

1 **SETTLEMENT AGREEMENT**

2 **I. INTRODUCTION**

3 This Settlement Agreement (“Agreement”) is entered into by Defendants Motel 6
4 Operating L.P. and G6 Hospitality LLC, doing business as Motel 6 (“Defendants”), and
5 John A., John D., John E., Jane F., John M., Jane N., Jane V., and John W. (“Plaintiffs”),
6 proceeding pseudonymously, for the purpose of resolving the Action between them
7 (collectively, Plaintiffs and Defendants shall be referred to as the “Parties”). This
8 Agreement has been reached as a result of good faith negotiation supervised by a
9 professional mediator.

10 **II. PURPOSES OF SETTLEMENT**

11 The Parties have entered into this Agreement for the following purposes:

12 A. To resolve all disputes covered by the litigation in such a way as to avoid
13 further expense and protracted disputes between the Parties.

14 B. To create an efficient procedure for implementing equitable relief and
15 monetary damages under the terms of this Agreement; and

16 C. To finally resolve all claims and defenses asserted in the Action.

17 **III. DEFINITIONS**

18 A. “Action” means *Jane V., et al v. Motel 6 Operating L.P., et al.*, D. Ariz.
19 (Case No. 2:18-cv-00242-DGC).

20 B. “Best Efforts” means commercially reasonable efforts designed to comply
21 with the specific objectives to which the efforts are directed.

22 C. “Claims Administrator” means Arden Claims Service in Port Washington,
23 New York.

24 D. “Class Counsel” means the Mexican American Legal Defense and
25 Educational Fund (“MALDEF”) and the Ortega Law Firm.

26 E. “Class Members” means each and every member of the Settlement Class.

27 F. “Class Period” means the period from February 1, 2017 through November
28 2, 2018.

1 G. “Class Representatives” or “Plaintiffs” means John A., John D., John E.,
2 Jane F., John M., Jane N., Jane V., and John W., proceeding pseudonymously.

3 H. “Court” means the United States District Court for the District of Arizona.

4 I. “Effective Approval” means the entry of this Agreement on the Final
5 Approval Date by the Court and either: (1) the expiration of the time for filing a direct
6 appeal from the Court’s approval of the Agreement, or (2) if a timely direct appeal is
7 filed, the final resolution of the appeal (including any requests for rehearing and/or
8 petitions for writ of certiorari), resulting in final judicial approval of the Agreement.

9 J. “Federal Immigration Authorities” means the following: United States
10 Department of Homeland Security Immigration and Customs Enforcement, Customs and
11 Border Patrol, Homeland Security Investigations, their officers, and any other federal law
12 enforcement officer from the Department of Homeland Security whose primary
13 responsibility is enforcement of federal immigration laws.

14 K. “Final Approval Date” means the date upon which the Court approves this
15 Agreement and after there has been: (a) notice to the Settlement Class; (b) opportunity to
16 opt out of the Settlement Class with respect to monetary damages; (c) opportunity to
17 submit a timely objection to the Agreement; (d) appropriate discovery regarding any such
18 timely objections; and (e) the Final Approval Hearing.

19 L. “Final Approval Hearing” means the hearing upon which the Court
20 considers the fairness of and whether to approve this Agreement and after there has been:
21 (a) notice to the Settlement Class; (b) opportunity to opt out of the Settlement Class with
22 respect to monetary damages; (c) opportunity to submit a timely objection to the
23 Agreement; and (d) appropriate discovery regarding any such timely objections.

24 M. “Final Approval Order” means the order by the Court entered approving the
25 Agreement after having conducted the Final Approval Hearing.

26 N. “Franchised Location” means any lodging facility in the United States
27 operated under the “Motel 6” brand name by a third party pursuant to a franchise
28 agreement with Defendants and their respective affiliates.

1 O. “Guest” means any individual with whom Defendants contract to use
2 and/or occupy a guestroom in any Operated Location.

3 P. “Guest Information” means computer-generated guest lists and the
4 information contained on them.

5 Q. “Incident Report” means documentation created by property level
6 employees at Operated Locations after communication with Federal Immigration
7 Authorities.

8 R. “Motel 6 Entities” means Defendants and each of their past and present
9 employees, parents, subsidiaries, affiliates, officers, directors, agents, managers, owners,
10 insurers, successors, and assigns and those in active concert or participation with them, or
11 any of them.

