CLASS AND REPRESENTATIVE ACTION SETTLEMENT AGREEMENT AND RELEASE

This Class and Representative Action Settlement Agreement and Release ("Settlement" or "Agreement") is made and entered into by and between Defendants IHG Management (Maryland) LLC, Inter-Continental Hotels Corporation, InterContinental Hotels Group Resources, LLC, Intercontinental Hotels of San Francisco, Inc., Six Continents Hotels, Inc., Kimpton Hotel & Restaurant Group, LLC and KHRG Canary LLC ("Defendants"), and Plaintiffs Robert Martinez, Mark Wise, and Waverly LaTourette ("Plaintiffs," and collectively with Defendants, "the Parties"), as individuals and on behalf of the Class.

1. DEFINITIONS

As used herein, for the purposes of this Agreement only, the following terms shall be defined as set forth below:

1.1 "**Actions**" means all operative and the most recent complaints filed in the following cases:

1.1.1 *Robert Martinez, as an individual and on behalf of all others similarly situated v. IHG Management (Maryland) LLC et al*., United States District Court, Southern District of California, Case No. 3:24-cv-00210-L-DEB ("*Martinez* Class Action");

1.1.2 *Robert Martinez, on behalf of the State of California and All Aggrieved Employees v. IHG Management (Maryland) LLC et al*., Superior Court of the State of California, County of San Diego, Case No. 37-2024-00008504-CU-OE-CTL ("*Martinez* PAGA Action");

1.1.3 *Mark Wise as an individual and on behalf of all other members of the general public similarly situated v. InterContinental Hotels Group Resources, LLC et al*., United States District Court, Northern District of California, Case No.: 3:24-cv-01161-AMO ("*Wise* Class Action"); and

1.1.4 *Mark Wise, individual, and on behalf of other aggrieved employees pursuant to the Private Attorneys General Act v. InterContinental Hotels Group Resources, LLC et al.*, Superior Court of the State of California, County of San Francisco, Case No. CGC-24-61459 ("*Wise* PAGA Action");

1.1.5 *Waverly LaTourette, as an individual and on behalf of all others similarly situated Class Members v. Kimpton Hotel & Restaurant Group, LLC et al.*, United States District Court, Northern District of California, Case No. 3:24-cv-02947-VC ("*LaTourette* Class Action"); and

1.1.6 *Waverly LaTourette, on behalf of the State of California and All Aggrieved Employee v. Kimpton Hotel & Restaurant Group, LLC et al.,* Superior Court of the State of California, County of San Francisco., Case No. CGC-24-613335 ("*LaTourette* PAGA Action").

1.2 "**Aggrieved Employees**" means all current and former hourly-paid or non-exempt employees who worked for Defendants and/or the Released Parties in California at any time during the period from June 6, 2024 through March 5, 2025. ("PAGA Period").

1.3 "**Agreement**" refers to this Class and Representative Action Settlement Agreement and Release entered into by the Parties for the resolution of these Actions.

1.4 "**Class Counsel**" refers to Crosner Legal, PC, and Aequitas Legal Group, as counsel for the *Martinez/Wise* Subclass. The Parties further agree to the designation of Crosner Legal, PC for the *LaTourette* Subclass.

1.5 "**Class Counsel Fees and Costs**" means payment to Class Counsel from the Gross Settlement Amount and approved by the Court for recoverable attorneys' fees and reimbursement of litigation costs and expenses related to the Actions, which include reasonable fees, costs, expenses incurred to date, as well as all such reasonable fees, costs, and expenses incurred in documenting the Settlement, securing approval of the Settlement, and administering and obtaining a judgment and/or dismissal of the Actions. Subject to the Court's approval, it is agreed by the Parties that the Class Counsel Fees are not to exceed 33.33% of the Gross Settlement Amount of $2,800,000.00 (or $933,333.33), as supported by declaration and any additional documentation or information as required by the Court. Defendants agree not to contest the amount of Class Counsel Fees and Costs, provided that they are consistent with the terms of this Agreement. The Class Counsel Fees and Cost are not a material term of the Agreement. If the Court reduces the amount of Class Counsel Fee and Cost, all other terms of this Agreement shall remain in effect.

1.6 "**Class Members**" refers to two subclasses, defined as follows:

(1) "*Martinez/Wise* Subclass" consists of all current and former hourly-paid or non-exempt employees who worked for Defendants IHG Management (Maryland) LLC, Inter-Continental Hotels Corporation, or Inter-Continental Hotels Corporation, InterContinental

Hotels of San Francisco, Inc., or any of the Released Parties at any of the IHG Hotels[1] in California at any time during the period from August 8, 2021 through March 5, 2025 ("*Martinez/Wise* Subclass Period"); and

(2) "*LaTourette* Subclass" consists of all current and former hourly-paid or non-exempt employees who worked for Defendants Kimpton Hotel & Restaurant Group, LLC, KHRG Canary LLC, or any of the Released Parties at any of the Kimpton Hotels[2] in California at any time during the period from August 25, 2022 through March 5, 2025 ("*LaTourette* Subclass Period").

1.7 "**Class Payment(s)**" means each Participating Class Member's respective share of the Net Settlement Amount.

1.8 **"Class Representatives"** shall refer to those Plaintiffs who are receiving an Enhancement Award per this Agreement.

1.9 "**Court**" refers to the San Diego Superior Court overseeing the *Martinez* PAGA Action or another state or federal court with competent jurisdiction to approve the proposed class action and representative action settlement.

1.10 "**Data List**" means a complete list of all Class Members that Defendants will diligently and in good faith compile from their records and provide to the Settlement Administrator within 30 calendar days after Preliminary Approval of this Settlement by the Court. The Data List will be formatted in Microsoft Office Excel and will include each individual's full name, last known mailing address and telephone number (if available), Social Security number, number of workweeks, and all necessary information to prepare and calculate the Class Payments. For purposes of this Agreement, the Data List in Defendants' records shall be considered the official information to be used for this Settlement.

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[1] IHG Hotels include (1) InterContinental San Diego Hotel, (2) Hotel Indigo San Diego, (3) InterContinental San Francisco Hotel, (4) Holiday Inn Express & Suites San Francisco Fisherman's Wharf, (5) InterContinental Los Angeles Downtown Hotel, (6) Hotel Indigo Los Angeles, (7) Regent Santa Monica Hotel, (8) Holiday Inn Los Angeles Gateway-Torrance, and (9) InterContinental Mark Hopkins San Francisco Hotel.

[2] Kimpton hotels include (1) Kimpton Sawyer Hotel, (2) Kimpton Enso Hotel, (3) Kimpton Canary Hotel, (4) Kimpton Rowan Palm Springs Hotel, (5) Kimpton Alma Hotel (no longer managed by Kimpton as of 10/07/24), (6) Kimpton Palomar Los Angeles Beverly Hills Hotel, (7) Kimpton La Peer Hotel, (8) Kimpton Hotel Wilshire, (9) Kimpton Everly Hotel, (10) Kimpton Shorebreak Huntington Beach Resort, and (11) Kimpton Alton Hotel (no longer managed by Kimpton as of 04/03/2024).

1.11 “**Defense Counsel**” refers to Leo Q. Li, Eric E. Hill, Yoon-Woo Nam, and Ping Wang of Seyfarth Shaw LLP.

1.12 “**Effective Date**” means the date upon which all of the following have occurred: (i) the Court has granted final approval of the Settlement and entered judgment thereof; and (ii) the Court’s judgment approving the Settlement becomes Final. “Final” shall mean the latest of: (i) if there is an appeal of the Court’s Judgment, the date on which the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to seek any further appellate or discretionary review in any court of competent jurisdiction; or (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

1.13 “**Enhancement Awards**” Plaintiffs may request that the Court approve an enhancement payment to Plaintiffs Martinez, Wise, and LaTourette, in an amount not to exceed $10,000.00 each. Defendants will not oppose this request. The Court’s approval of the Enhancement Payments is not a material term of the settlement. Any amount not approved by the Court shall be allocated to the Net Settlement Amount.

1.14 “**Final Approval Hearing**” refers to the hearing at which the Court will make a final determination whether the terms of the Agreement are fair, reasonable, and adequate and meet all applicable requirements for final approval.

1.15 “**Gross Settlement Amount**” means the amount that is allocated towards the resolution of the Actions, in an amount not to exceed $2,800,000.00. The Gross Settlement Amount shall be inclusive of (i) Settlement Administration Costs; (ii) PAGA Payment; (iii) Net Settlement Amount; (iv) Enhancement Awards, and (v) Class Counsel Fees and Costs. The Gross Settlement Amount does not include the employer’s share of the payroll taxes on the wages portion of Class Payments. The Gross Settlement Amount is a material term of the Agreement and shall not be increased for any reason. If the Court requires an increase to the Gross Settlement Amount, Defendants shall have the right to void the Agreement.

