **12. AMENDED JUDGMENT.** If any amended judgment is required under Code of Civil
4 Procedure section 384, the Parties will work together in good faith to jointly submit and a proposed
5 amended judgment.

6 **13. ADDITIONAL PROVISIONS.**

7 13.1 No Admission of Liability, Class Certification or Representative Manageability
8 for Other Purposes. This Agreement represents a compromise and settlement of highly disputed
9 claims. Nothing in this Agreement is intended or should be construed as an admission by
10 Defendants that any of the allegations in the Operative Complaint have merit or that Defendants
11 have any liability for any claims asserted; nor should it be intended or construed as an admission
12 by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class
13 certification and representative treatment is for purposes of this Settlement only. If, for any reason
14 the Court does grant Preliminary Approval, Final Approval or enter Judgment, Defendants
15 reserve the right to contest certification of any class for any reasons, and Defendants reserve all
16 available defenses to the claims in the Action, and Plaintiff reserves the right to move for class
17 certification on any grounds available and to contest Defendants' defenses. The Settlement, this
18 Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be
admissible in connection with, any litigation (except for proceedings to enforce or effectuate the
Settlement and this Agreement).

19 13.2 Confidentiality Prior to Preliminary Approval. Plaintiff, Class Counsel,
20 Defendants and Defense Counsel separately agree that, until the Motion for Preliminary Approval
21 of Settlement is filed, they and each of them will not disclose, disseminate and/or publicize, or
22 cause or permit another person to disclose, disseminate or publicize, any of the terms of the
23 Agreement directly or indirectly, specifically or generally, to any person, corporation, association,
24 government agency, or other entity except: (1) to the Parties' attorneys, accountants, or spouses,
25 all of whom will be instructed to keep this Agreement confidential; (2) counsel in a related matter;
26 (3) to the extent necessary to report income to appropriate taxing authorities; (4) in response to a
27 court order or subpoena; or (5) in response to an inquiry or subpoena issued by a state or federal
government agency. The Parties and their counsel agree that they will not publicize the

1 Settlement, or issue any press releases, initiate any contact with the media, respond to any media
2 inquiry, or have any communication with the press about the fact, amount or terms of the
3 Settlement. In addition, the Parties and their counsel agree that they will not engage in any
4 advertising or distribute any marketing materials relating to the Settlement of this case, including
5 but not limited to any postings on any websites, social media, and/or any professional
6 organization, unless ordered by the Court in any manner from which Defendants' identity can
7 reasonably be ascertained. Notwithstanding, the Parties shall undertake any and all disclosures
8 which are required by law including providing notice of the PAGA settlement to the LWDA
pursuant to statute.

9 Each Party agrees to immediately notify each other Party of any judicial or agency
10 order, inquiry, or subpoena seeking such information. Plaintiff, Class Counsel, Defendants and
11 Defense Counsel separately agree not to, directly or indirectly, initiate any conversation or other
12 communication, before the filing of the Motion for Preliminary Approval, any with third party
13 regarding this Agreement or the matters giving rise to this Agreement except to respond only that
14 "the matter was resolved," or words to that effect. This paragraph does not restrict Class Counsel's
15 communications with Class Members in accordance with Class Counsel's ethical obligations
owed to Class Members.

16 13.3 No Solicitation. The Parties separately agree that they and their respective
17 counsel and employees will not solicit any Class Member to opt out of or object to the Settlement,
18 or appeal from the Judgment. Nothing in this paragraph shall be construed to restrict Class
19 Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical
obligations owed to Class Members.

20 13.4 Integrated Agreement. Upon execution by all Parties and their counsel, this
21 Agreement together with its attached exhibits shall constitute the entire agreement between the
22 Parties relating to the Settlement, superseding any and all oral representations, warranties,
23 covenants, or inducements made to or by any Party, and all understandings among the Parties
24 hereto with respect to the settlement of the Action, including correspondence between Class
Counsel and Defense Counsel and drafts of prior agreements or proposals

25 13.5 Attorney Authorization. Class Counsel and Defense Counsel separately warrant
26 and represent that they are authorized by Plaintiff and Defendants, respectively, to take all
27 appropriate action required or permitted to be taken by such Parties pursuant to this Agreement

1 to effectuate its terms, and to execute any other documents reasonably required to effectuate the
2 terms of this Agreement including any amendments to this Agreement, except for signing the
3 documents, including but not limited to this Settlement, that are required to be signed by the Parties.

4 13.6 Cooperation. The Parties and their counsel will cooperate with each other and
5 use their best efforts, in good faith, to implement the Settlement by, among other things,
6 modifying the Settlement Agreement, submitting supplemental evidence and supplementing
7 points and authorities as requested by the Court. In the event the Parties are unable to agree upon
8 the form or content of any document necessary to implement the Settlement, or on any
9 modification of the Agreement that may become necessary to implement the Settlement, the
Parties will seek the assistance of a mediator and/or the Court for resolution.

10 13.7 No Prior Assignments. The Parties separately represent and warrant that they
11 have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer,
12 or encumber to any person or entity and portion of any liability, claim, demand, action, cause of
13 action, or right released and discharged by the Party in this Settlement. None of the rights,
14 commitments, or obligations recognized under this Settlement may be assigned by any Party,
15 Class Member, Class Counsel, or Defense Counsel without the express written consent of each
16 other Party and their respective counsel. The representations, warranties, covenants, and
17 agreements contained in this Settlement are for the sole benefit of the Parties under this
Settlement, and shall not be construed to confer any right or to avail any remedy to any other
person.

18 13.8 No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense
19 Counsel are providing any advice regarding taxes or taxability, nor shall anything in this
20 Settlement be relied upon as such within the meaning of United States Treasury Department
21 Circular 230 (31 CFR Part 10, as amended) or otherwise.

22 13.9 Modification of Agreement. This Agreement, and all parts of it, may be
23 amended, modified, changed, or waived only by an express written instrument signed by all
Parties or their representatives, and approved by the Court.

24 13.10 Agreement Binding on Successors. This Agreement will be binding upon, and
25 inure to the benefit of, the successors of each of the Parties.

26 13.11 Applicable Law. All terms and conditions of this Agreement and its exhibits will
27 be governed by and interpreted according to the internal laws of the state of California, without

1 regard to conflict of law principles.

2 13.12 Cooperation in Drafting. The Parties have cooperated in the drafting and
3 preparation of this Agreement. This Agreement will not be construed against any Party on the
4 basis that the Party was the drafter or participated in the drafting.

5 13.13 Confidentiality. To the extent permitted by law, all agreements made, and orders
6 entered during Action and in this Agreement relating to the confidentiality of information shall
7 survive the execution of this Agreement.

8 13.14 Use and Return of Class Data. Information provided to Class Counsel pursuant
9 to Cal. Evid. Code §1152, and all copies and summaries of the Class Data provided to Class
10 Counsel by Defendants in connection with the mediation, other settlement negotiations, or in
11 connection with the Settlement, may be used only with respect to this Settlement, and no other
12 purpose, and may not be used in any way that violates any existing contractual agreement, statute,
13 or rule of court. Not later than 90 days after the date when the Court discharges the
14 Administrator's obligation to provide a Declaration confirming the final pay out of all Settlement
15 funds, Plaintiff shall destroy, all paper and electronic versions of Class Data received from
16 Defendants unless, prior to the Court's discharge of the Administrator's obligation, Defendants
17 make a written request to Class Counsel for the return, rather than the destructions, of Class Data.

18 13.15 Headings. The descriptive heading of any section or paragraph of this Agreement
19 is inserted for convenience of reference only and does not constitute a part of this Agreement.

20 13.16 Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement
21 shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a
22 weekend or federal legal holiday, such date or deadline shall be on the first business day
23 thereafter.