12 S. “Operated Location” means any Motel 6 branded lodging facility operated
13 by Defendants.

14 T. “Preliminary Approval Date” means the date upon which the Court enters
15 an order preliminarily approving this Agreement, pending notice and opportunity to opt
16 out of the Settlement Class with respect to monetary damages or submit objections to the
17 Agreement, and a fairness hearing thereon.

18 U. “Preliminary Approval Order” means the order by the Court that
19 preliminarily approves the Agreement, pending notice and opportunity to opt out of the
20 Settlement Class with respect to monetary damages or submit objections to the
21 Agreement, and a fairness hearing thereon.

22 V. “Release” means the release of claims as set forth in Section VIII of the
23 Agreement.

24 W. “Settlement Administrator” means Martin F. Scheinman, Esq.

25 X. “Settlement Class” means the Primary Class, Class 2, and Class 3,
26 collectively.

27 **IV. LITIGATION BACKGROUND**

28 A. On January, 24, 2018, eight Plaintiffs filed a class-action complaint in the
29 United States District Court for the District of Arizona. Plaintiffs allege that Defendants

1 employ a corporate policy and/or practice to provide Guest Information to agents of
2 Immigration and Customs Enforcement (“ICE”) and/or other Federal Immigration
3 Authorities. Plaintiffs challenge Defendants’ alleged policy and/or practice as
4 unauthorized disclosures of private information and as discriminatory, unconstitutional, a
5 violation of state laws protecting consumers, and a violation of Defendants’ privacy
6 policy.

7 B. On May 8, 2018, Defendants filed an answer and defenses to the class
8 action complaint and denied any wrongdoing or violation of the law.

9 C. On June 15, 2018, the Parties engaged in a day-long mediation before
10 Martin F. Scheinman, Esq., a professional mediator, as mediator. The mediation resulted
11 in a tentative settlement.

12 D. On July 6, 2018, the Parties filed a joint certification with the Court that
13 indicated that the Parties agreed to a tentative settlement that would resolve the Plaintiffs’
14 and Class Members’ claims against Defendants.

15 **V. JURISDICTION**

16 The Parties stipulate that (i) the Court has jurisdiction over the Parties and subject
17 matter of the Action; (ii) if the claims asserted in the Action were proven, the Court
18 would have the authority to grant the equitable relief and monetary damages set forth in
19 this Agreement; (iii) venue is proper in the United States District Court for the District of
20 Arizona; (iv) the Court may retain jurisdiction of the Action during the duration of the
21 Agreement solely for the purposes of entering all orders that may be necessary to
22 implement the relief provided.

23 **VI. CONSENT DECREE, EFFECTIVE DATES AND DURATION OF** 24 **EQUITABLE PROVISIONS**

25 **A. Effective Dates and Duration**

26 Unless otherwise provided, the equitable provisions addressed in Sections X and
27 XI in this Agreement are effective immediately upon the Final Approval Date and shall
28 remain in effect for a period of two years (24 months) from that date.

1 **B. Consent Decree**

2 In addition to the Final Approval Order, the Parties shall request in connection
3 with the Final Approval Hearing that the Court enter a consent decree containing
4 Sections V, X, & XI of this Agreement, or substantively identical provisions. The
5 consent decree shall be operative for the term set forth in Section VI.A of this
6 Agreement. The consent decree shall also contain a provision terminating it
7 automatically on the election of either Party pursuant to Section IX.F of this Agreement.

8 **VII. SETTLEMENT CLASS**

9 **A. Monetary Damages**

10 1. For purposes of the monetary damages provided in this Agreement,
11 Plaintiffs shall request that the Court conditionally certify a “Primary Class” and two
12 additional classes (“Class 2” and “Class 3”) under Federal Rule of Civil Procedure
13 23(b)(3) as further defined in sections VII.A.1.a-c below. Defendants shall not oppose
14 this request.

15 a. A Primary Class, consisting of all persons who stayed at an Operated
16 Location between February 1, 2017, and November 2, 2018, and whose Guest
17 Information was provided to Federal Immigration Authorities by Defendants’ employees,
18 except those who file a timely request to opt-out of the monetary damages provisions.

19 b. Class 2, consisting of all persons who are not members of Class 3
20 who were questioned and/or interrogated by Federal Immigration Authorities at an
21 Operated Location as a result of a Primary Class Member’s Guest Information being
22 provided to Federal Immigration Authorities, except those who file a timely request to
23 opt-out of the monetary damages provisions.

24 c. Class 3, consisting of all persons who were placed in immigration
25 removal proceedings in connection with their encounter with Federal Immigration
26 Authorities at an Operated Location as a result of a Primary Class Member’s Guest
27 Information being provided to Federal Immigration Authorities, except those who file a
28 timely request to opt-out of the monetary damages provisions.