1.16 **“LWDA”** refers to the California Labor and Workforce Development Agency.

1.17 "**Net Settlement Amount**" is the amount available for distribution to Participating Class Members on a pro rata basis based on their number of Workweeks worked, and will be the Gross Settlement Amount less (i) Settlement Administration Costs, (ii) PAGA Payment, (iii) Enhancement Awards, and (iv) court-approved Class Counsel Fees and Costs. The entire Net Settlement Amount shall be distributed to the Participating Class Members.

1.18 "**Notice**" refers to the document substantially in the form attached as **Exhibit A**, which will be distributed to all Class Members. The notice will explain the terms of the Agreement, including (i) information regarding the nature of the Actions; (ii) a summary of the principal terms of the Agreement; (iii) the Class Member and Aggrieved Employee definitions; (iv) the total number of Workweeks each respective Class Member worked for Defendants during the Subclass Periods; (v) the estimated Class Payment (if applicable) from the Net Settlement Amount to each Class Member; (vi) the formula for calculating the settlement payments; (vii) instructions on how to submit Requests for Exclusion, Notices of Objection, and Workweeks disputes; (viii) the Response Deadline; and (ix) the claims to be released under the Class Settlement. The Notice will be printed in English only, because Class Members can speak, write, and understand English.

1.19 **"PAGA"** refers to the California Private Attorneys General Act of 2004, Cal. Lab. Code §§ 2699, *et seq*.

1.20 **"PAGA Payment"** shall be $100,000.00, as civil penalties, to be paid from the Gross Settlement Amount. The PAGA Payment shall be allocated as follows: 75% of the PAGA Payment will be paid to the LWDA, and 25% of the PAGA Payment will be paid to the Aggrieved Employees pursuant to Labor Code § 2699(i).

1.21 **"PAGA Period"** shall mean the time period from June 6, 2024 through March 5, 2025.

1.22 "**Workweeks**" will be determined using the dates of active employment by Defendants (i.e., exclusive of leaves of absences) in California during the Subclass Periods. Defendants' employment records will be determinative for purposes of calculating the Workweeks and any payments under the Settlement. If an individual worked during any day of the Workweek, the Workweek shall be included in their pro rata share of the Net Settlement Amount.

1.23 "**Participating Class Members**" are all Class Members who do not submit a timely and valid Request for Exclusion.

1.24 "**Released Class Claims**" shall mean any and all claims that were pled or could have been pled based on the factual allegations in the operative or prior complaints in the Actions, arising during the Subclass Periods, including, but not limited to, any claim for failure to provide meal or rest periods, any claim for failure to pay premiums for non-compliant meal or rest periods, or to pay such premiums at the regular rate, failure to pay minimum wage, failure to pay overtime wages or overtime wages at the regular rate of pay, regular rate violations, reporting time pay violations, sick leave violations, failure to reimburse business expenses, failure to pay timely wages during employment, failure to pay or provide vacation or PTO pay, failure to pay accrued wages upon termination of employment (including vacation or PTO pay), failure to furnish accurate and itemized wage statements, failure to maintain accurate records, unlawful deductions, and any class action claims that were brought or could have been brought based on the factual allegations contained in the operative complaint in the Actions arising under California Labor Code §§ 201, 202, 203, 204, 210, 218, 218.5, 222, 223, 224, 226, 226.7, 256, 510, 512, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and the California Unfair Competition Law, Business and Professions Code §§ 17200 *et seq.*, California Civil Code §§ 1786 *et seq.*, 15 U.S.C. §§ 1681 *et seq.*, and California Industrial Welfare Commission Wage Orders No. 5-2001, 7-2001, or any other applicable Wage Order. The Released Class Claims as described above shall include any remedies for any of the claims described herein, including, damages, penalties of any nature, restitution, declaratory relief, equitable or injunctive relief, interest, and attorneys' fees and costs. The Parties stipulate that beyond the Gross Settlement Amount, and Defendants' share of any payroll taxes, Defendants shall not owe any further monies to the Participating Class Members based upon the claims made in the Actions.

1.25 "**Released PAGA Claims**" shall refer to any and all PAGA claims that are alleged in the Lawsuits and/or are premised upon the California Labor Code §§ 201, 202, 203, 204, 208, 210, 216, 218, 218.5, 221, 222, 223, 224, 225.5, 226, 226.3, 226.7, 227.3, 233, 245-248.6, 256, 351, 353, 432, 432.5, 432.6, 432.7, 510, 512, 551, 552, 558, 558.1 1024.5, 1174, 1182, 1194, 1194.2, 1197, 1197.1, 1197.5, 1198, 1198.5, 1199, 2802, 2810.5, California Industrial Welfare Commission Wage Orders No. 5-2001, 7-2001, or any applicable Wage Order, or claims covered by the Release of the Class Action

Claims as to all alleged Aggrieved Employees.

1.26 "**Released Parties**" shall mean Defendants and all of their present and former parent companies, subsidiaries, affiliates and joint ventures (including, but not limited to, KHRG Sacramento LLC, KHRG NPC LLC, KHRG Employer LLC, KHRG Westwood LLC, KHRG Wilshire LLC, KHRG Argyle LLC, KHRG SF Wharf LLC, KHRG SF Wharf U2 LLC, KHRG Canary LLC, KHRG Sutter LLC, KHRG La Peer LLC, KHRG Huntington Beach LLC, Today's V, Inc., Summit Hotel TRS 030, LLC, Greenland LA Metropolis Hotel Development LLC, B9 Select Blue TRS LLC, Hanjin International Corp., LFS Development, LLC, CDC San Francisco, LLC, Leadwell Global Property LLC, DCP SF Columbus Ave Owner LLC, XHR Santa Barbara, LLC, Argyle Hotel, LLC, BSREP III SD Hotel TRS LLC, KHP III SF Sutter LLC, RHCP Lessee LLC, LA OSM Wilshire LLC, La Peer Hotel Owner LLC, NPC Hotel, LLC, SG Downtown LLC, DiamondRock HB Tenant, LLC, and DTRS Santa Monica, L.L.C.) and all of their present or former officers, directors, employees, agents, servants, registered representatives, insurers, successors and assigns, attorneys of the entities listed in this paragraph and any other persons acting by through, under or in concert with any of them.

1.27 "**Response Deadline**" means the deadline by which Class Members must postmark or fax to the Settlement Administrator the Requests for Exclusion, Notices of Objection, and/or Workweeks disputes. The Response Deadline will be 30 calendar days from the initial mailing of the Notice by the Settlement Administrator, unless the 30th calendar day falls on a Sunday or State holiday, in which case the Response Deadline will be extended to the next day on which the U.S. Postal Service is open. Those Class Members who receive a re-mailed Notice, whether by skip-trace or otherwise, will have an additional 21 calendar days to submit Requests for Exclusion, Notices of Objection, and/or Workweeks disputes.

1.28 "**Settlement Administrator**" refers to Simpluris.

1.29 "**Settlement Administration Cost**" refers to all of the expenses for administering the settlement, to be paid from the GSA. The Parties will mutually agree on a Settlement Administrator, who will submit an estimated bid for its services prior to the filing of a motion for preliminary approval. The Settlement Administration Costs are currently estimated to be $28,511.00

2. RECITALS

2.1 The *Martinez* Class and PAGA Actions

2.1.1 On December 28, 2023, Plaintiff Robert Martinez filed a wage and hour class action against Defendants IHG Management (Maryland) LLC Inter-Continental Hotels Corporation and Intercontinental Hotels Group Resources, LLC in the Superior Court of the State of California, County of San Diego, entitled *Robert Martinez, as an individual and on behalf of all others similarly situated v. IHG Management (Maryland) LLC et al.*, Case No. 37-2023-00056196-CU-OC-CTL, alleging the following causes of action against Defendants IHG Management (Maryland) LLC, Inter-Continental Hotels Corporation, and Intercontinental Hotels Group Resources, LLC: (1) Recovery of Unpaid Minimum Wages and Liquidated Damages; (2) Recovery of Unpaid Overtime Wages; (3) Failure to Provide Meal Periods or Compensation in Lieu Thereof; (4) Failure to Provide Rest Periods or Compensation in Lieu Thereof; (5) Failure to Furnish Accurate Itemized Wage Statements; (6) Failure to Timely Pay All Wages Due Upon Separation of Employment; (7) Failure to Reimburse Business Expenses; and (8) Unfair Competition ("*Martinez* Class Action"). On February 15, 2024, Defendants removed this action to the United States District Court, Southern District of California, Case No. 3:24-cv-00210-L-DEB.