24 13.17 Notice. All notices, demands or other communications between the Parties in
25 connection with this Agreement will be in writing and deemed to have been duly given as of the
26 third business day after mailing by United States mail, or the day sent by email or messenger,
27 addressed as follows:

28 To Plaintiff:
David Glenn Spivak, Esq.
The Spivak Law Firm
8605 Santa Monica Bl

1 PMB 42554
2 West Hollywood, CA 90069
3 david@spivaklaw.com

4 To Defendants:

5 Nicole Sheth, Esq.
6 Christina Ricci, Esq.
7 KAUFMAN BERGEEST & RYAN
8 21700 Oxnard Street, Suite 1450
9 Woodland Hills, CA 91367
10 Telephone: (818) 990-0992
11 Facsimile: (818) 880-0993

12 Robert B. Forouzandeh, Esq.
13 Reicker, Pfau, Pyle & McRoy, LLP
14 1421 State Street
15 Suite B
16 Santa Barbara, CA 93101
17 rforouzandeh@rppmh.com

18 13.18 Execution in Counterparts. This Agreement may be executed in one or more
19 counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this
20 Agreement shall be accepted as an original. All executed counterparts and each of them will be
21 deemed to be one and the same instrument if counsel for the Parties will exchange between
22 themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove
23 the existence and contents of this Agreement.

24 13.19 Stay of Litigation. The Parties agree that upon the execution of this Agreement
25 the litigation shall be stayed, except to effectuate the terms of this Agreement. The Parties further
26 agree that upon the signing of this Agreement that pursuant to CCP section 583.330 to extend the
27 date to bring a case to trial under CCP section 583.310 for the entire period of this settlement
28 process.

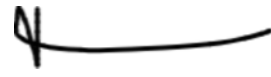
13.20 Invalidity of Any Provision. Before declaring any provision of this Agreement
invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible
consistent with applicable precedents so as to define all provisions of this Agreement valid and
enforceable. If any provision of this Agreement or the application thereof is held invalid, the
invalidity shall not affect other provisions or applications of this Agreement which can be given
effect without the invalid provisions or application and, to this end, the provisions of this

1 Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release
2 contained herein may be deemed severed or deleted from this Agreement, except upon waiver in
3 writing by the applicable party.

4
5 Dated: October 28, 2024

6 By: 
KEVIN LYNUM

7
8 Dated: October 25, 2024

9 By: 
Katie Hara Chief People Officer
[NAME/TITLE]
For PROSPECT HOTEL SERVICES,
10 LLC and PROSPECT HOTEL
11 MANAGEMENT, LLC

12
13 THE SPIVAK LAW FIRM

14
15 Dated: October ____, 2024

16 By: _____
DAVID GLENN SPIVAK, Attorneys
for Plaintiff, KEVIN LYNUM, and all
17 others similarly situated

18
19 UNITED EMPLOYEES LAW GROUP

20
21 Dated: October ____, 2024

22 By: _____
WALTER L. HAINES, Attorneys for
Plaintiff, KEVIN LYNUM, and all
23 others similarly situated

24 REICKER, PFAU, PYLE & MCROY, LLP

25
26 Dated: October 25, 2024

27 By: 
ROBERT B. FOROUZANDEH,
Attorneys for Defendants, PROSPECT

KL

1 Agreement are declared to be severable. Notwithstanding the foregoing, no portion of any release
2 contained herein may be deemed severed or deleted from this Agreement, except upon waiver in
3 writing by the applicable party.

4
5 Dated: October ____, 2024

By: _____
KEVIN LYNUM

6
7
8 Dated: October 25, 2024

By:  _____
Katie Hara Chief People Officer
[NAME/TITLE]
For PROSPECT HOTEL SERVICES,
LLC and PROSPECT HOTEL
MANAGEMENT, LLC

12
13 THE SPIVAK LAW FIRM

14
15 Dated: October 28, 2024

By:  _____
DAVID GLENN SPIVAK, Attorneys
for Plaintiff, KEVIN LYNUM, and all
others similarly situated

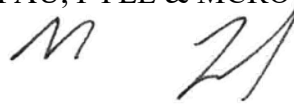
18
19 UNITED EMPLOYEES LAW GROUP

20
21 Dated: October ____, 2024

By: _____
WALTER L. HAINES, Attorneys for
Plaintiff, KEVIN LYNUM, and all
others similarly situated

23
24 REICKER, PFAU, PYLE & MCROY, LLP

25
26 Dated: October 25, 2024

By:  _____
ROBERT B. FOROUZANDEH,
Attorneys for Defendants, PROSPECT

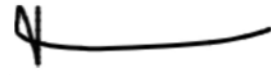
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2 contained herein may be deemed severed or deleted from this Agreement, except upon waiver in
3 writing by the applicable party.

4
5 Dated: October ____, 2024

By: _____

6 KEVIN LYNUM

7
8 Dated: October 25, 2024

By:  _____

9 Katie Hara Chief People Officer
10 [NAME/TITLE]
11 For PROSPECT HOTEL SERVICES,
12 LLC and PROSPECT HOTEL
13 MANAGEMENT, LLC

14 THE SPIVAK LAW FIRM

15 Dated: October ____, 2024

By: _____

16 DAVID GLENN SPIVAK, Attorneys
17 for Plaintiff, KEVIN LYNUM, and all
18 others similarly situated

19 UNITED EMPLOYEES LAW GROUP

20 Dated: October 29, 2024

By:  _____

21 WALTER L. HAINES, Attorneys for
22 Plaintiff, KEVIN LYNUM, and all
23 others similarly situated

24 REICKER, PFAU, PYLE & MCROY, LLP

25 Dated: October 25, 2024

By:  _____

26 ROBERT B. FOROUZANDEH,
27 Attorneys for Defendants, PROSPECT

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HOTEL SERVICES, LLC and
PROSPECT HOTEL
MANAGEMENT, LLC

KAUFMAN, BERGEEST AND RYAN LLP

Date: October 25, 2024

By: Nicole Sheth
NICOLE SHETH, Attorneys for
Defendants, PROSPECT HOTEL
SERVICES, LLC and PROSPECT
HOTEL MANAGEMENT, LLC

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EXHIBIT A

**COURT APPROVED NOTICE OF CLASS ACTION SETTLEMENT AND HEARING
DATE FOR FINAL COURT APPROVAL**

(case name: *Kevin Lynum v. Prospect Hotel Management, LLC, et al.* and number 23-CVCV-0012034)

***The Superior Court for the State of California authorized this Notice. Read it carefully!
It's not junk mail, spam, an advertisement, or solicitation by a lawyer. You are not being sued.***

You may be eligible to receive money from an employee class action lawsuit (“Action”) against PROSPECT HOTEL SERVICES, LLC and PROSPECT HOTEL MANAGEMENT, LLC (collectively “Defendants”) for alleged wage and hour violations. The Action was filed by one of Defendants’ former employees Kevin Lynum (“Plaintiff”) and seeks payment of (1) wages and other relief for a class of hourly, non-exempt employees (“Class Members”) who worked for Defendants during the Class Period (September 25, 2019 to<<the date of preliminary approval of this Settlement>>); and (2) civil penalties under the California Private Attorney General Act (“PAGA”) for all hourly, non-exempt employees who worked for Defendants during the PAGA Period (September 25, 2022 to <<the date of preliminary approval of this Settlement>>) (“Aggrieved Employees”). The Class does not include the hourly, non-exempt employees who worked at Defendant Prospect Hotel Management, LLC’s corporate headquarters.

The proposed Settlement has two main parts: (1) a Class Settlement requiring Defendants to fund Individual Class Payments, and (2) a PAGA Settlement requiring Defendants to fund Individual PAGA Payments and pay civil penalties to the California Labor and Workforce Development Agency (“LWDA”).