1 d. Excluded from the Settlement Class are the Motel 6 Entities and all
2 federal governmental entities and personnel, including Federal Immigration Authorities.

3 **B. Equitable Relief:**

4 For purposes of the equitable relief provided in this Agreement, Plaintiffs shall
5 request that the Court certify the Settlement Class under Federal Rule of Civil Procedure
6 Rule 23(b)(2). Defendants shall not oppose this request.

7 **VIII. RELEASE OF CLAIMS**

8 **A. Binding and Exclusive Nature of Settlement Agreement**

9 Upon Effective Approval of the settlement, the Parties and each and every Class
10 Member shall be bound by this Agreement and shall have recourse exclusively to the
11 benefits, rights, and remedies provided hereunder. No other action, demand, suit, or
12 other claim may be pursued by the Class Members against the Motel 6 Entities with
13 respect to the Released Claims.

14 **B. Release of Claims by Settlement Class**

15 Upon Effective Approval of the settlement, the Motel 6 Entities shall be fully
16 released and forever discharged from any and all individual and/or class-wide claims,
17 demands, charges, complaints, rights and causes of action of any kind by the Class
18 Representatives, Plaintiffs, the Settlement Class, each member of the Settlement Class
19 (hereafter “Releasers”), and by the Releasor’s estates (whether or not any Releasor or
20 Releasor’s estate has objected to the settlement or makes a claim for monetary damages
21 described in Section XII) that arise out of or relate to conduct within the Class Period
22 concerning the provision of Guest Information to any federal, state, or local law
23 enforcement (including, but not limited to, Federal Immigration Authorities), including,
24 but not limited to, any conduct alleged and cause of action asserted in this action, or that
25 could have been asserted or alleged in this action, and arising out of the facts alleged in
26 this action (including, but not limited to alleged race and national-origin discrimination,
27 consumer protection violations, privacy violations, constitutional claims, contract or tort
28 claims and any other federal, state, or local law claims) (collectively “Released Claims”).
29 Releasers and their estates shall not, after Effective Approval of this Agreement, seek to

1 establish liability against any Motel 6 Entity based, in whole or in part, upon any of the
2 Released Claims or any conduct at issue in the Released Claims. This Release is final
3 and shall survive the expiration of the Agreement's terms.

4 **C. Waiver of Unknown Claims**

5 On Effective Approval, Plaintiffs and Class Members shall be deemed to have,
6 and by operation of this Agreement shall have, with respect to the Released Claims,
7 expressly waived the benefits of any statutory provisions or common law rule that
8 provides, in substance, that a general release does not extend to claims that the party does
9 not know or suspect to exist in its favor at the time of executing the release, which if
10 known by it, would have materially affected its settlement with any other party. In
11 particular, but without limitation, Plaintiffs and Class Members waive the provisions of
12 California Civil Code § 1542 (or any like or similar statute or common law doctrine), and
13 do so understanding the significance of that waiver. Section 1542 provides:

14 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH
15 THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS
16 OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE,
17 WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY
18 AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

19 **D. No Bar to Future Claims**

20 Nothing in this Agreement shall be construed to bar any claims of any Class
21 Members that arise after Effective Approval.

22 **E. Assumption of Risk**

23 In entering into this Agreement, the Parties assume the risk of any mistake of fact
24 or law. If either Party should later discover that any fact that the Party relied upon in
25 entering into this agreement is not true, or that the Party's understanding of the facts or
26 law was incorrect, the Party shall not be entitled to modify, reform, or set aside this
27 Agreement, in whole or in part, by reason thereof.

1 **F. No Collateral Attack**

2 This Agreement shall not be subject to collateral attack by any Class Member at
3 any time after Effective Approval.

4 **IX. COURT APPROVAL OF SETTLEMENT**

5 **A. Preliminary Approval**

6 As soon as practicable after the execution of this Agreement, and no later than
7 November 2, 2018, the Parties shall apply for entry of the Preliminary Approval Order.
8 The Preliminary Approval Order shall include provisions: (a) preliminarily approving this
9 settlement and finding this Settlement sufficiently fair, reasonable and adequate to allow
10 Notice to be disseminated to the Settlement Class; (B) approving the form, content, and
11 manner of the Notice; (c) setting a schedule for proceedings with respect to Final
12 Approval of this Settlement; and (d) staying the Action, other than such proceedings as
13 are related to this Settlement.