2.1.2 On February 23, 2024, Plaintiff Robert Martinez filed a wage and hour PAGA representative action against Defendants IHG Management (Maryland) LLC, Inter-Continental Hotels Corporation, and Intercontinental Hotels Group Resources, LLC in the Superior Court of the State of California, County of San Diego, entitled *Robert Martinez, on behalf of the State of California and All Aggrieved Employees v. IHG Management (Maryland) LLC et al.*, Case No. 37-2024-00008504-CU-OE-CTL, alleging Violation of Private Attorneys General Act ("*Martinez* PAGA Action").

2.2 The *Wise* Class and PAGA Actions

2.2.1 On December 28, 2023, Plaintiff Mark Wise filed a wage and hour class action against Defendants InterContinental Hotels Group Resources, LLC, IHG Management (Maryland) LLC, InterContinental Hotels of San Francisco, Inc., and Six Continents Hotels, Inc. in the Superior Court of the State of California, County of San Francisco, entitled *Mark Wise, individually and on behalf of other members of the general public similarly situated v. InterContinental Hotels Group Resources, LLC et* *al.*, Case No. CGC-23-611350, alleging the following causes of action against Defendants InterContinental Hotels Group Resources, LLC, IHG Management (Maryland) LLC, InterContinental Hotels of San Francisco, Inc., and Six Continents Hotels, Inc: (1) (1) failure to pay regular and overtime wages under California Labor Code §§ 510, 1194, 1197, 1197.1, and 1198; (2) failure to provide accurate itemized wage statements under California Labor Code § 226(a); (3) failure to reimburse necessary business-related expenses under California Labor Code §§ 2800 and 2802; and (4) unfair business practices under California Business and Professions Code §§ 17200 *et seq.* ("*Wise* Class Action"). On February 26, 2024, Defendants removed this action to the United States District Court, Northern District of California, Case No. 3:24-cv-01161-AMO.

2.2.2 On May 23, 2024, Plaintiff Mark Wise filed a wage and hour PAGA representative action against Defendants InterContinental Hotels Group Resources, LLC, IHG Management (Maryland) LLC, InterContinental Hotels of San Francisco, Inc., and Six Continents Hotels, Inc. in the Superior Court of the State of California, County of San Francisco, entitled *Mark Wise, individually and on behalf of other aggrieved employees pursuant to the Private Attorneys General Act*, Case No. CGC-24-614959, alleging Violation of Private Attorneys General Act ("*Wise* PAGA Action").

2.2.3 On June 20, 2024, Defendants filed a Motion to Stay Proceedings in the *Wise* Class Action, pursuant to the first-to-file rule, as well as the Court's inherent power to manage its docket and stay proceedings. On September 30, 2024, the Court granted Defendants' motion and stayed the *Wise* Class Action until the Court ruled on class certification in the *Martinez* Class Action.

2.3 **The *LaTourette* Class and PAGA Actions**

2.3.1 On March 22, 2024, Plaintiff Waverly LaTourette filed a wage and hour PAGA representative action against Defendants Kimpton Hotel & Restaurant Group, LLC and KHRG Canary LLC in the Superior Court of the State of California, County of San Francisco, entitled *Waverly LaTourette, on behalf of the State of California and all Aggrieved Employees v. Kimpton Hotel & Restaurant Group et al.*, Case No. CGC-24-613335, alleging Violation of Private Attorneys General Act ("*LaTourette* PAGA Action").

2.3.2 On March 26, 2024, Plaintiff Waverly LaTourette filed a wage and hour class action against Defendants Kimpton Hotel & Restaurant Group, LLC and KHRG Canary LLC in the Superior Court of the State of California, County of San Francisco, entitled *Waverly LaTourette, as an individual and on behalf of all other similarly situated Class Members v. Kimpton Hotel & Restaurant Group et al.*, Case No. CGC-24-613426, alleging the following causes of action against Defendants Kimpton Hotel & Restaurant Group, LLC and KHRG Canary LLC: (1) recovery of unpaid minimum wages and liquidated damages; (2) recovery of unpaid overtime wages; (3) failure to provide meal periods; (4) failure to provide rest periods; (5) failure to produce records in violation of Labor Code section 226; (6) failure to timely pay all wages due upon separation of employment; (7) failure to reimburse business expenses; and (8) unfair competition ("*LaTourette* Class Action"). On May 15, 2024, Defendants removed this action to the United States District Court, Northern District of California, Case No. 3:24-cv-02947-VC.

2.3.3 On June 24, 2024, Plaintiff and Defendants jointly filed a Stipulation to Stay Proceedings in the *LaTourette* PAGA Action, pursuant to the Court's inherent power to manage its docket and stay proceedings and avoid potentially inconsistent rulings. On July 10, 2024, the Court granted the parties' Stipulation, and stayed the *LaTourette* PAGA Action until the Court ruled on *LaTourette* Class Action.

2.4 **The Parties Conducted Extensive Amount Of Formal And Informal Discovery**

2.4.1 Plaintiffs and Defendants engaged in written discovery. Defendants completed the deposition of Plaintiff Robert Martinez's expert witness regarding purported class wide damages and PAGA penalties, and Plaintiff Robert Martinez deposed Defendants' person most knowledgeable under Fed. R. Civ. P. 30(b)(6).

2.4.2 The Parties also engaged in extensive informal discovery after agreeing to attend private mediation. As part of the informal discovery process, Defendants provided Plaintiffs with all of the relevant collective bargaining agreements, written policies, and procedures, including written policies on timekeeping, meal and rest periods, scheduling, and recordkeeping.

2.4.3 Defendants also provided Plaintiffs with a random sample of employment data for approximately 10% of the proposed class, or approximately 6,995 employees. The sample included daily time records showing the start and stop time for each shift based on employee time punches, the start and stop time for meal periods based on employee time punches, and payroll records showing the hours worked, regular earnings, overtime earnings, and bonuses (if any). Defendants also furnished Plaintiffs with the proposed class census data, showing the number of current and former non-exempt employees. Defendants also provided information on the total amount of meal and rest period premiums paid, expense reimbursement payments made, and waiting time penalties paid to the Class Members.

2.4.4 Through both formal and informal discovery, Defendants have produced over 17,953 pages of documents to Plaintiffs.

2.4.5 Class Counsel represent they have thoroughly investigated Plaintiffs' claims against Defendants and interviewed several Class Members. Class Counsel further represent they have conducted their own investigation into the underlying facts, events, and issues related to the subject matter of the Actions, including the review of the time and payroll records produced by Defendants. In addition, Class Counsel represent that they have further undertaken an extensive analysis of the legal principles applicable to the claims asserted against Defendants, and the potential defenses thereto. All Parties have had ample opportunity to evaluate their respective positions on the merits of the claims asserted.

2.5 **Private Mediation**

2.5.1 On September 16, 2024, the Parties attended a full-day mediation with Mr. Louis Marlin, a highly-respected and experienced mediator in wage-and-hour class action cases.

2.5.2 After a full-day mediation, the Parties reached an impasse, but continued settlement negotiations with the assistance from the mediator.

2.6 **Settlement Conference**

2.6.1 On December 5, 2024, the Parties attended the Mandatory Settlement Conference in the *Martinez* Class Action, mediated by United States District Court Magistrate Judge Daniel E. Butcher. Thereafter, the Parties ultimately reached an agreement to settle the six Actions.

2.6.2 The Parties have agreed to settle the Actions for an amount not to exceed $2,800,000 (i.e., the Gross Settlement Amount). In no event will Defendants be liable for more than the Gross Settlement Amount, except Defendants shall pay the employer's share of payroll taxes on the Class Payments separately and in addition to the Gross Settlement Amount. The entire Gross Settlement

Amount will be disbursed pursuant to the terms and conditions of this Agreement and the PAGA Settlement, and none of it will revert to Defendants.

2.7 **The Settlement Is The Result Of Arms' Length Negotiations**. Based on the foregoing investigation and evaluation, Class Counsel are of the opinion that the terms set forth in this Agreement are fair, reasonable, adequate, and in the best interests of the Class Members. The terms of the Settlement also reflect extensive exchange of information and data between the Parties, which allowed Class Counsel to fully evaluate the potential risks in pursuing the underlying claims on the merits. This Agreement was reached after extensive arm's-length negotiations, and it was negotiated in light of all known facts and circumstances, including the risks of significant delay and uncertainty associated with litigation, the risk that the Actions would not be permitted to proceed on a class or representative basis, various defenses asserted by Defendants, and numerous potential appellate issues.

2.8 **The Parties' Intent**. It is the desire of the Parties to fully, finally, and forever settle, compromise, and discharge any and all claims, rights, demands, charges, complaints, obligations or liability of any and every kind that were or could have been pled based on the factual allegations in the operative or prior complaints in the Actions arising during the Subclass Periods, including, but not limited to, the Released Class Claims and Released PAGA Claims.