Based on Defendants’ records, and the Parties’ current assumptions, **your Individual Class Payment is estimated to be \$<<IndividualClassPaymentAmount>> (less withholding) and your Individual PAGA Payment is estimated to be \$<<IndividualPAGAPaymentAmount>>.** The estimated dollar value of a Work Week is <<\$increment type value>> and a PAGA Pay Period is <<@PayPeriodValue>>. The actual amount you may receive likely will be different and will depend on a number of factors. If no amount is stated for your Individual PAGA Payment, then according to Defendants’ records you are not eligible for an Individual PAGA Payment under the Settlement because you didn’t work during the PAGA Period. The individual payments amounts will vary. However, the average Individual Class Payment to a Class Member is estimated to be <<\$Average Individual Class Payment Amount>>. The average Individual PAGA Payment to an Aggrieved Employee is estimated to be <<\$Average Individual PAGA Payment Amount>>. The highest Individual Class Payment to a Class Member is estimated to be <<\$Highest Individual Class Payment Amount>> and the lowest is estimated to be <<\$Lowest Individual Class Payment Amount>>. The highest Individual PAGA Payment to an Aggrieved Employee is estimated to be <<\$Highest Individual PAGA Payment Amount>> and the lowest is estimated to be <<\$Lowest Individual PAGA Payment Amount>>.

The above estimates are based on Defendants’ records showing that **you worked <<__>> Work Weeks** during the Class Period and **you worked <<__>> PAGA Pay Periods**

1 during the PAGA Period. If you believe that you worked more Work Weeks or PAGA Pay Periods
2 during either period, you can submit a challenge by the deadline date. See Section 4 of this Notice.

3 The Court has already preliminarily approved the proposed Settlement and approved this
4 Notice. The Court has not yet decided whether to grant final approval. Your legal rights are
5 affected whether you act or not act. Read this Notice carefully. You will be deemed to have
6 carefully read and understood it. At the Final Approval Hearing, the Court will decide whether
7 to finally approve the Settlement and how much of the Settlement will be paid to Plaintiff and
8 Plaintiff's attorneys ("Class Counsel"). The Court will also decide whether to enter a judgment
9 that requires Defendants to make payments under the Settlement and requires Class Members and
10 Aggrieved Employees to give up their rights to assert certain claims against Defendants.

11 If you worked for Defendants during the Class Period and/or the PAGA Period, you have
12 two basic options under the Settlement:

13 (1) **Do Nothing.** You don't have to do anything to participate in the proposed Settlement
14 and be eligible for an Individual Class Payment and/or an Individual PAGA Payment. As a
15 Participating Class Member, though, you will give up your right to assert Class Period wage
16 claims and PAGA Period penalty claims against Defendants.

17 (2) **Opt-Out of the Class Settlement.** You can exclude yourself from the Class
18 Settlement (opt-out) by submitting a written Request for Exclusion or otherwise notifying the
19 Administrator in writing. If you opt-out of the Settlement, you will not receive an Individual
20 Class Payment. You will, however, preserve your right to personally pursue Class Period claims
21 for California labor law violations against Defendants, and, if you are an Aggrieved Employee,
22 remain eligible for an Individual PAGA Payment. You cannot opt-out of the PAGA portion of the
23 proposed Settlement.

24 **Defendants will not retaliate against you for any actions you take with respect to the
25 proposed Settlement.**

26 SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT

27 You Don't Have to Do 28 Anything to Participate in the Settlement	If you do nothing, you will be a Participating Class Member, eligible for an Individual Class Payment and an Individual PAGA Payment (if any). In exchange, you will give up your right to assert the claims against Defendants that are covered by this Settlement (Released Claims).
29 You Can Opt-out of the 30 Class Settlement but not the PAGA Settlement 31 The Opt-out Deadline is <<RESPONSE DEADLINE>>	If you don't want to fully participate in the proposed Settlement, you can opt-out of the Class Settlement by sending the Administrator a written Request for Exclusion. You can use the enclosed Election Not To Participate In Settlement form for this purpose. Once excluded, you will be a Non-Participating Class Member and no longer eligible for an Individual Class Payment. Non-Participating Class Members cannot object to any portion of the proposed Settlement. See Section 6 of this Notice.

		You cannot opt-out of the PAGA portion of the proposed Settlement. Defendants must pay Individual PAGA Payments to all Aggrieved Employees and Plaintiffs release Defendants from civil penalties it may owe to the Aggrieved Employees.
Participating Class Members Can Object to the Class Settlement but not the PAGA Settlement		All Class Members who do not opt-out (“Participating Class Members”) can object to any aspect of the proposed Settlement. You can use the enclosed Objection form for this purpose or you or your attorney may also address the Court and object during the Final Approval Hearing. The Court’s decision whether to finally approve the Settlement will include a determination of how much will be paid to Class Counsel and Plaintiffs who pursued the Action on behalf of the Class. You are not personally responsible for any payments to Class Counsel or Plaintiffs, but every dollar paid to Class Counsel and Plaintiffs reduces the overall amount paid to Participating Class Members. You can object to the amounts requested by Class Counsel or Plaintiffs if you think they are unreasonable. See Section 7 of this Notice. If you object to the Settlement, you will remain a member of the Class (defined below), and if the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object.
Written Objections Must be Submitted by <<RESPONSE DEADLINE>>		
You Can Participate in the <<FinalApprovalHearing Date>> Final Approval Hearing		The Court’s Final Approval Hearing is scheduled to take place on <<FinalApprovalHearingDate>>. You don’t have to attend but you do have the right to appear (or hire an attorney to appear on your behalf at your own cost), in person, by telephone or by using the Court’s virtual appearance platform. Participating Class Members can verbally object to the Settlement at the Final Approval Hearing whether or not they submitted a written objection. See Section 8 of this Notice.
You Can Challenge the Calculation of Your Work Week / PAGA Pay Periods		The amount of your Individual Class Payment and Individual PAGA Payment (if any) depend on how many Work Weeks you worked at least one day during the Class Period and how many PAGA Pay Periods you worked at least one day during the PAGA Period, respectively. The number Class Work Weeks and number of PAGA Pay Periods you worked according to Defendants’ records is stated on the first page of this Notice. If you disagree with either of these numbers, you must challenge it by <<RESPONSE DEADLINE>>. See Section 4 of this Notice. You can use the enclosed Work Weeks Dispute form for this purpose.
Written Challenges Must be Submitted by <<RESPONSE DEADLINE>>		

1. WHAT IS THE ACTION ABOUT?

Plaintiff is a former employee of Defendants. The Action accuses Defendants of violating California labor laws by failure to pay wages, failure to authorize and permit rest periods, failure to indemnify for business expenses, failure to issue proper wage statements, failure to timely pay

1 wages, failure to properly pay vacation time , failure to provide meal periods, and related
2 violations of the Labor Code. Based on the same claims, Plaintiff has also asserted a claim for
3 civil penalties under the California Private Attorneys General Act (Labor Code §§ 2698, et seq.)
4 (“PAGA”). Plaintiff is represented by attorneys in the Action: David Glenn Spivak of The Spivak
5 Law Firm and Walter L. Haines of United Employees Law Group (“Class Counsel.”)

6 Defendants strongly deny violating any laws or failing to pay any wages and contend they
7 complied with all applicable laws.

8 **2. WHAT DOES IT MEAN THAT THE ACTION HAS SETTLED?**

9 So far, the Court has made no determination whether Defendants or Plaintiffs are correct on the
10 merits. In the meantime, Plaintiffs and Defendants hired an experienced, neutral mediator in an
11 effort to resolve the Action by negotiating an to end the case by agreement (settle the case) rather
12 than continuing the expensive and time-consuming process of litigation. The negotiations were
13 successful. By signing a lengthy written settlement agreement (“Agreement”) and agreeing to
14 jointly ask the Court to enter a judgment ending the Action and enforcing the Agreement,
15 Plaintiffs and Defendants have negotiated a proposed Settlement that is subject to the Court’s
16 Final Approval. Both sides agree the proposed Settlement is a compromise of disputed claims.
17 By agreeing to settle, Defendants do not admit any violations or concede the merit of any claims.
18 Defendants settled the Lawsuit to avoid additional expense, inconvenience, and interference with
19 their business operations. Defendants retain the right to defend themselves against any of the
20 allegations involved in the Lawsuit if for any reason the Settlement is not approved by the Court.