14 **B. CAFA Notice**

15 Within ten (10) days of the filing of this Agreement and the motion for
16 preliminary approval of the Settlement, Defendants shall provide CAFA notice as
17 required under 28 U.S.C. § 1715. CAFA notice shall be provided to the Attorney
18 General of the United States and the Attorneys General of each state in which Class
19 Members reside. CAFA notice shall be mailed, can be in an electronic or disk format,
20 and shall include to the extent then available and feasible: (1) the complaint in the
21 Action; (2) the motion for preliminary approval of the Agreement, which shall include
22 the proposed Final Approval Hearing date and shall confirm that there are no additional
23 agreements among the Parties not reflected in the settlement; (3) the proposed forms of
24 Notice; (4) this Agreement; and (5) a reasonable estimate of the numbers of Class
25 Members residing in each state and the estimated proportionate share of the claims of
26 such members to the entire settlement. The Parties agree that this CAFA Notice shall be
27 sufficient to satisfy the terms of 28 U.S.C. § 1715.

1 **C. Objections to Settlement**

2 Any Class Member wishing to object or to oppose the approval of this Agreement
3 shall object in writing in the manner set forth in Section XII.F.1.a.

4 **D. Motion for Final Approval and Response to Objections**

5 The Parties shall file with the Court their motion for final settlement approval on a
6 date that is no later than 21 days before the date of the Final Approval Hearing. The
7 Parties will file with the Court a reply brief in support of Final Approval that, *e.g.*,
8 responds to any objections no later than 7 days before the date of the Final Approval
9 Hearing.

10 **E. Final Approval Hearing**

11 The Parties shall request that the Court, on the date set forth in the Preliminary
12 Approval Order or on such other date that the Court may set (but not earlier than 150
13 days from the date of entry of the Preliminary Approval Order), conduct a Final Approval
14 Hearing to: (a) determine whether to grant Final Approval to this Agreement; and (b)
15 consider any timely objections to this settlement and the Parties' responses to such
16 objections. At the Final Approval Hearing, the Parties shall ask the Court to give Final
17 Approval to this Agreement. If the Court grants Final Approval to this Agreement, the
18 Parties shall ask the Court to enter a Final Approval Order, which approves the
19 Agreement, authorizes entry of a final judgment, and dismisses the action with prejudice.

20 **F. Disapproval, Cancellation, Termination, or Nullification of Settlement**

21 1. Each Party shall have the right to terminate this Agreement if either (i) the
22 Court declines to grant Preliminary Approval or Final Approval to this Agreement
23 without material modification of the Agreement or (ii) a higher court reverses Final
24 Approval by the Court, and the Court thereafter declines to enter a further order or orders
25 approving Agreement on the terms set forth herein. If a Party elects to terminate this
26 Agreement under this paragraph, that Party must provide written notice to the other
27 Party's counsel and the Court within thirty (30) days of the occurrence of the condition
28 permitting termination.

1 2. If this Agreement is terminated under Section IX.F.1, then: (i) this
2 Agreement shall be rendered null and void; (ii) this Agreement and all negotiations and
3 proceedings relating hereto shall be of no force or effect, and without prejudice to the
4 rights of the Parties; (iii) all Parties shall be deemed to have reverted to their respective
5 status in the Action as of the date and time immediately preceding the execution of this
6 Agreement; and (iv) except as otherwise expressly provided, the Parties shall stand in the
7 same position and shall proceed in all respects as if this Agreement and any related orders
8 had never been executed, entered into, or filed.

9 **X. GENERAL EQUITABLE PROVISIONS**

10 **A. General Injunctive Provisions**

11 1. Defendants shall implement and maintain the following policies and
12 internal procedures (“the Policy”):

13 a. Assistance to Team Members: Defendants shall establish a 24-Hour
14 Hotline to assist employees at Operated Locations when they receive any request for
15 Guest Information from Federal Immigration Authorities.

16 b. Response to Requests for Information from Federal Immigration
17 Authorities

18 i. Defendants shall not share Guest Information with Federal
19 Immigration Authorities without a judicially enforceable warrant or subpoena, except as
20 necessary to prevent a significant crime, or where there is a credible reason to believe that
21 a guest, employee or other individual is in immediate danger and is at risk of serious
22 bodily injury or death.

23 ii. All warrants or subpoenas presented by Federal Immigration
24 Authorities must be sent to Defendants’ legal department or other individuals designated
25 by Defendants who have been trained to comply with this Policy and to address requests
26 from Federal Immigration Authorities. In the absence of exigent circumstances described
27 above, employees at Operated Locations must not provide Guest Information in response
28 to any request, warrant or subpoena from Federal Immigration Authorities directly, but

1 must wait for directions from Defendants' legal department or other trained individuals
2 designated by Defendants.