3. NON-ADMISSIONS OF LIABILITY

3.1 Defendants deny and continue to deny all of the allegations made by Plaintiffs in the Actions, and deny and continue to deny that it is liable or owes any damages, penalties or other compensation or remedies to anyone with respect to the alleged facts or claims asserted in the Actions. Defendants deny any liability or wrongdoing of any kind in connection with Plaintiffs' claims, and contend that, during all relevant times, they complied with all applicable California and federal law. Nonetheless, without admitting or conceding any liability or damages whatsoever, and without admitting that a class and/or representative action is appropriate except for settlement purposes alone, Defendants have agreed to settle the Actions on the terms and conditions set forth in this Agreement, to avoid the burden, expense, and uncertainty of continuing with litigation.

3.2 The Parties understand and agree that this Agreement and any exhibits thereto are settlement documents and shall be inadmissible for the purpose of showing liability against Defendants or the Released Parties. However, the Parties agree that, to the extent permitted by law, this Agreement may be pleaded as a full and complete defense to, and may be used as the basis for an injunction against any action, suit, or other proceeding that may be instituted, prosecuted, or attempted in breach of this Agreement.

4. FINANCIAL TERMS OF THE SETTLEMENT

4.1 **Gross Settlement Amount**. Subject to the terms and conditions of this Agreement, Defendants shall pay the Gross Settlement Amount not to exceed $2,800,000.00, in addition to any employer-side payroll taxes owed on any wage portion of the settlement, which includes Settlement Administration Costs to Settlement Administrator, PAGA Payment, Net Settlement Amount for distribution to Participating Class Members, Enhancement Awards to Plaintiffs, and Class Counsel Fees and Costs to Class Counsel. The Gross Settlement Amount is a material term of the Agreement and shall not be increased for any reason. If the Court requires an increase to the Gross Settlement Amount, Defendants shall have the right to void the Agreement.

4.2 **Escalator Clause.** This Settlement is premised on Defendants' estimate that Class Members would have worked a total of approximately 450,000 workweeks through December 5, 2024, during the Subclass Periods. In the event it is determined that the actual number of workweeks worked by the Class during this period exceeds 450,000 by more than 10% (i.e., exceeds 495,000 workweeks), Defendants shall have the option to (1) cut off the release period as of the date where the 10 percent overage is reached, or (2) proceed with the release through the Subclass Periods provided herein with a pro rata increase of the Gross Settlement Amount, by increasing the Gross Settlement Amount by the same number of percentage points above 10% by which the actual number of weeks worked during the Subclass Periods exceeds 10%. For example, if the actual number of weeks worked is determined to be 11% higher than 450,000, then Defendants have the option to increase the Gross Settlement Amount by 1%. Alternatively, Defendants may elect to back up the end of the release date for the Settlement until the number of workweeks does not exceed 495,000.

4.3 **Class Counsel Fees And Costs**. Class Counsel will apply to the Court for an award of Class Counsel Fees not to exceed 33.33% of the Gross Settlement Amount, or $933,333.33, and reasonable documented costs directly incurred for purposes of the Actions, as supported by declarations.

Except as provided in this Agreement, Defendants shall have no liability for any other attorneys' fees, costs or expenses in connection with the Actions.

4.3.1 Class Counsel will be responsible for submitting all documents to support their request for attorneys' fees, costs, and expenses in connection with the Actions. Defendants agree not to oppose or object to Class Counsel's request for Class Counsel Fees and Costs if they are made in accordance with the terms of this Agreement.

4.3.2 The Court's approval of the Class Counsel Fees and Cost is not a material term of the Agreement. If the Court does not approve or approves only a lesser amount than that requested by Class Counsel for Class Counsel Fees and Costs, the other terms of the Agreement shall still apply. The Court's refusal to approve the Class Counsel Fees and Costs requested by Class Counsel does not give the Plaintiffs, Class Members, or Class Counsel any basis to abrogate the Agreement. Any amount of Class Counsel Fees and Costs requested by Class Counsel but unapproved by the Court shall be part of the Net Settlement Amount.

4.4 **Enhancement Awards**. Subject to the Court's approval, Defendants agree to pay Enhancement Awards as follows: (1) up to $10,000.00 each to Plaintiffs Robert Martinez, Mark Wise and Waverly LaTourette (for a combined amount of $30,000.00). The Enhancement Awards shall be paid from the Gross Settlement Amount, as an enhancement for their services as the representative of the Class and additional claims released by Plaintiffs. The Enhancement Awards shall be in addition to any pro rata share of the Net Settlement Amount that Plaintiffs may otherwise receive under the Agreement.

4.4.1 Defendants will not oppose Plaintiffs' request for the Enhancement Awards. Defendants will not deduct any payroll taxes from the Enhancement Awards because it is not considered to be payment of wages. Plaintiffs will be responsible for correctly characterizing this compensation for tax purposes and for paying any taxes owing on said amount. Plaintiffs shall indemnify and hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the payment of the Enhancement Awards.

4.4.2 The Court's approval of the Enhancement Awards is not a material term of the Agreement. The Parties agree that a denial or reduction by the Court of the requested Enhancement

Awards is not a basis for rendering the entire Agreement voidable or unenforceable. Any reductions by the Court of the Enhancement Awards shall be part of the Net Settlement Amount.

4.5 **Settlement Administration Cost**. Subject to the Court's approval, Defendants agree to pay the Settlement Administrator the Settlement Administration Cost, currently estimated at $28,511.00, for the administration of this Settlement. The Settlement Administration Cost shall be paid from the Gross Settlement Amount. Any reduction by the Court or any unused amount shall revert to the Net Settlement Amount. The Settlement Administrator shall assist in all aspects of the settlement process for the Actions, including, but not limited to:

4.5.1 Printing, distributing, and tracking Notices and resending Notices pursuant to the terms of this Agreement;

4.5.2 Establishing a separate employer identification number and a Qualified Settlement Fund, tax reporting, making tax payments, providing required 1099 and W-2 forms;

4.5.3 Calculating and distributing the Class Counsel Fees and Costs, Enhancement Awards, Class Payments, PAGA Payment, and Settlement Ad-ministration Cost;

4.5.4 Documenting and determining which Class Members have submitted a timely and valid Request for Exclusion, Notice of Objection, and/or Workweek disputes;

4.5.5 Depositing the funds from uncashed or undelivered checks to the appropriate non-profit organization or agency under this Agreement; and

4.5.6 Providing necessary reports and declarations, as requested by the Parties or the Court, including weekly reports on the number of Class Members who have timely submitted Requests for Exclusion, Notices of Objection, and/or Workweek disputes.

4.6 **Net Settlement Amount**. After deducting (i) the court-approved Settlement Administration Costs, (ii) the court-approved PAGA payment, (iii) the court-approved Enhancement Awards, and (iv) the court-approved Class Counsel Fees and Costs, the remainder of the Gross Settlement Amount is the Net Settlement Amount.

5. RELEASES

5.1 **Release By Participating Class Members**. Upon the Effective Date, the Participating Class Members, Plaintiffs and their heirs, executors, administrators, attorneys, agents and assigns, fully and finally release and forever discharge the Released Parties from any and all Released Class Claims during the Subclass Periods. As a result of this release, the Participating Class Members will be unable to bring a claim or seek recovery for any alleged violations of the Released Class Claims that took place during the Subclass Periods.

5.2 **Release By The State Of California And The Aggrieved Employees**. Upon the Effective Date, Plaintiffs, on behalf of the State of California and the Aggrieved Employees, fully and finally release and forever discharge the Released Parties from any and all Released PAGA Claims during the PAGA Period. As a result of this release, Plaintiffs, the State of California, and the Aggrieved Employees will not be able to bring a claim or seek civil penalties based on the Released PAGA Claims that took place during the PAGA Period.

5.3 **Additional Release By Plaintiffs**. In addition to the Released Class Claims and the Released PAGA Claims, upon the Effective Date, Plaintiffs will generally release and forever discharge the Released Parties, to the fullest extent permitted by law, of and from any and all claims, known and unknown, asserted and not asserted, which Plaintiffs have or may have against the Released Parties as of the date of execution of this Agreement. For the purpose of implementing a full and complete release and discharge of the Released Parties, Plaintiffs expressly waive all rights provided by California Civil Code § 1542, or any other similar provisions of applicable law, which are as follows: "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

5.4 **Injunction From Pursuing Released Claims**. Upon final approval of the Settlement, Plaintiffs, Participating Class Members, the State of California, and the Aggrieved Employees shall be enjoined from filing, initiating, or continuing to prosecute any actions, claims, complaints, or proceedings in any court, or with the California Divisions of Labor Standards Enforcement ("DLSE"), or with the LWDA, or the United States Department of Labor ("DOL"), or with any other entity regarding the claims released in the Agreement. This Settlement is conditioned upon the release by Plaintiffs, the Participating Class Members and Aggrieved Employees as described herein, and upon covenants by these individuals that they will not participate in any actions, lawsuits, proceedings, complaints, or charges brought by the DLSE, LWDA, DOL, or by any other agency, persons, or entity in any court or before any administrative body related to the claims released in this Agreement. In the event that any court or administrative agency does not order injunctive relief, Defendants shall have the right to file a motion for summary judgment or any other pleading or paper to enforce the terms of this Agreement. The Class Members and Class Counsel will not oppose, contest, or interfere with efforts by Defendants to oppose any attempt to bring such released claims against Defendants.