21 Plaintiffs and Class Counsel strongly believe the Settlement is a good deal for you because they
22 believe that: (1) Defendants have agreed to pay a fair, reasonable and adequate amount
23 considering the risks and uncertainties of continued litigation; and (2) Settlement is in the best
24 interests of the Class Members and Aggrieved Employees. The Court preliminarily approved the
25 proposed Settlement as fair, reasonable and adequate, authorized this Notice, and scheduled a
26 hearing to determine Final Approval.

27 **3. WHAT ARE THE IMPORTANT TERMS OF THE PROPOSED SETTLEMENT?**

28 1. Gross Settlement Amount. Defendants Will Pay \$429,000 as the Gross Settlement
Amount (Gross Settlement). Defendants have agreed to deposit the Gross Settlement into an
account controlled by the Administrator of the Settlement. The Administrator will use the Gross
Settlement to pay the Individual Class Payments, Individual PAGA Payments, Class
Representative Service Payments, Class Counsel’s attorney’s fees and expenses, the
Administrator’s expenses, and penalties to be paid to the California Labor and Workforce
Development Agency (“LWDA”). Assuming the Court grants Final Approval, Defendants will
fund the Gross Settlement not more than 14 days after the Judgment entered by the Court becomes
final. The Judgment will be final on the date the Court enters Judgment, or a later date if
Participating Class Members object to the proposed Settlement or the Judgment is appealed.

2. Court Approved Deductions from Gross Settlement. At the Final Approval

Hearing, Plaintiff and/or Class Counsel will ask the Court to approve the following deductions from the Gross Settlement, the amounts of which will be decided by the Court at the Final Approval Hearing:

A. Attorney Fees and Costs. Up to \$143,000. (33.33% of the Gross Settlement) to Class Counsel for attorneys' fees and up to \$15,000 for their litigation expenses. To date, Class Counsel have worked and incurred expenses on the Action without payment.

B. Class Representative Service Payments. Up to \$15,000 as a Class Representative Award for filing the Action, working with Class Counsel and representing the Class. A Class Representative Award will be the only monies Plaintiff will receive other than Plaintiff's Individual Class Payment and any Individual PAGA Payment.

C. Administration Expenses. Up to \$10,000 to the Administrator for services administering the Settlement.

D. PAGA Penalties. Up to \$5,000 for PAGA Penalties, allocated 75% to the LWDA PAGA Payment and 25% in Individual PAGA Payments to the Aggrieved Employees based on their PAGA Pay Periods.

Participating Class Members have the right to object to any of these deductions. The Court will consider all objections.

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

3. Net Settlement Distributed to Class Members. After making the above deductions in amounts approved by the Court, the Administrator will distribute the rest of the Gross Settlement (the "Net Settlement") by making Individual Class Payments to Participating Class Members based on their Class Period Work Weeks.

4. Taxes Owed on Payments to Class Members. Plaintiff and Defendants are asking the Court to approve an allocation of 20% of each Individual Class Payment to taxable wages ("Wage Portion") and 80% to interest and penalties ("Non-Wage Portion."). The Wage Portion is subject to withholdings and will be reported on IRS W-2 Forms. Defendants will separately pay employer payroll taxes they owe on the Wage Portion. The Individual PAGA Payments are counted as penalties rather than wages for tax purposes. The Administrator will report the Individual PAGA Payments and the Non-Wage Portions of the Individual Class Payments on IRS 1099 Forms.

1
2 Although Plaintiff and Defendants have agreed to these allocations, neither side is giving
3 you any advice on whether your Payments are taxable or how much you might owe in taxes. You
4 are responsible for paying all taxes (including penalties and interest on back taxes) on any
Payments received from the proposed Settlement. You should consult a tax advisor if you have
any questions about the tax consequences of the proposed Settlement.

5 5. Need to Promptly Cash Payment Checks. The front of every check issued for
6 Individual Class Payments and Individual PAGA Payments will show the date when the check
7 expires (the void date). If you don't cash it by the void date, your check will be automatically
8 cancelled, and the monies will be deposited with the California Controller's Unclaimed Property
9 Fund (https://www.sco.ca.gov/search_upd.html) in your name. If the monies represented by your
check is sent to the Controller's Unclaimed Property Fund, you should consult the rules of the
Fund for instructions on how to retrieve your money. You can contact the Unclaimed Property
Fund at (800) 992-4647

10 6. Requests for Exclusion from the Class Settlement (Opt-Outs). You will be treated
11 as a Participating Class Member, participating fully in the Class Settlement, unless you notify the
12 Administrator in writing, not later than <<RESPONSE DEADLINE>>, that you wish to opt-out.
13 The easiest way to notify the Administrator is to email, fax, or mail a written and signed Request
14 for Exclusion by the <<RESPONSE DEADLINE>> Response Deadline. The Request for
15 Exclusion should be a letter from a Class Member or his/her representative setting forth a Class
16 Member's name, present address, telephone number, and a simple statement electing to be
excluded from the Settlement. You may use the enclosed Election Not To Participate In
Settlement form for this purpose. Excluded Class Members (i.e., Non-Participating Class
Members) will not receive Individual Class Payments, but will preserve their rights to personally
pursue claims against Defendants for violations of California's labor laws.

17 You cannot opt-out of the PAGA portion of the Settlement. Class Members who exclude
18 themselves from the Class Settlement (Non-Participating Class Members) remain eligible for
19 Individual PAGA Payments and are required to give up their right to assert PAGA claims against
Defendants based on the PAGA Period facts alleged in the Action.

20 7. The Proposed Settlement Will be Void if the Court Denies Final Approval. It is
21 possible the Court will decline to grant Final Approval of the Settlement or decline enter a
22 Judgment. It is also possible the Court will enter a Judgment that is reversed on appeal. Plaintiff
and Defendants have agreed that, in either case, the Settlement will be void and Defendants will
not pay any money and Class Members will not release any claims against Defendants.

23 8. Administrator. The Court has appointed a neutral company, Phoenix Class Action
24 Administration Solutions (the "Administrator") to send this Notice, calculate and make payments,
25 and process Class Members' Requests for Exclusion. The Administrator will also decide Class
26 Member Challenges over Work Weeks, mail and re-mail settlement checks and tax forms, and
perform other tasks necessary to administer the Settlement. The Administrator's contact
information is contained in Section 9 of this Notice.

9. Participating Class Members' Release. After the Judgment is final and Defendants have fully funded the Gross Settlement (and separately paid all employer payroll taxes), Participating Class Members will be legally barred from asserting any of the claims released under the Settlement. This means that unless you opted out by validly excluding yourself from the Class Settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants or related entities for claims, transactions, debts, liabilities, demands, actions, causes of action or occurrences of every nature and description and wages based on the Class Period facts and PAGA penalties based on PAGA Period facts, as alleged in the Action and resolved by this Settlement.