3 iii. Any of Defendants' employees with questions about this
4 Policy are expected to call the 24-Hour Hotline.

5 iv. Defendants shall establish a brand standard prohibiting
6 Franchised Properties from providing Guest Information to Federal Immigration
7 Authorities except under the circumstances described in Section X.A.1.b.i.

8 v. Defendants shall create an online mechanism for any guest at
9 an Operated Property or a Franchised Property to report when he or she believes that
10 Guest Information has been provided to Federal Immigration Authorities or that this
11 Policy has been violated in any manner.

12 **2. Training**

13 i. Defendants shall train each Operated Location employee with
14 the ability to make a guest list available to understand their responsibilities with regard to
15 the Policy, including the purpose and procedures regarding Defendants' 24-Hour Hotline,
16 such as when it is appropriate and necessary to contact Defendants' legal 24-Hour
17 Hotline.

18 ii. The training described in this section may be held in
19 conjunction with other business, at Defendants' discretion, and may be organized
20 geographically in such fashion as Defendants deem appropriate.

21 **B. Dispute Resolution and Enforcement Procedures**

22 1. The Parties agree to the appointment of Martin F. Scheinman, Esq. as
23 Settlement Administrator. The Settlement Administrator may be removed at the joint
24 written request of Class Counsel and Defendants, or by order of the Court upon motion of
25 any Party and a showing of good cause that Mr. Scheinman should no longer serve as
26 Settlement Administrator. In the event that Mr. Scheinman becomes unavailable to serve
27 as Settlement Administrator for any reason, Class Counsel and Defendants will make a
28 good faith effort to select on a joint basis a new Settlement Administrator. If Class
29 Counsel and Defendants are unable to reach agreement as to a successor Settlement

1 Administrator within forty-five (45) days following the date Mr. Scheinman becomes
2 unavailable to serve as Settlement Administrator, the Court shall appoint a successor
3 Settlement Administrator upon motion of Class Counsel or Defendants. Class Counsel or
4 Defendants may nominate to the Court persons for consideration as a successor
5 Settlement Administrator. Class Counsel and Defendants shall each have the right to
6 interview any nominated person, and to present argument and evidence to the Court
7 regarding the selection of the successor Settlement Administrator.

8 2. The Settlement Administrator shall have authority to resolve all disputes
9 arising under the Agreement, subject to limitations and standards set forth in the
10 Agreement.

11 3. The Parties shall use Best Efforts to resolve promptly any differences or
12 any disputes regarding the interpretation or implementation of this Agreement.

13 4. Each Party shall have the right to initiate steps to resolve any dispute or
14 issue of compliance regarding any provision of the Agreement subject to limitations and
15 standards set forth in the Agreement.

16 a. If either Party has good reason to believe that a legitimate dispute
17 exists, the initiating Party shall first promptly give written notice to the other Party,
18 including: (a) a reference to all specific provisions of the Agreement that are involved;
19 (b) a statement of the issue; (c) a statement of the remedial action sought by the initiating
20 Party; and (d) a brief statement of the specific facts, circumstances and any other
21 arguments supporting the position of the initiating Party;

22 b. Within thirty (30) days after receiving such notice, the non-initiating
23 Party shall respond in writing to the statement of facts and arguments set forth in the
24 notice and shall provide its written position, including the facts and arguments upon
25 which it relies in support of its position;

26 c. The Parties shall undertake good-faith negotiations, including
27 meeting or conferring by telephone or in person and exchanging relevant documents
28 and/or other information, to attempt to resolve the issues in dispute or alleged
29 noncompliance;

1 d. The Settlement Administrator, upon motion, may permit a Party to
2 take post-settlement discovery as provided by the Federal Rules of Civil Procedure, but
3 only as to matters relevant to the underlying claim of breach, if the Settlement
4 Administrator determines that the informal exchange of documents or information has
5 not been sufficient to allow the Party to present the dispute upon a factual record
6 adequate for a fair determination of the issue;

7 e. If the Parties' good-faith efforts to resolve the matter have failed,
8 and after written notice of an impasse by the initiating Party to the non-initiating Party,
9 the initiating Party may file a motion with the Settlement Administrator, with a
10 supporting brief, requesting resolution of the dispute or the issues of non-compliance,
11 provided, however, that such motion shall be limited to the dispute(s) and/or issue(s) as to
12 which the Parties have met and conferred as described here;

13 f. The non-moving Party will have fifteen (15) days to respond to any
14 such motion;

15 g. The Settlement Administrator shall attempt within fifteen (15) days
16 after filing of the final brief to resolve the dispute and may schedule a hearing or other
17 proceeding, including an evidentiary hearing, to resolve the matter; and

18 h. Within thirty (30) days of any hearing, the Settlement Administrator
19 shall issue a written determination, including findings of fact if requested by any Party.