5.5 **Class Members' Acknowledgment**. The Participating Class Members acknowledge that they may hereafter discover facts or law different from, or in addition to, the facts or law they know or believe to exist with respect to the Released Class Claims. The Participating Class Members nonetheless agree that this Settlement, including the Released Class Claims, contained herein shall be and remain effective in all respects notwithstanding such different or additional facts or law regarding such Released Class Claims. These releases do not include any claims that cannot be waived as a matter of law, but the Participating Class Members agree that they will not accept any monetary recovery or benefit from any proceedings relating to any such claims.

6. COMPUTATION OF SETTLEMENT PAYMENTS TO PARTICIPATING CLASS MEMBERS AND AGGRIEVED EMPLOYEES

6.1 **Payments Based On Workweeks**. The Net Settlement Amount will be distributed to eligible Participating Class Members based on their number of Workweeks during the Subclass Periods. Defendants shall provide records (i.e., the Data List) showing the total Workweeks of Class Members during the Subclass Periods. Defendants' records shall be determinative for purposes of calculating the number of Workweeks worked and any payments to the Participating Class Members. Workweeks will be determined using the number of days Class Members worked as non-exempt employees (i.e., exclusive of leaves of absences) in California during the Subclass Periods.

6.2 **Distribution Of Net Settlement Amount**. The Class Payments to Participating Class Members will be determined by dividing the value of Net Settlement Amount by the total number of Workweeks of all Participating Class Members during the Subclass Periods, and then multiplying the resulting figure by the number of Workweeks of each Participating Class Member during the Subclass Periods.

6.3 **Distribution Of PAGA Payments.** PAGA Payments to Aggrieved Employees will be determined by dividing $25,000.00 (25% of the PAGA Payment, which is allocated to Aggrieved Employees) by the total number of Workweeks of all Aggrieved Employees during the PAGA Period, and then multiplying the resulting figure by the number of Workweeks of each Aggrieved Employee during the PAGA Period.

6.4 **No Impact On Employee Benefit Plans**. None of the payments made pursuant to the Agreement shall be considered for purposes of determining eligibility for, vesting or participation in, or contributions to any benefit plan, including, without limitation, all plans subject to the Employee Retirement and Income Security Act of 1974 ("ERISA"). Any distribution of payments to Plaintiffs and Participating Class Members shall not be considered as a payment of wages or compensation under the terms of any applicable benefit plan and shall not affect participation in, eligibility for, vesting in, the amount of any past or future contribution to, or level of benefits under any applicable benefit plan. Any amounts paid will not impact or modify any previously credited hours of service or compensation taken into account under any benefit plan sponsored or contributed to by Defendants or any jointly-trusteed benefit plan. For purposes of this Agreement, "benefit plan" means each and every "employee benefit plan," as defined in 29 U.S.C. § 1002(3), and, even if not thereby included, any 401(k) plan, bonus, pension, stock option, stock purchase, stock appreciation, welfare, profit sharing, retirement, disability, vacation, sick time or pay, severance, hospitalization, insurance, incentive, deferred compensation, or any other similar benefit plan, practice, program, or policy.

7. NOTICE TO CLASS MEMBERS AND AGGRIEVED EMPLOYEES

7.1 **Data List**. Defendants shall provide the Settlement Administrator with the Data List within 30 calendar days after the Court grants preliminary approval of the proposed Settlement. The Data List is being provided confidentially to the Settlement Administrator only, and the Settlement Administrator shall treat the information as private and confidential and take all necessary precautions to maintain the confidentiality of Data List. This information is to be used only to carry out the Settlement Administrator's duties as specified in this Settlement.

7.2 **Mailing Of Notice**. The Settlement Administrator shall mail the Notice to Class Members within 15 calendar days of the receipt of the Data List via First Class U.S. Mail, using the most current, known mailing address for each Class Member based on information provided by Defendants.

7.3 **Non-Delivered Notices Or Checks**. Any mailing returned to the Settlement Administrator as undeliverable shall be re-mailed within 5 calendar days via First Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator shall attempt to determine the correct address using a computer-based skip-trace search, and it shall then perform a single re-mailing via First Class U.S. Mail within 5 calendar days. If the computer-based skip-trace search does not provide a correct address, the Settlement Administrator shall attempt to determine the correct address using the Class Member's Social Security number and any available information provided by Defendants. If the Settlement Administrator is unable to determine the correct address using the Class Member's Social Security number and/or any information provided by Defendants, the Settlement Administrator shall perform a search based on the National Change of Address Database maintained by the United States Postal Service to update and correct any known or identifiable address changes.

8. OPTIONS TO RESPOND

8.1 **Consideration Period**. The Settlement Administrator shall provide notice to the Class Members of the settlement and their respective Workweeks worked and estimated Individual Settlement Shares pursuant to the preliminary approval order issued by the Court. Class Members shall be provided 30 calendar days to submit a Request for Exclusion, Notice of Objection, and/or Workweeks dispute, following the postmark date of the initial mailing of the Notice. Except as specifically provided herein, no Requests for Exclusion or Notices of Objection that are postmarked or faxed more than 30 calendar days after the initial mailing of the Notice or, with respect to a re-mailed Notice, an additional 21 calendar days from the date of re-mailing, shall be considered.

8.2 **Request For Exclusion And Opt Out Rights**. Class Members shall be given the opportunity to opt out of the Class Settlement.

8.2.1 **Opt Out Procedures**. Class Members may opt out of the Class Settlement by mailing to the Settlement Administrator a Request for Exclusion. Any such Request for Exclusion must be postmarked or faxed by the Response Deadline. A valid Request for Exclusion must: (a) state the case name and number of the *Martinez* Class Action, *Wise* Class Action, and/or *LaTourette* Class Action; (b) provide the Class Member's name (and former names, if any), current address, current telephone number, and last 4 digits of his or her Social Security number; and (c) clearly state that the Class Member wishes to be excluded from the Class Settlement. Any Request for Exclusion that does not include all of the required information or that is not submitted in a timely manner will be deemed null, void, and ineffective. If there is a dispute regarding the timeliness or validity of a Request for Exclusion, the Settlement Administrator shall make the determination, after consultation with Class Counsel and Defense Counsel.

8.2.2 **Effect Of Opt Out**. Any Class Member who opts out of the Class Settlement may not object to the Class Settlement, shall not receive any share of the Net Settlement Amount, and shall not be bound by the applicable Released Class Claims provisions in this Agreement. If a Class Member submits both a Request for Exclusion and a Notice of Objection, the Settlement Administrator will attempt to contact the Class Member to inquire regarding his or her intention to opt out of or object to the Class Settlement. If the Settlement Administrator is unable to confirm the Class Member's intention, the Class Member's Request for Exclusion will be valid and be deemed to invalidate the Notice of Objection..

8.3 **Objection Rights**. Because the Class will be certified by the Court for purposes of settlement, only Participating Class Members who do not opt out of the Class Settlement shall be entitled to object to the terms of the Class Settlement.

8.3.1 **Objection Procedures**. Objections to the Settlement must be made using the procedures set forth in the Notice. A timely and valid written objection to the Settlement (i.e., Notice of Objection) must be sent to the Settlement Administrator and postmarked by the Response Deadline. A Notice of Objection shall be deemed to be submitted as of the postmarked or fax date. To be a valid objection, the Notice of Objection must include the following: (i) the case name and number of the *Martinez* Class Action, *Wise* Class Action, and/or *LaTourette* Class Action; (ii) the objector's full name, signature, address, telephone number, and last 4 digits of the Social Security Number of the Participating Class Member submitting the Notice of Objection; (iii) a written statement of all grounds for the objection accompanied by any legal support for such objection; (iv) copies of any papers, briefs, or other documents upon which the objection is based; and (v) a statement whether the objector intends to appear at the Final Approval Hearing. If the objector is represented by counsel, statement shall include the name, address, and telephone number of their counsel.

8.3.2 Participating Class Members who submit an objection remain bound by this Agreement. Participating Class Members who submit a timely and valid Notice of Objection may be subject to appear for a deposition, if requested by Plaintiffs or Defendants.

8.3.3 **Waiver Of Objection Rights**. Participating Class Members who fail to make objections in the manner specified in the Notice shall be deemed to have waived any objections and shall be foreclosed from making any objection, whether by appeal or otherwise, to this Agreement.