The Participating Class Members will be bound by the following release:

All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, predecessors, successors, and assigns, forever release Released Parties from any and all claims, transactions, debts, liabilities, demands, actions, causes of action or occurrences of ever nature and description that accrued during the Class Period, under state law and the Wage Orders of the California Industrial Welfare Commission, that were alleged or which could have been alleged based on the factual allegations in the First Amended Complaint in the Action, including but not limited to failure to pay wages, failure to authorize and permit rest periods, failure to indemnify for business expenses, failure to issue proper wage statements, failure to timely pay wages, failure to properly pay vacation time,, failure to provide meal periods, all PAGA claims that were, or reasonably could have been, alleged based on facts contained in the Operative Complaint, Plaintiff's PAGA Notice, or ascertained during the Action and released under 6.2 below and all claims arising under California Labor Code Sections 201-204, 206, 218.6, 226, 226.7, 510, 512, 1182.12, 1194, 1194.2, 1197, 1198, 2800, 2801, and/or those arising under the Industrial Welfare Commission Wage Orders, California Business and Professions Code section 17200 et seq., California Code of Regulations, title 8, Section 11160, California Civil Code sections 3287, 3289, and 3294, and California Code of Civil Procedure section 1021.5.s. Except as set forth in Section 6.3 of the Settlement Agreement, Participating Class Members do not release claims for vested benefits, wrongful termination, violation of the Fair Employment and Housing Act, unemployment insurance, disability, social security, workers' compensation, or claims based on facts occurring outside the Class Period.

10. Aggrieved Employees' PAGA Release. After the Court's judgment is final, and Defendants have paid the Gross Settlement (and separately paid the employer-side payroll taxes), all Aggrieved Employees will be barred from asserting PAGA claims against Defendants, whether or not they exclude themselves from the Settlement. This means that all Aggrieved Employees, including those who are Participating Class Members and those who opt-out of the Class Settlement, cannot sue, continue to sue, or participate in any other PAGA claim against Defendants or their related entities based on the PAGA Period facts alleged in the First Amended Complaint, Plaintiff's PAGA Notice, or otherwise in this Action and resolved by this Settlement.

The Aggrieved Employees' Releases for Participating and Non-Participating Class Members are as follows:

1 All Participating and Non-Participating Class Members who are Aggrieved Employees
2 are deemed to forever release and discharge, on behalf of themselves and their respective former
3 and present representatives, agents, attorneys, heirs, administrators, predecessors, successors, and
4 assigns, the Released Parties, from all claims for all PAGA penalties and claims that were alleged,
5 or reasonably could have been alleged, based on the PAGA Period facts stated in the First
6 Amended Complaint and the PAGA Notice and ascertained in the course of the Action including
but not limited to failure to pay wages, failure to authorize and permit rest periods, failure to
indemnify for business expenses, failure to issue proper wage statements, failure to timely pay
wages, failure to properly pay vacation time, failure to provide meal periods, and related
allegations.

7 **4. HOW WILL THE ADMINISTRATOR CALCULATE MY PAYMENT?**

8 A. Individual Class Payments. The Administrator will calculate Individual Class
9 Payments by (a) dividing the Net Settlement Amount by the total number of Work Weeks worked
10 by all Participating Class Members, and (b) multiplying the result by the number of Work Weeks
worked by each individual Participating Class Member.

11 B. Individual PAGA Payments. The Administrator will calculate Individual PAGA
12 Payments by (a) dividing \$1,250 by the total number of PAGA Pay Periods worked by all
13 Aggrieved Employees and (b) multiplying the result by the number of PAGA Pay Periods worked
by each individual Aggrieved Employee.

14 C. Workweek/PAGA Pay Period Challenges. The number of Class Work Weeks you
15 worked during the Class Period and the number of PAGA Pay Periods you worked during the
16 PAGA Period, as recorded in Defendants' records, are stated in the first page of this Notice. You
17 have until <<RESPONSE DEADLINE>> to challenge the number of Work Weeks and/or PAGA
18 Pay Periods credited to you. You can submit your challenge by signing and sending a letter to
the Administrator by email, fax or regular U.S. mail. You can use the enclosed Dispute form for
this purpose. Section 9 of this Notice has the Administrator's contact information.

19 D. You need to support your challenge by submitting copies of pay stubs or other
20 records. The Administrator will accept Defendants' calculation of Work Weeks and/or PAGA
21 Pay Periods based on Defendants' records as accurate unless you send copies of records
22 containing contrary information. You should send copies rather than originals because the
23 documents will not be returned to you. The Administrator will resolve Work Week and/or PAGA
Pay Period challenges based on your submission and on input from Class Counsel (who will
advocate on behalf of Participating Class Members) and Defendants' Counsel. The
Administrator's decision is final. You can't appeal or otherwise challenge its final decision.

24 **5. HOW WILL I GET PAID?**

25 A. Participating Class Members. The Administrator will send, by U.S. mail, a single
26 check to every Participating Class Member (i.e., every Class Member who doesn't opt-out)
27 including those who also qualify as Aggrieved Employees. The single check will combine the
Individual Class Payment and the Individual PAGA Payment.

1 B. Non-Participating Class Members. The Administrator will send, by U.S. mail, a
2 single Individual PAGA Payment check to every Aggrieved Employee who opts out of the Class
3 Settlement (i.e., every Non-Participating Class Member).

4 **Your check will be sent to the same address as this Notice. If you change your**
5 **address, be sure to notify the Administrator as soon as possible. Section 9 of this Notice has**
6 **the Administrator's contact information.**

6 **6. HOW DO I OPT-OUT OF THE CLASS SETTLEMENT?**

7 Email, fax, or mail a written and signed letter with your name, present address, telephone
8 number, and a simple statement that you do not want to participate in the Settlement. You may
9 use the enclosed Election Not To Participate In Settlement form for this purpose. The
10 Administrator will exclude you based on any writing communicating your request be excluded.
11 Be sure to personally sign your request, identify the Action as *Kevin Lynum vs. Prospect Hotel*
12 *Management, LLC*, Case No. 23-CVCV-0012034, and include your identifying information (full
13 name, address, telephone number, approximate dates of employment, and social security number
14 for verification purposes). You must make the request yourself. If someone else makes the
15 request for you, it will not be valid. You should send your Request for Exclusion to the
16 Administrator by email, fax, or send by regular U.S. mail. **The Administrator must be sent**
17 **your request to be excluded by <<RESPONSE DEADLINE>>, or it will be invalid.** Section
18 9 of the Notice has the Administrator's contact information. If you are an Aggrieved Employee,
19 you will still receive an Individual PAGA Payment, will release only his or her PAGA claims,
20 will not receive any compensation from the Settlement for the Class claims, and will not have any
21 right to object, appeal, or comment thereon

16 **7. HOW DO I OBJECT TO THE SETTLEMENT?**

17 Only Participating Class Members have the right to object to the Settlement. Before deciding
18 whether to object, you may wish to see what Plaintiffs and Defendants are asking the Court to
19 approve. At least 16 days before the Final Approval Hearing, Class Counsel and/or Plaintiffs will
20 file in Court (1) a Motion for Final Approval that includes, among other things, the reasons why
21 the proposed Settlement is fair, and (2) a Motion for attorney's fees, litigation expenses and
22 service award stating (i) the amount Class Counsel is requesting for attorneys' fees and litigation
23 expenses; and (ii) the amount Plaintiffs are requesting as a Class Representative Service
24 Payments. Upon reasonable request, Class Counsel (whose contact information is in Section 9
25 of this Notice) will send you copies of these documents at no cost to you. You can also view them
26 and the Settlement Agreement on the Administrator's Website <<ADMINISTRATOR
27 WEBSITE>> or the Court's website <<COURT WEBSITE>>.

24 A Participating Class Member who disagrees with any aspect of the Agreement, the Motion for
25 Final Approval and/or Motion for Fees, Litigation Expenses and Service Award may wish to
26 object, for example, that the proposed Settlement is unfair, or that the amounts requested by Class
27 Counsel or Plaintiffs are too high or too low. **The deadline for sending written objections to**
28 **the Administrator is <<RESPONSE DEADLINE>>.** Be sure to tell the Administrator what

1 you object to, why you object, and any facts that support your objection. Make sure you identify
2 the Action, *Kevin Lynum vs. Prospect Hotel Management, LLC*, Case No. 23-CVCV-0012034,
3 and include your name, current address, telephone number, and approximate dates of employment
4 for Defendants and sign the objection. Section 9 of this Notice has the Administrator's contact
information. You may use the enclosed Objection form for this purpose. You should send your
objection to the Administrator by email, fax, or send by regular U.S. mail.