20 5. The provisions of this Section do not prevent any Party from promptly
21 bringing an issue directly before the Court when exigent facts or circumstances require
22 immediate Court action to prevent a serious violation of the terms of this Agreement,
23 which otherwise would be without meaningful remedy. The moving papers shall explain
24 the facts and circumstances that allegedly necessitate immediate action by the Court.
25 Absent a showing of exigent facts or circumstances, the Court shall refer the matter to the
26 Settlement Administrator to resolve in accordance with procedures set forth above. If
27 any such matter is brought before the Court requesting immediate action, the other Party
28 shall be provided with appropriate actual notice, and an opportunity to be heard on the
29 motion, under the Local Rules of the Court and the Federal Rules of Civil Procedure.

1 The Court in its discretion may set such procedures for emergency consideration as are
2 appropriate to the particular facts or circumstances, but no such matter may be heard or
3 considered on an *ex parte* basis.

4 6. Any Party may appeal a decision of the Settlement Administrator to the
5 Court provided that such an appeal is made within fourteen (14) days of receipt of notice
6 of the decision by the Settlement Administrator. Any such appeal shall be brought by
7 motion under the Local Rules of the Court and Federal Rules of Civil Procedure. The
8 decision rendered by the Settlement Administrator shall be affirmed unless the Court
9 determines that the Settlement Administrator made clearly erroneous findings of fact or
10 wrongly interpreted or applied the Settlement Agreement. A Party may seek on appeal
11 any remedy provided by law, provided that such remedy is consistent with the provisions
12 of this Agreement.

13 7. Only Plaintiffs or Defendants shall have standing to move the Court to
14 enforce, apply, or modify this Agreement. Any individual concerned about Defendants'
15 compliance with this Agreement may so notify Class Counsel and request that they
16 examine Defendants' compliance and seek such relief, if any, as may be appropriate.
17 In the event that any Party seeks to utilize the dispute resolution procedure then each
18 Party shall bear its own attorneys' fees, costs and expenses for all work performed
19 through resolution by the Settlement Administrator. In the event that any Party seeks to
20 appeal any decision of the Settlement Administrator, then the prevailing party in such
21 matter shall be entitled to recover reasonable attorneys' fees, costs and expenses incurred
22 in such appeal from the other Party. Whether and to what extent any Party is a prevailing
23 party and awarded fees and expenses shall be determined in the sole and absolute
24 discretion of the Court.

25 **XI. RECORDKEEPING AND REPORTING**

26 **A. Documents to be Preserved For the Duration of the Agreement**

27 Defendants shall retain the following records for the period set forth in Section VI
28 of this Agreement or as required by state or federal law, whichever is longer:

29 1. Guest Complaints, as explained in Sections X.A.1.b.v;

- 1 2. Incident Reports; and
- 2 3. Logs of any calls made by Defendants' employees (including employees at
- 3 Operated Locations) to the 24-Hour Hotline.

4 **B. Access to Documents**

5 All documents required to be maintained by the express terms of the

6 Agreement, and all documents that are provided to the Settlement Administrator, Class

7 Counsel, or the Court under the terms of the Agreement, are and shall be treated as

8 confidential business records. Neither Class Counsel, nor the Settlement Administrator,

9 nor the Claims Administrator shall divulge any such documents to any third party unless

10 so ordered by a court after notice to Defendants and an opportunity for Defendants to

11 object to such disclosure and be heard. Upon expiration of this Agreement, Class

12 Counsel, the Claims Administrator, and the Settlement Administrator shall promptly

13 destroy any and all documents in any format Defendants furnished under this Agreement.

14 This provision shall not prevent a Party from filing otherwise confidential documents

15 with the Court, provided that, either: (a) such documents are filed under seal; or (b) Class

16 Counsel give ten (10) days advance notice to Defendants, to permit opportunity to seek a

17 protective order sealing such documents.