8.3.4 Aggrieved Employees shall not be allowed to opt out of or object to the PAGA settlement or the PAGA payment they receive.

8.4 **Disputed Workweeks On Notice**. Participating Class Members will have an opportunity to dispute the number of Workweeks indicated on their Notice. To do so, Participating Class Members must produce evidence to the Settlement Administrator showing that such information is inaccurate on or before the Response Deadline. Defendants' records will be presumed correct, but the Settlement Administrator will evaluate the evidence submitted by the individual and will make the final decision as to the merits of the dispute. All disputes will be decided within 10 business days after the Response Deadline. The Settlement Administrator shall have the right to contact Defense Counsel and/or Class Counsel if it determines more information is needed to resolve any issue of disputed Workweeks.

8.5 **Defendants' Rights To Withdraw Based On The Number Of Request For Exclusion**. Defendants have the right, at its sole option, to withdraw from this Agreement if 5% or more of the Class Members submit a timely and valid Request for Exclusion. Defendants must exercise this right of rescission in writing within 15 calendar days after the Settlement Administrator notifies the Parties in writing that at least 5% or more of the Class Members have opted out of the Class Settlement. These rights to withdraw are material terms of the Agreement and Defendants have the right, at its sole option, to withdraw from this Agreement if either of these material terms are not approved by the Court. If Defendants exercise this right to withdraw, Defendants will be responsible for all Settlement Administration Costs incurred by the Settlement Administrator.

8.6 **Proof Of Class Members' Responses**. No later than 75 calendar days after the initial mailing of the Notice, the Settlement Administrator will prepare and submit a declaration attesting to its mailing of the Notice, its inability to deliver any mailing due to invalid addresses, its receipt of valid Requests for Exclusion and Notices of Objection, and any other information that the Parties request be included. At least 10 calendar days prior to the Final Approval Hearing, the Settlement Administrator will prepare a supplemental declaration (at the request of Class Counsel or Defense Counsel) to submit to the Court.

9. SETTLEMENT APPROVAL PROCEDURE

9.1 **Preliminary Approval Of Class/Representative Settlement**. Upon execution of this Agreement, Plaintiffs and Class Counsel shall promptly prepare the Motion For Preliminary Approval of Class/Representative Settlement to be filed in San Diego County Superior Court where the *Martinez* PAGA complaint is pending.

9.1.1 **Amended Consolidated Complaint.** For the sole purpose of seeking judicial approval of the settlement, the Parties will stipulate to amend the operative *Martinez* PAGA complaint pending in San Diego Superior Court to name Mark Wise and Waverly La Tourette as additional co-plaintiffs in a consolidated complaint brought against all Defendants and to add all factual allegations and claims alleged in the Lawsuits. However, the Parties agree that seeking judicial approval of the settlement in San Diego Superior Court is not a material term of the Agreement. In the event that the San Diego Superior Court declines to review or approve the proposed settlement, the Parties agree to seek judicial approval of the settlement in the United States District Court for the Southern District of California, where the *Martinez* class action case is pending.

9.1.2 **Preliminary Approval Papers.** Class Counsel and Defense Counsel shall use their best efforts to ensure that the Motion and amended complaint are filed with the *Martinez* PAGA Court within 60 days of execution of this Agreement. This Motion shall seek an order to file a consolidated compliant for settlement purposes only and conditionally certify the Class for the sole purpose of settlement, and preliminarily approve the proposed settlement according to the terms in this Agreement. The Motion also shall seek an order that provides for the Notice to be sent to Class Members as specified in this Agreement. This Motion shall include the bases for the

Class/Representative Settlement Amount and why the amount is reasonable in light of the facts and controlling authorities pertaining to the claims alleged in the Actions. The Motion shall also be accompanied by signed declarations by Class Counsel, discussing the risks of continued litigation and that the best interests of both Parties and the Class Members are served by the terms of this Agreement.

9.2 **Final Approval**. Plaintiffs shall submit to the Court a Motion for Final Approval of the Class and Representative Settlement as soon as practicable after the Response Deadline or pursuant to order by the Court. The Motion shall request the entry of a Final Approval Order, which shall include findings and orders: (a) approving the Agreement; (b) adjudging the terms to be fair, reasonable, and adequate; (c) reciting the release terms in full; (d) directing that the settlement terms and provisions be carried out; and (e) retaining jurisdiction to oversee administration and enforcement of the terms of this Agreement and the Court's orders.

9.3 **Motion For Class Counsel Fees And Costs And Enhancement Awards**. Class Counsel shall file a motion or application for the Court's approval of Class Counsel Fees and Costs and Enhancement Awards under the terms of the Agreement. Defendants will not oppose the motion, provided it is consistent with this Agreement.

9.4 **Effect Of Failure To Obtain Preliminary Or Final Approval**. If the proposed settlement or a substantially similar settlement mutually agreed to by the Parties is not preliminarily or finally approved by the Court, the Actions shall proceed as if no settlement had been attempted, and the Parties will resume litigation of the class action claims in federal court, unless the Parties jointly agree to seek reconsideration of the ruling or Court's approval of a renegotiated settlement. Defendants retain the right to contest whether any aspect of the Actions should be maintained as a class or representative action, and/or to contest the merits of the claims being asserted by the Plaintiffs or Class Members in the Actions. The Parties also agree that by entering into this Agreement and seeking judicial approval of the Agreement, Defendants does not waive and have not waived any right to enforce any arbitration agreements with the Class Members.

9.5 **Entry Of Judgment**. The Parties shall request that the Court issue Judgment in accordance with this Agreement and without further fees or costs to any party except as expressly set forth in this Agreement. In the event either the Court fails to enter final judgment in accordance with this

Agreement, or such final judgment is vacated or reversed, the Actions shall proceed as if no settlement had been attempted, unless the Parties jointly agree to seek reconsideration or appellate review of the ruling or approval of a renegotiated settlement.

9.6 **Dismissal Of Related Actions**. Upon final approval of the Settlement, Plaintiffs in the *Wise* Class and PAGA Actions, the *Martinez* Class Action, and the *LaTourette* Class and PAGA Actions shall promptly seek dismissal of their respective lawsuit based on the Settlement, with prejudice. The Settlement Administrator shall not distribute any Enhancement Awards or Class Counsel Fees and Costs until these related actions have been dismissed by the Courts.

9.7 **Notice To The LWDA**. Class Counsel shall give written notice of the Settlement to the LWDA simultaneously with the filing of the Motion For Preliminary Approval of Class/Representative Settlement in the *Martinez* Class and PAGA Actions, to provide the LWDA to comment and/or object to the terms of the Settlement Class Counsel moves for final approval.

10. FUNDING AND DISTRIBUTION OF THE CLASS/REPRESENTATIVE SETTLEMENT AMOUNT

10.1 **Funding Of Class/Representative Settlement Amount**. The Settlement Administrator shall establish a Qualified Settlement Fund pursuant to Section 468B(g) of the Internal Revenue Code for purposes of administering the Settlement. The Settlement Administrator shall furnish the Qualified Settlement Fund with its own Employer ID Number and calculate all settlement checks and payroll deductions and withholdings required under law based on information that will be confidentially furnished by Defendants. Within 30 calendar days after the Effective Date, Defendants shall deposit the Class/Representative Settlement Amount into an interest-bearing escrow account with the Settlement Administrator.

10.2 **Timing Of Disbursement Of Class/Representative Settlement Amount**

10.2.1 **Class Counsel Fees And Costs**. Subject to the terms of the Agreement, the Settlement Administrator shall distribute payment of any approved Class Counsel Fees and Costs within 20 calendar days after the funding of the Gross Settlement Amount. This is the same date that the Net Settlement Amount will be distributed to Participating Class Members. Class Counsel agree that they are responsible for allocating this payment among themselves and any other counsel for Plaintiffs settling claims through this Agreement. The Settlement Administrator shall issue an Internal Revenue Service Form 1099 to Class Counsel for any Class Counsel Fees and Costs payment, based on the allocation communicated by Class Counsel. Class Counsel shall be solely and legally responsible for paying all applicable taxes on any Class Counsel Fees and Costs and shall indemnify and hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the payment.

10.2.2 **Enhancement Awards**. Subject to the terms of the Agreement, the Settlement Administrator shall pay to Plaintiffs any approved Enhancement Awards within 20 calendar days after the funding of the Gross Settlement Amount. The Settlement Administrator shall issue an IRS Form 1099 to Plaintiffs for any Enhancement Awards. Plaintiffs shall be solely and legally responsible for paying all applicable taxes on any Enhancement Awards and shall indemnify and hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

10.2.3 **Settlement Administration Cost**. Subject to the terms of the Agreement, the Settlement Administrator shall pay itself any approved Settlement Administration Cost within 20 calendar days after the funding of the Gross Settlement Amount. The Settlement Administrator shall be solely and legally responsible for paying all applicable taxes on any Settlement Administration Cost and shall indemnify and hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the payment.