5 Alternatively, a Participating Class Member can object (or personally retain a lawyer to object at
6 your own cost) by attending the Final Approval Hearing. You (or your attorney) should be ready
7 to tell the Court what you object to, why you object, and any facts that support your objection.
See Section 8 of this Notice (immediately below) for specifics regarding the Final Approval
Hearing.

8 However, if you would like to object to the Settlement, you must not submit a Request for
9 Exclusion (*i.e.*, must not opt out). If you submit both a Request for Exclusion and an objection,
10 you will be excluded from the Settlement and your objection will not be considered.

11 If you object, but the Court approves the Settlement, you will be bound by the terms of the
Settlement in the same way as a Class Member who does not object.

12 **8. CAN I ATTEND THE FINAL APPROVAL HEARING?**

13 You can, but don't have to, attend the Final Approval Hearing on ____ at (time) in Department
14 Dept. 03 of the Mariposa Superior Court, located at , 5088 Bullion Street, Mariposa, CA 95338.
15 At the Hearing, the judge will decide whether to grant Final Approval of the Settlement and how
16 much of the Gross Settlement Amount will be paid to Class Counsel, Plaintiffs, and the
Administrator. The Court will invite comment from objectors, Class Counsel and Defense
17 Counsel before making a decision. You can attend (or hire a lawyer to attend) either personally
or virtually by <<CourtConnect/CourtCall/MicrosoftTeams>>
18 (<https://www.<<CourtVirtualAppearanceLink>>>). Check the Court's website for the most current
information.

19 It's possible the Court will reschedule the Final Approval Hearing. You should check the
20 Administrator's website <<ADMINISTRATOR WEBSITE>> beforehand or contact Class Counsel
21 to verify the date and time of the Final Approval Hearing.

22 **9. HOW CAN I GET MORE INFORMATION?**

23 The Agreement sets forth everything Defendants and Plaintiff have promised to do under the
24 proposed Settlement. The easiest way to read the Agreement, the Judgment or any other
Settlement documents is to go to (specify entity)'s website at (url). You can also telephone or send
25 an email to Class Counsel or the Administrator using the contact information listed below, or
consult the Superior Court website by going to (<http://www.<<COURT'S WEBSITE>>.aspx>) and
26 entering the Case Number for the Action, Case No. 23-CVCV-0012034. You can also make an
appointment to personally review court documents in the Clerk's Office at the by calling ____.

DO NOT TELEPHONE THE SUPERIOR COURT TO OBTAIN INFORMATION ABOUT THE SETTLEMENT.

Class Counsel:

Name of Attorney: David Glenn Spivak
Email Address: david@spivaklaw.com
Name of Firm: The Spivak Law Firm
Mailing Address: 8605 Santa Monica Bl
PMB 42554
West Hollywood, CA 90069
Telephone: (213) 725-9094

Defendants' Counsel:

Name of Attorneys: Nicole Sheth, Esq. and Christina Ricci, Esq.
Email Addresses: nsheth@kbrlaw.com; cricci@kbrlaw.com
Name of Firm: KAUFMAN BORGEEST & RYAN LLP
Mailing Address: 21700 Oxnard Street
Woodland Hills, CA 91367
Telephone: (818) 880-0992

Name of Attorney: Robert B. Forouzandeh, Esq.
Email Address: rforouzandeh@rppmh.com
Name of Firm: REICKER, PFAU, PYLE & MCROY, LLP
Mailing Address: 1421 State Street
Suite B
Santa Barbara, CA 93101
Telephone: (805) 966-2440

Administrator:

Name of Company: Phoenix Class Action Administration Solutions
Email Address: _____
Mailing Address: _____
Telephone: _____
Fax Number: _____

10. WHAT IF I LOSE MY SETTLEMENT CHECK?

If you lose or misplace your settlement check before cashing it, the Administrator will replace it as long as you request a replacement before the void date on the face of the original check. If your check is already void, you should consult the Unclaimed Property Fund (https://www.sco.ca.gov/search_upd.html) for instructions on how to retrieve the funds. You can contact the Unclaimedx Property Fund at (800) 992-4647.

1 **11. WHAT IF I CHANGE MY ADDRESS?**

2 To receive your check, you should immediately notify the Administrator if you move or otherwise
3 change your mailing address.

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EXHIBIT B

3 **ELECTION NOT TO PARTICIPATE IN SETTLEMENT FORM**

4 **IF YOU WANT TO BE INCLUDED IN THIS CLASS ACTION SETTLEMENT AND BE ELIGIBLE FOR**
5 **A SHARE OF THE SETTLEMENT PROCEEDS,**
6 **DO NOT FILL OUT THIS FORM.**

7 **IF YOU DO NOT WANT TO BE INCLUDED IN THE SETTLEMENT, YOU MUST COMPLETE AND**
8 **SIGN THIS DOCUMENT AND MAIL IT TO THE ADDRESS BELOW, EMAILED, FAXED, OR**
9 **POSTMARKED NOT LATER THAN <<RESPONSE DEADLINE>>:**

10 *Lynum v. Prospect Hotel Management, LLC* Class Action Administrator
11 c/o ____
12 ____
13 ____

14 I declare as follows: I have received notice of the proposed settlement in this action and I wish to be
15 excluded from the class and ***not*** to participate in the proposed settlement. I understand this means that I will not be
16 bound by the Settlement and also will not share in the settlement proceeds. I understand that exclusion from the
17 Class Settlement will not result in exclusion from the PAGA portion of the Settlement. If I am an Aggrieved
18 Employee under the Settlement, I will still receive an Individual PAGA Payment.

19 ____
20 (Typed or Printed Name)

21 ____
22 (Address)

23 ____
24 (City, State, Zip Code)

25 ____
26 (Telephone Number, Including Area Code)

27 ____
28 (Identification Number)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and
correct and was executed on ____.

Dated: ____.
(Signature)

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EXHIBIT C

1 **WORK WEEK/PAGA PAY PERIOD DISPUTE FORM**

2 Superior Court of The State of California
3 For The County of Mariposa
4 *Kevin Lynum v. Prospect Hotel Management, LLC*, Case No. 23-CVCV-0012034

5 Indicate Name/Address Changes, if any:

6 <<Name>>

<<Address>>

<<City>>, <<State>> <<Zip Code>>

XX - XX -

7 The amount of your estimated Individual Class Payment is based upon the number of eligible
8 Work Weeks you worked between September 25, 2019 and _____[the date preliminary
9 approval of the settlement is entered by the court]. The amount of your estimated Individual
10 PAGA Payment is based upon the number of PAGA Pay Periods you worked between September
11 25, 2022 and _____[the date preliminary approval of the settlement is entered by the court].
12 “Work Week means any week during which a Class Member worked for Defendants for at least
13 one day during the Class Period excluding the workweeks the Class Member worked at Defendant
14 Prospect Hotel Management, LLC’s corporate headquarters. “PAGA Pay Period” means any Pay
15 Period during which you worked for Defendants at least one (1) day as a non-exempt, hourly
16 employees excluding the workweeks you worked at Defendant Prospect Hotel Management,
17 LLC’s corporate headquarters (if any). The number of Work Weeks and PAGA Pay Periods
18 applicable to your claim are set forth below.

14 **YOUR ELIGIBLE WORK WEEKS**

15 Defendants’ records indicate that you worked <<number of Work Weeks>> Work Weeks
16 between September 25, 2019 and _____[the date preliminary approval of the settlement is
17 entered by the court] and <<number of PAGA Pay Periods>> PAGA Pay Periods between
18 September 25, 2022 through _____ [the date preliminary approval of the settlement is entered by
the court].