18 **C. Compliance and Status Conference**

19 The Parties shall conduct an annual status conference with the Settlement

20 Administrator, with a report to the Court following the status conference to discuss the

21 status of implementation of the Agreement. The Parties shall be represented at the status

22 conference. No Party shall file any document with the Settlement Administrator in

23 conjunction with the status conference, unless directed to do so by the Settlement

24 Administrator.

25 **XII. MONETARY RELIEF AND CLAIMS PROCEDURE**

26 **A. Amount of Monetary Damages**

27 1. Defendants will pay \$50 in damages to each member of the Primary Class

28 who is not also a member of either Class 2 or Class 3 and makes a legitimate claim in the

29 determination of the Claims Administrator, up to a class-wide total of \$1,000,000.

1 2. Defendants will pay \$1,000 in damages to each member of Class 2 who
2 makes a legitimate claim in the determination of the Claims Administrator, up to a class-
3 wide total of \$1,000,000.

4 3. Defendants will pay each member of Class 3 who makes a legitimate claim
5 in the determination of the Claims Administrator an amount in damages of at least \$7,500
6 to be determined by the Claims Administrator in consultation with Class Counsel, up to a
7 class-wide total of \$5,600,000.

8 4. For each of the classes described above, if the total monetary amount owed
9 to the class members exceeds the total amount allocated to that class, the amount paid to
10 each class member will be reduced on a pro rata basis.

11 5. The Parties agree that the Claims Administrator will be Arden Claims
12 Service in Port Washington, New York. The Claims Administrator will open and
13 administer an interest-bearing account (“Settlement Account”) designated by Class
14 Counsel and with a unique Taxpayer Identification Number.

15 6. Defendants shall pay the costs of notice to Class Members and claims
16 administration, not to exceed \$1,000,000.00. The Claims Administrator and the
17 Settlement Administrator will, respectively, conduct class notice and class administration
18 in consultation with the Parties. The Claims Administrator will invoice Defendants
19 directly for its fees and costs.

20 7. After Effective Approval and within seven (7) days after the Claims
21 Administrator has informed Defendants in writing that it is prepared to distribute the
22 Settlement Amount to the eligible members of the Settlement Class (or whichever is
23 later), Defendants will wire an amount to the Settlement Account calculated as follows:

24 \$6,600,000.00, plus the aggregate amount not to exceed \$1,000,000 that the
25 Claims Administrator has determined will be made to pay legitimate claims
26 of members of the Primary class who are not members of Class 2 or Class
27 3.

28 8. Upon payment of the amounts set forth in Section XII.A.7. to the
29 Settlement Account having been made, Defendants will have no further monetary

1 obligation to Class Representatives or members of the Settlement Class, including no
2 obligation to pay any funds for distribution to Class Representatives or members of the
3 Settlement Class; no obligation to pay costs of mailed notices and expenses associated
4 with the claims procedure; and no obligation to pay any other settlement administration
5 costs.

6 9. Unclaimed money from the Settlement Account shall be included in the *cy*
7 *pres* fund described in Section XII.P in the manner described in Section XII.B.2.

8 **B. Distribution of Monetary Damages**

9 1. The Settlement Account will be distributed to Class Members based on a
10 formula set out in the allocation plan as set forth in Section XII.N. The distribution of the
11 Settlement Account according to the allocation plan will be undertaken by the Claims
12 Administrator.

13 2. Any money within the applicable class-wide total that is not claimed by
14 members of Classes 2 and 3 shall be included in the *cy pres* fund, described below. Any
15 money within the class-wide total that is not claimed by members of the Primary Class
16 who are not members of Classes 2 or 3 shall not be included in the *cy pres* fund.

17 **C. Notice**

18 1. Mailed Notice.

19 a. Within twenty (20) days following the Preliminary Approval Date,
20 Defendants shall provide the Claims Administrator with the full names and last known
21 addresses and phone numbers, to the extent available in Defendants' records, of all
22 Guests whom Defendants have identified as potential Settlement Class members, in Excel
23 format. Within twenty (20) days following the Preliminary Approval Date, Class
24 Counsel shall provide the Claims Administrator with a computer readable list in Excel
25 format of the Plaintiffs and all known potential Settlement Class members and their
26 mailing addresses. Prior to the mailing of the notices, the Claims Administrator will
27 combine these lists of potential Settlement Class members received from Defendants and
28 Class Counsel and update any new address information for potential Class Members as
29 may be available through the National Change of Address system. The Claims

1 Administrator shall determine through a computer database search the most recent
2 address that may be obtained for each person on the combined list of potential Settlement
3 Class members. Within sixty (60) days of the Preliminary Approval Date, the Claims
4 Administrator shall mail, via first class postage, notice of class settlement, in both
5 English and Spanish, in the form approved by the Court in the Preliminary Approval
6 Order, to all known potential Settlement Class members at their last known address and
7 at the most recent address that may have been obtained through the computer database
8 search.