10.2.4 **Distribution Of PAGA Payment.** Subject to the terms of the Agreement, the Settlement Administrator shall distribute PAGA Payments to Aggrieved Employees within 15 calendar days after the funding of the Gross Settlement Amount. PAGA Payments to Aggrieved Employees will be determined by dividing $25,000.00 (25% of the PAGA Payment, which is allocated to Aggrieved Employees) by the total number of Workweeks of all Aggrieved Employees during the PAGA Period, and then multiplying the resulting figure by the number of Workweeks of each Aggrieved Employee during the PAGA Period. The PAGA Payment made under this Settlement will be 100% as penalties, to be reported on IRS Form 1099 (if applicable).

10.2.5 **Distribution Of Net Settlement Amount**. Subject to the terms of the Agreement, the Settlement Administrator shall distribute Net Settlement Amount to Participating Class Members within 15 calendar days after the funding of the Gross Settlement Amount. Class Payments made under this Settlement will be attributed 90% as penalties and interest, to be reported on IRS Form 1099 (if applicable), and 10% as unpaid wages, to be reported on IRS Form W-2 and subject to payroll deductions. In accordance with applicable tax laws, Net Settlement Amount are subject to reduction for the employee's share of required tax withholdings and payroll deductions on the wage portion of the Class Payments. The employer's share of payroll taxes on the wages portion of Net Settlement Amount shall be paid by Defendants separately and in addition to the Gross Settlement Amount. The Settlement Administrator shall issue any necessary IRS Form 1099 and Form W-2 statements to Participating Class Members for their respective share of the Net Settlement Amount. Participating Class Members shall be solely and legally responsible for paying all other applicable taxes on their respective share of the Net Settlement Amount and shall indemnify and hold harmless Defendants from any claim or liability for taxes, penalties, or interest arising as a result of the payments.

10.2.6 The Parties warrant and represent that the allocation of the Net Settlement Amount as 90% to non-wage payments (*e.g.*, business expenses, interest, and statutory penalties) and 10% to wage-related payments is reasonably within the parameters of liability for the Actions, given that the vast of majority of recovery, if any, in the Actions would be comprised of statutory penalties and interest.

10.3 **Undeliverable Or Uncashed Checks**

10.3.1 The Settlement Administrator shall maintain a list of the postmark date for the original mailing of the Class Payment checks, if any, to the Participating Class Members, the postmark date of any subsequent mailing to any Participating Class Members, and a list of any individuals who did not receive the settlement checks due to the inability to locate a valid address using the procedures described herein above in Section 7.3 or who otherwise could not be located within 2 attempts at mailing.

All Class Payment checks will remain valid and negotiable for 180 days from the date of their mailing by the Settlement Administrator. After 180 calendar days from the date of mailing, the checks shall become null and void, and any monies remaining in the distribution account shall be distributed by the Settlement Administrator to the California State Controller's Office pursuant to California's Unclaimed Property Law, California Civil Code § 1500, et. seq. for the benefit of the Class Member(s) whose funds are undeliverable and/or who did not cash their checks until such time that they claim their property, or the property is otherwise disposed of pursuant to the Unclaimed Property Laws. The Settlement Administrator will send Defendants a list of any such undeliverable funds and/or uncashed checks seven calendar days prior to distributing those funds to the Controller. No part of the Net Settlement Amount shall be returned to Defendants.

10.3.2 For any Participating Class Members for whom the settlement checks were deemed undeliverable, the funds associated with the settlement payment will be distributed to the California State Controller's Office pursuant to California's Unclaimed Property Law.

11. MISCELLANEOUS PROVISIONS

11.1 **Interim Stay Of Proceedings**. The Parties agree to refrain from further litigation in the Actions, except such proceedings necessary to implement and to obtain preliminary and final approval of the terms of the Agreement. If the Settlement is not finally approved, the Parties agree that they will revert to their positions in the lawsuit prior to the time the Agreement was reached, and no terms set forth in this Agreement will be admissible in any future proceedings in this case or any other action.

11.2 **Certification Of Class Action And Representative Action For Settlement Purposes Only**. The Parties agree to stipulate to class action and representative action certification for purposes of the settlement only. If, for any reason, the settlement is not approved, the stipulation to certification will be void, and Defendants shall have the full opportunity to file any motion to challenge class certification or any motion to challenge the manageability of PAGA claims. The Parties further agree that certification for purposes of the settlement is not an admission that class action or representative action certification is proper under the standards applied to contested certification motions and that this Agreement will not be admissible in this or any other proceeding as evidence that either (i) a class or representative action should be certified or (ii) Defendants are liable to Plaintiffs or any Class Member, other than according to the terms of the Agreement.

11.3 **Mutual Cooperation**. Plaintiffs, Defendants, Class Counsel, and Defense Counsel agree to fully cooperate with each other to accomplish the terms of this Agreement, including, but not limited to, execution of such documents and taking such other action as may reasonably be necessary to implement the terms herein. The Parties agree to use their best efforts and any other efforts that may become necessary by order of the Courts, or otherwise, to effectuate this Agreement.

11.4 **Class Counsel's Representation.** Class Counsel agree and represent that they will not engage in any conduct to undermine the terms of the Agreement, including any solicitation efforts to persuade any Class Member from opting out of or objecting to the Settlement. Class Counsel further agree and represent that they do not represent any Class Members other than Plaintiffs and will not actively solicit any other Class Members to pursue claims that have been released in this Settlement on an individual, collective, class or representative basis. Class Counsel also warrant and represent that they have access to any of the Plaintiffs who will be executing this Agreement, and that they will obtain their signatures within 15 days after Class Counsel and Defense Counsel sign this Agreement. The Parties agree that verifiable electronic signatures are sufficient. However, if the Court orders wet signatures, the Parties will follow the Court's Order.

11.5 **Parties' Authority**. The signatories hereto represent that they are fully authorized to enter into this Agreement and are fully authorized to bind the Parties to all terms stated herein. It is agreed that Participating Class Members are so numerous that it is impossible or impractical to have each Participating Class Member execute this Agreement. It is agreed that this Agreement may be executed on behalf of Participating Class Members by Plaintiffs and Class Counsel.

11.6 **Entire Agreement**. This Agreement constitutes the entire agreement between the Parties with regard to the subject matter contained herein, and all prior and contemporaneous negotiations and understandings between the Parties shall be deemed merged into this Agreement. However, if the Court does not issue an Order for Preliminary Approval or Final Approval of this Agreement, and the Parties are unable to reach an understanding that satisfies the Court's concerns, then Defendants shall have the right to seek enforcement of the MOU.

11.7 **Arms' Length Transaction; Materiality Of Terms**. The Parties have arrived at this Agreement as a result of arm's length negotiations. Except as otherwise stated in this Agreement, all terms and conditions of this Agreement in the exact form set forth in this Agreement are material to this Agreement and have been relied upon by the Parties in entering into this Agreement.

11.8 **Counterparts**. This Agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and when taken together with other signed counterparts, shall constitute one signed Agreement, which shall be binding upon and effective as to all Parties.

11.9 **Facsimile Or Scanned Signatures**. Any party may sign and deliver this Agreement by signing on the designated signature block and transmitting that signature page via facsimile or as an attachment to an e-mail to counsel for the other party. Any signature made and transmitted by facsimile or as an attachment to an e-mail for the purpose of executing this Agreement shall be deemed an original signature for purposes of this Agreement and shall be binding upon the party who transmits the signature page.

11.10 **Binding Effect**. This Agreement shall be binding upon the Parties and, with respect to Plaintiffs, Participating Class Members, their spouses, children, representatives, heirs, administrators, executors, beneficiaries, conservators, attorneys, and assigns.

11.11 **Construction**. The determination of the terms and conditions of this Agreement has been by mutual agreement of the Parties. Each party participated jointly in the drafting of this Agreement, and the terms and conditions of this Agreement are not intended to be, and shall not be, construed against any party by virtue of draftsmanship.

11.12 **Severability Clause For Invalidity Of Any Provision**. Before declaring any provision of this Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest extent possible consistent with applicable precedents so as to render all provisions of this Agreement valid and enforceable.

11.13 **No Prior Assignments Or Undisclosed Liens**. Plaintiffs represent and warrant that they have not assigned, transferred, conveyed, or otherwise disposed of, or purported to assign, transfer, convey, or otherwise dispose of, any Released Claims or the attorneys' fees and costs to be paid pursuant to this Agreement. Plaintiffs further represent and warrant that there are not any liens or claims against any of the amounts to be paid by Defendants pursuant to this Agreement. Plaintiffs agree to defend, to indemnify, and to hold Defendants harmless from any liability, losses, claims, damages, costs, or expenses, including reasonable attorneys' fees, resulting from a breach of these representations or from any lien or assignment.