19 **YOUR ESTIMATED SETTLEMENT AWARD AND DISPUTE PROCEDURE**

20 Under the terms of the Class Action Settlement, you are entitled to receive an Individual Class
21 Payment in the approximate estimated amount of <<\$Class Settlement Share Amount>>, minus
22 all applicable payroll and tax deductions, after the Court approves the Settlement and it goes into
23 effect. This process may take six months or more. You will receive a Form W-2 reflecting the
24 payment to you. Your settlement share reflected on this Notice is only an estimate. The exact
amount of the payment could vary, up or down. You are also entitled to receive an Individual
PAGA Payment in the approximate estimated amount of <<\$PAGA Settlement Share Amount>>

25 If you wish to dispute the number of Work Weeks and/or PAGA Pay Periods credited to you, or
26 anything else about your employment status, you must complete and return this form by
27 indicating what you believe is incorrect on the blank lines below and return it on or before
<<RESPONSE DEADLINE>> to the Administrator by email, fax, or regular U.S. Mail with
proof of the submission date (such as a postmark or delivery service date stamp). You may use

1 this Work Weeks/PAGA Pay Periods Dispute Form for this purpose. You must also send any
2 documents or other information that you contend supports your belief that the information set
3 forth above is incorrect. The Administrator will resolve any dispute based upon Defendants'
4 records and any information you provide. Please be advised that the information on this Work
Weeks Dispute Form is presumed to be correct unless the documents you submit are company
records from Defendants.

5 _____
6 _____
7 _____

8 **UNLESS YOU ARE FILING A DISPUTE REGARDING THE NUMBER OF WORK**
9 **WEEKS/PAGA PAY PERIODS, RECEIPT OF A SETTLEMENT PAYMENT, OR**
10 **YOUR EMPLOYMENT STATUS, YOU DO NOT NEED TO TAKE ANY ACTION**

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EXHIBIT D

1 **OBJECTION FORM**

2 **Kevin Lynum v. Prospect Hotel Management, LLC**
3 **Superior Court of the State California, County of Mariposa**
4 **Case No. 23-CVCV-0012034**

5 Please verify and/or complete any missing identifying information:

6 CPT ID: <<CPT ID>>

7 <<Name>>

8 <<Address1>>

<<Address2>>

<<City>>, <<State>> <<Zip>>

CORRECT NAME AND ADDRESS HERE:

Telephone Number: (____) ____ - ____

10 **THIS FORM IS TO BE USED ONLY IF YOU WANT TO PARTICIPATE IN THE**
11 **SETTLEMENT, BUT YOU OBJECT TO THE TERMS OF THE SETTLEMENT. IF**
12 **YOU OBJECT TO THE SETTLEMENT, YOU SHOULD SIGN AND COMPLETE THIS**
13 **FORM ACCURATELY AND IN ITS ENTIRETY (OR ONE LIKE IT), AND YOU**
14 **SHOULD EMAIL IT TO <<____@____.COM>>, FAX IT TO <<XXX-XXX-**
15 **XXXX>>, OR MAIL IT BY FIRST CLASS U.S. MAIL TO THE ADMINISTRATOR SO**
16 **THAT IT IS POSTMARKED ON OR BEFORE <<RESPONSE DEADLINE>>. THE**
17 **ADDRESS FOR THE ADMINISTRATOR IS NOTED ON PAGE TWO OF THIS FORM.**

18 **IF YOU DO NOT OBJECT TO THE SETTLEMENT, DO NOT SUBMIT THIS FORM.**
19 **THE ADMINISTRATOR WILL SEND THIS OBJECTION AND ANY SUPPORTING**
20 **DOCUMENTS TO THE ATTORNEYS FOR THE PARTIES. THE ATTORNEYS FOR**
21 **THE PARTIES WILL FILE THE OBJECTION WITH THE COURT.**

22 The Court will consider your objection at the Final Approval Hearing if you timely submit it.
23 Include any and all evidence and supporting papers (including, without limitation, all briefs,
24 written evidence, and declarations) that you would like the Court to consider. However, you may
25 speak to the Court at the final approval hearing whether or not you submit a timely objection.

26 [] I OBJECT to the *Kevin Lynum v. Prospect Hotel Management, LLC* Settlement on the
27 following grounds (if additional space necessary, please include additional sheets of paper):

28 _____

[] I am or will be represented by an attorney (provide name and address of attorney on lines below if applicable):

Executed on _____, 2024

(Signature)

<<Name>>

(Printed Name)

EMAIL TO THE ADMINISTRATOR: <<_____@_____.COM>>

FAX TO THE ADMINITRATOR: <<(XXX) XXX-XXXX>>

MAIL TO THE SETTLEMENT ADMINISTRATOR, BY U.S. MAIL
POSTMARKED NOT LATER THAN <<RESPONSE DEADLINE>>:

Kevin Lynum v. Prospect Hotel Management, LLC Administrator
[ADDRESS]

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EXHIBIT E

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Case No. 23-CVCV-0012034

**[PROPOSED] ORDER
PRELIMINARILY APPROVING
CLASS ACTION SETTLEMENT**

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Action filed: September 25, 2023
Dept: Dept. 03, The Honorable
Anita Bryant

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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.

7
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.

15
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.

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.
22

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
26
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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
24

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.
9

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.
15

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.
19

20 **IT IS SO ORDERED.**

21 **DATE**

22 _____
23 **THE HONORABLE ANITA BRYANT**
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EXHIBIT F

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**[PROPOSED] FINAL ORDER AND
JUDGMENT APPROVING CLASS
ACTION SETTLEMENT**

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1 Action Settlement, Class Members have been given notice of the terms of the Settlement and the
2 opportunity to submit a claim, request exclusion, comment upon or object to it or to any of its
3 terms. Having received and considered the Settlement, the supporting papers filed by the Parties,
4 and the evidence and argument received by the Court in conjunction with the motions for
5 preliminary and final approval of the Settlement, the Court grants final approval of the Settlement
6 and HEREBY ORDERS, ADJUDGES, DECREES AND MAKES THE FOLLOWING
7 DETERMINATIONS¹:
8

9 1. The Court has jurisdiction over the subject matter of the Action and over all Parties
10 to the Action, including all Class Members. Pursuant to this Court's Order Granting Preliminary
11 Approval of Class Action Settlement of ____, the Notice Packet was sent to each Class Member
12 by First Class U.S. mail. The Notice Packet informed Class Members of the terms of the
13 Settlement, their right to receive their proportional share of the Settlement, their right to request
14 exclusion, their right to comment upon or object to the Settlement, and their right to appear in
15 person or by counsel at the final approval hearing and be heard regarding final approval of the
16 Settlement. Adequate periods of time were provided by each of these procedures. No member of
17 the Settlement Class presented written objections to the proposed Settlement as part of this notice
18 process, stated an intention to appear, or actually appeared at the final approval hearing.
19

20 2. For purposes of this Final Order and Judgment, the Class Members are non-
21 exempt, hourly employees, who worked for Defendants during the Class Period of September 25,
22 2019 to <<the date of preliminary approval of this Settlement>> ("Settlement Class Period"). The
23
24

25 _____
26 ¹ A true and correct copy of the Court's ruling on the Motion for Preliminary Approval of Class
27 Action Settlement entered on [REDACTED] is attached hereto as **Exhibit A** and incorporated by reference.
28 A true and correct copy of the Court's Minute Order dated [REDACTED] is attached hereto as **Exhibit B**
and incorporated by reference.

1 Class does not include the hourly, non-exempt employees who worked at Defendant Prospect
2 Hotel Management, LLC's corporate headquarters.

3 3. The Court finds and determines that the notice procedure afforded adequate
4 protections to Class Members and provides the basis for the Court to make an informed decision
5 regarding final approval of the Settlement based on the responses of Class Members. The Court
6 finds and determines that the notice provided in this case was the best notice practicable, which
7 satisfied the requirements of law and due process as to all persons entitled to such notice.
8

9 **Release by Plaintiff and Class Members.** The Parties agree that it is their intent that the
10 resolution set forth in this Settlement will release and discharge the Released Claims by way of
11 any further attempt, by lawsuit, administrative claim or action, arbitration, demand, or other action
12 of any kind by each and all of the Settlement Class Members (including participation to any extent
13 in any representative or collective action) against the Released Parties. This release will not take
14 effect until Defendants have paid the Gross Settlement Amount in full per this Settlement
15 Agreement.
16

17 **PAGA Release.** Plaintiff releases all claims for civil penalties that could have been
18 sought by the Labor Commissioner for the violations identified in Plaintiffs pre-filing letter to
19 the LWDA; Plaintiff does not release the claim for wages or damages of any Aggrieved Employee
20 unless such Aggrieved Employee is a Participating Class Member.
21

22 **"Released Claims"** shall mean all claims, transactions, debts, liabilities, demands,
23 actions, causes of action or occurrences of every nature and description that accrued during the
24 Class Period as stated in Paragraph 6.1 of the Settlement. . **"Released Parties"** shall mean
25 Defendants, their officers, directors, employees, agents and other individuals and entities as
26 described in Paragraph 1.42 of the Settlement.
27

2. The Court further finds and determines that the terms of the Settlement are fair, reasonable and adequate, that the Settlement is ordered finally approved, and that all terms and provisions of the Settlement, including the release of claims contained therein, should be and hereby are ordered to be consummated, and directs the Parties to effectuate the Settlement according to its terms. As of the Effective Date of Settlement, and for the duration of the Settlement Class Period, all Class Members are hereby deemed to have waived and released all Released Claims and are forever barred and enjoined from prosecuting the Released Claims against the Released Parties as fully set forth in the Settlement. No objections were received by the Parties or the Court through the date of this Final Order and Judgment. The Court finds ____ Class Member(s) - ____ - submitted a request for exclusion from the Settlement as determined by the Administrator and therefore is/are not in the Settlement Class.

3. The Court finds and determines that (a) the Settlement Shares to be paid to Participating Class Members and (b) the LWDA payment as civil penalties under the California Labor Code Private Attorneys General Act of 2004, as amended, California Labor Code sections 2699 *et seq.*, as provided for by the Settlement are fair and reasonable. The Court hereby grants final approval to, and orders the payment of, those amounts be made to the Participating Class Members and to the California Labor & Workforce Development Agency (“LWDA”), in accordance with the terms of the Settlement.

4. The Court further grants final approval to and orders that the following payments be made in accordance with the terms of the Settlement:

a. Class Counsel fees & costs of \$143,000 in attorneys' fees and \$_____ in litigation costs to Class Counsel;

b.	\$15,000 as a Class Representative Service Payment award payable to
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1 Plaintiff Kevin Lynum for his service as a Class Representative;

2 c. \$_____ in costs of the Administrator payable to Phoenix Class Action
3 Administration Solutions for its services as the Administrator; and

4 d. Payment of \$3,750 (75% of the \$5,000 PAGA penalty) to the LWDA.

5 7. The settlement shall proceed as directed in the Settlement, and no payments
6 pursuant to the Settlement shall be distributed until after the Effective Date of Settlement. Without
7 affecting the finality of this Final Order and Judgment in any way, the Court retains jurisdiction
8 of all matters relating to the interpretation, administration, implementation, effectuation and
9 enforcement of this Final Order and Judgment and the Settlement pursuant to California Rule of
10 Court 3.769(h).

11 8. Within 14 calendar days of the Effective Date of Settlement, Defendants shall
12 deposit the Settlement proceeds in an account designated by the Administrator: (i) the total
13 amount of all Individual Class Payments to Participating Class Members, (ii) the Court approved
14 amount of all Individual Class Payments to Participating Class Members, (ii) the Court approved
15 Class Counsel fees & costs, (iii) the Court-approved Class Representative Service Payment, (iv)
16 the Court-approved costs of the Administrator, (v) the payment to the LWDA, and (vi) (i) the
17 total amount of all Individual PAGA Payments to Aggrieved Employees.

18 9. Other than their employer side payroll taxes, Defendants' payment of such sums
19 shall be the sole financial obligation of Defendants under the Settlement, and shall be in full
20 satisfaction of all claims released herein, including, without limitation, all claims for wages,
21 penalties, interest, attorneys' fees, costs and expenses.

22 10. Pursuant to CCP 384 and the Settlement, Participating Class Members shall have
23 one hundred and eighty (180) days from the date of the check's issuance to cash their Settlement
24 Share check. After the expiration of the 180-day period, on Defendants' behalf, the Administrator
25

1 shall remit any amounts from voided settlement checks and otherwise unclaimed, plus interest on
2 the Residue at the legal rate of interest from the date of entry of the initial judgement to the
3 California Unclaimed Property Fund.

4 11. The Parties shall file a final accounting report by _____. A non-appearance case
5 review re submission of a final report is scheduled for ____ at _____.m. in Department Dept. 03.
6 The Parties shall also prepare and file a stipulation and proposed order and proposed Amended
7 Final Order and Judgment by _____ which includes the amount of distribution of unpaid cash
8 Residue, and unclaimed or abandoned funds to the non-party, the accrued interest on that sum.
9 The stipulation shall be signed by counsel for the class and defense counsel in accord with the
10 proposed Amended Final Order and Judgment. If there are objections by any party or non-party,
11 class counsel shall immediately notify the Court and the matter will be set for further hearing. A
12 non-appearance hearing for the lodging of the stipulation and proposed order and separate
13 amended judgment is scheduled for ____ at _____.m. in Department Dept. 03.
14

15 12. Nothing in this Final Order and Judgment shall preclude any action to enforce the
16 Parties' obligations under the Settlement or hereunder, including the requirement that Defendants
17 deposit funds for distribution by the Administrator to Participating Class Members in accordance
18 with the Settlement.
19

20 13. The Court hereby enters final judgment in this case in accordance with the terms
21 of the Settlement, Order Granting Preliminary Approval of Class Action Settlement, and this Final
22 Order and Judgment.
23

24 14. The Parties are hereby ordered to comply with the terms of the Settlement.

25 15. The Parties shall bear their own costs and attorneys' fees except as otherwise
26 provided by the Settlement and this Final Order and Judgment.
27

16. The Settlement is not an admission by Defendants nor is this Final Order and Judgment a finding of the validity of any claims in the Action or of any wrongdoing by Defendants. Furthermore, the Settlement is not a concession by Defendants and shall not be used as an admission of any fault, omission, or wrongdoing by Defendants. Neither this Final Order and Judgment, the Settlement, any document referred to herein, any exhibit to any document referred to herein, any action taken to carry out the Settlement, nor any negotiations or proceedings related to the Settlement are to be construed as, or deemed to be evidence of, or an admission or concession with regard to, the denials or defenses of Defendants, and shall not be offered in evidence in any proceeding against the Parties hereto in any Court, administrative agency, or other tribunal for any purpose whatsoever other than to enforce the provisions of this Final Order and Judgment. This Final Order and Judgment, the Settlement and exhibits thereto, and any other papers and records on file in the Action may be filed in this Court or in any other litigation as evidence of the settlement by Defendants to support a defense of res judicata, collateral estoppel, release, or other theory of claim or issue preclusion or similar defense as to the Released Claims.

17. This document shall constitute a Judgment for purposes of California Rule of Court 3.769(h).

IT IS SO ORDERED, ADJUDGED AND DECREED.

DATE _____

THE HONORABLE ANITA BRYANT