11.14 **No Initiated Publicity**. Class Counsel shall not take any action or initiate to publicize, or cause to be publicized, directly or indirectly, the discussions resulting in or the existence of this settlement or its terms, in any type of mass media, including, but not limited to, speeches, press conferences, press releases, interviews, television or radio broadcasts, blogs, websites, newspapers, Internet posting, Facebook, Instagram, Twitter or any other social media, or information furnished to legal news media, including but not limited to *Bloomberg Law, Law 360,* and the *Daily Journal.* Similarly, Class Counsel shall not refer to Defendants by name in its public marketing materials, law firm websites, or posting with any other organizations, such as the California Employment Lawyers Association ("CELA"). Nothing in this section shall prevent Class Counsel from referencing this settlement to a court as evidence of their experience in connection with motions for class certification, approval of settlements, fee motions, and the like. Further, nothing in this section shall prevent the Settlement Administrator from posting the Class Notice approved by the Court on their website for Class Members' reference.

11.15 **Continuing Jurisdiction**. The Court shall retain jurisdiction over the implementation of this Agreement as well as any and all matters arising out of, or related to, the implementation of this Agreement and settlement. The Court shall not have jurisdiction to modify the terms of the Agreement without the consent of all of the Parties.

11.16 **Modification**. The Agreement may not be changed, altered, or modified, except in writing and signed by the Parties hereto or their counsel of record. After preliminary approval of the Settlement has been granted, the Settlement may not be modified except by a writing signed by the Parties hereto or their counsel of record, and approved by the Court.

11.17 **Disputes**. If the Parties have a dispute with regard to the language of this Agreement, they agree to first attempt to resolve the dispute informally through good faith negotiations, but if those efforts are unsuccessful, they agree to submit any such dispute to private mediation. The Parties will split the costs of a mutually selected mediator, and all parties will bear their own fees and costs.

11.18 **Governing Law**. This Agreement was made and entered into in the State of California. All terms of this Agreement shall be governed by and interpreted according to the substantive laws of the State of California and the procedural laws of the United States of America.

11.19 **Papers To Be Filed With The Courts**. All papers to be filed with the Court by Defense

Counsel or Class Counsel in connection with this Agreement shall be submitted to the other party at least 3 business days prior to filing. The other party shall have no right to object to the papers unless they do not conform to the terms and conditions of this Agreement.

SO AGREED AND STIPULATED.

05 / 09 / 2025

DATED: May __, 2025

By: ______________________
ROBERT MARTINEZ,
Plaintiff

DATED: May __, 2025

By: ______________________
MARK WISE,
Plaintiff

DATED: May __, 2025

By: ______________________
WAVERLY LATOURETTE,
Plaintiff

DATED: May __, 2025

By: ______________________
IHG MANAGEMENT (MARYLAND) LLC,
Defendant

DATED: May __, 2025

By: ______________________
INTER-CONTINENTAL HOTELS CORPORATION,
Defendant

DATED: May __, 2025

By: ______________________
INTERCONTINENTAL HOTELS GROUP RESOURCES, LLC,
Defendant

Counsel or Class Counsel in connection with this Agreement shall be submitted to the other party at least 3 business days prior to filing. The other party shall have no right to object to the papers unless they do not conform to the terms and conditions of this Agreement.

SO AGREED AND STIPULATED.

DATED: May __, 2025

By: ______________________________
ROBERT MARTINEZ,
Plaintiff

DATED: May 12, 2025

By: Mark Wise
MARK WISE,
Plaintiff

DATED: May __, 2025

By: ______________________________
WAVERLY LATOURETTE,
Plaintiff

DATED: May __, 2025

By: ______________________________
IHG MANAGEMENT (MARYLAND) LLC,
Defendant

DATED: May __, 2025

By: ______________________________
INTER-CONTINENTAL HOTELS CORPORATION,
Defendant

DATED: May __, 2025

By: ______________________________
INTERCONTINENTAL HOTELS GROUP RESOURCES, LLC,
Defendant

Counsel or Class Counsel in connection with this Agreement shall be submitted to the other party at least 3 business days prior to filing. The other party shall have no right to object to the papers unless they do not conform to the terms and conditions of this Agreement.

SO AGREED AND STIPULATED.

DATED: May __, 2025

By: ______________________________
ROBERT MARTINEZ,
Plaintiff

DATED: May __, 2025

By: ______________________________
MARK WISE,
Plaintiff

05 / 20 / 2025
DATED: May __, 2025

By: ______________________________
WAVERLY LATOURETTE,
Plaintiff

DATED: May __, 2025

By: ______________________________
IHG MANAGEMENT (MARYLAND) LLC,
Defendant

DATED: May __, 2025

By: ______________________________
INTER-CONTINENTAL HOTELS CORPORATION,
Defendant

DATED: May __, 2025

By: ______________________________
INTERCONTINENTAL HOTELS GROUP RESOURCES, LLC,
Defendant

Counsel or Class Counsel in connection with this Agreement shall be submitted to the other party at least 3 business days prior to filing. The other party shall have no right to object to the papers unless they do not conform to the terms and conditions of this Agreement.

SO AGREED AND STIPULATED.

DATED: May __, 2025

By: ______________________________
ROBERT MARTINEZ,
Plaintiff

DATED: May __, 2025

By: ______________________________
MARK WISE,
Plaintiff

DATED: May __, 2025

By: ______________________________
WAVERLY LATOURETTE,
Plaintiff

DATED: May __, 2025
05/28/2025

By: ______________________________
IHG MANAGEMENT (MARYLAND) LLC,
Defendant

DATED: May __, 2025
05/28/2025

By: ______________________________
INTER-CONTINENTAL HOTELS CORPORATION,
Defendant

DATED: May __, 2025
05/28/2025

By: ______________________________
INTERCONTINENTAL HOTELS GROUP RESOURCES, LLC,
Defendant

DATED: May __, 2025

05/28/2025

By: ______________________
INTERCONTINENTAL HOTELS OF SAN FRANCISCO, INC.,
Defendant

DATED: May__, 2025

05/28/2025

By: ______________________
SIX CONTINENTS HOTELS, INC.,
Defendant

DATED: May __, 2025

05/28/2025

By: ______________________
KIMPTON HOTEL & RESTAURANT GROUP, LLC,
Defendant

DATED: May __, 2025

05/28/2025

By: ______________________
KHRG CANARY LLC,
Defendant

APPROVED AS TO FORM:

DATED: May 9, 2025

CROSNER LEGAL, PC

By: ______________________________
Brandon Brouillette
Zachary M. Crosner

Attorneys for Plaintiffs
ROBERT MARTINEZ and WAVERLY LATOURETTE

DATED: May __, 2025

AEQUITAS LEGAL GROUP

By: ______________________________
Ronald H. Bae
Olivia D. Scharrer
Carson D. Turner
Attorneys for Plaintiff
MARK WISE

DATED: May __, 2025

SEYFARTH SHAW LLP

By: ______________________________
Leo Q. Li
Eric E. Hill
Yoon-Woo Nam
Ping Wang
Attorneys for Defendants
IHG MANAGEMENT (MARYLAND) LLC, INTER-CONTINENTAL HOTELS CORPORATION, INTERCONTINENTAL HOTELS GROUP RESOURCES, LLC, INTERCONTINENTAL HOTELS OF SAN FRANCISCO, INC., SIX CONTINENTS HOTELS, INC., KIMPTON HOTEL & RESTAURANT GROUP, LLC AND KHRG CANARY LLC, INCLUDING ALL OF THEIR PRESENT AND FORMER PARENT COMPANIES, SUBSIDIARIES.

APPROVED AS TO FORM:

DATED: May __, 2025

CROSNER LEGAL, PC

By: ______________________________

Brandon Brouillette
Zachary M. Crosner

Attorneys for Plaintiffs
ROBERT MARTINEZ and WAVERLY LATOURETTE

DATED: May 20, 2025

AEQUITAS LEGAL GROUP

By: ______________________________

Ronald H. Bae
Olivia D. Scharrer
Carson D. Turner
Attorneys for Plaintiff
MARK WISE

DATED: May 30, 2025

SEYFARTH SHAW LLP

By: ______________________________

Leo Q. Li
Eric E. Hill
Yoon-Woo Nam
Ping Wang
Attorneys for Defendants
IHG MANAGEMENT (MARYLAND) LLC, INTER-CONTINENTAL HOTELS CORPORATION, INTERCONTINENTAL HOTELS GROUP RESOURCES, LLC, INTERCONTINENTAL HOTELS OF SAN FRANCISCO, INC., SIX CONTINENTS HOTELS, INC., KIMPTON HOTEL & RESTAURANT GROUP, LLC AND KHRG CANARY LLC, INCLUDING ALL OF THEIR PRESENT AND FORMER PARENT COMPANIES, SUBSIDIARIES.