9 2. Published Notice: The Claims Administrator shall cause to be published
10 the notice of the class settlement in the form approved by the Court in the Preliminary
11 Approval Order on Class Counsel’s Facebook and Twitter accounts (in English and
12 Spanish) and on the website established by the Claims Administrator. Within twenty (20)
13 days of the Preliminary Approval Date, the Claims Administrator shall enable the website
14 referenced in the previous sentence. Within thirty (30) days of the Preliminary Approval
15 Date, Class Counsel shall cause the Facebook and Twitter notices to be published on
16 MALDEF’s Facebook and Twitter feeds.

17 3. Class Counsel shall be responsible for all Spanish translations of the notice
18 materials.

19 **D. Best Notice Practicable**

20 The Parties agree, and the Preliminary Approval Order shall state, that compliance
21 with the procedures described in this Section is the best notice practicable under the
22 circumstances and shall constitute due and sufficient notice to the Settlement Class of the
23 pendency of the Action, certification of the Settlement Class, the terms of the Agreement,
24 and the Final Approval Hearing, and shall satisfy the requirements of the Federal Rules
25 of Civil Procedure, the United States Constitution, and any other applicable law.

26 **E. Inquiries from Class Members**

27 It shall be the responsibility of Class Counsel to establish procedures for receiving
28 and responding to inquiries from Class Members with respect to this Agreement. Neither

1 Defendants nor Defendants' counsel are required to respond to inquiries from Class
2 Members with respect to this Agreement.

3 **F. Objections and Exclusions**

4 1. Class Members may object to or opt-out of the class settlement.

5 a. Objections

6 i. Class Members objecting to the terms of the Agreement must
7 do so in writing at least thirty (30) days prior to the scheduled Final Approval Hearing.
8 The written objection must be sent to the Claims Administrator on or before the date
9 specified in the Preliminary Approval Order. The Claims Administrator will record the
10 date of receipt of the objection and forward it to both Class Counsel and Defendants
11 within two (2) business days following receipt. The Claims Administrator will also file
12 the original objections with the Clerk of the Court no later than five (5) days prior to the
13 scheduled Final Approval Hearing date. The Claims Administrator shall retain copies of
14 all written objections until such time as it has completed its duties and responsibilities
15 under this Agreement.

16 ii. The written objection must include (1) a detailed statement
17 with specificity of the reasons for the objection; (2) the objecting Class Member's name,
18 address, and telephone number; (3) the date and location of the Operated Location at
19 which the objecting Class Member stayed; (4) the circumstances (if any) in which the
20 Class Member was contacted by Federal Immigration Authorities and/or placed in
21 removal proceedings; (5) whether the objection applies only to the objector, to a specific
22 subset of the class, or to the entire class; and (6) any other requirements set forth in the
23 notices described in Section XII.C. Any Class Member that fails to file a timely written
24 objection that meets the requirements of this Section XII.F.1.a, or any Class Member who
25 submits a valid request for exclusion shall have waived the right to object and shall have
26 no right to file an appeal relating to the approval of this settlement.

27 b. Exclusions

28 i. Class Members may exclude themselves, or opt-out, of the
29 monetary damages provisions of the class settlement. Any request for exclusion must be

1 in the form of a written “Opt-out” statement sent to the Claims Administrator.
2 Information on how to opt-out of the Agreement shall be made available by the Claims
3 Administrator. A person wishing to opt-out must sign a statement which includes the
4 following language:

5 I understand that I am requesting to be excluded from the class monetary
6 settlement and that I will receive no money from the settlement entered into
7 by Motel 6. I understand that if I am excluded from the class monetary
8 settlement, I may bring a separate legal action seeking damages, but may
9 receive less than what I would have received if I had filed a claim under the
10 class monetary settlement procedure in this case, including possibly
11 receiving nothing. I also understand that I may not seek exclusion from the
12 class for injunctive relief and that I am bound by the injunctive provisions
13 of the Agreement entered into by Motel 6.

14 ii. A Class Member choosing to opt out of the Settlement Class
15 shall sign and date the opt-out statement and deliver it to the Claims Administrator at
16 least thirty (30) days prior to the scheduled Final Approval Hearing, as specified in the
17 Preliminary Approval Order. The Claims Administrator shall date stamp the original of
18 any Opt-out statement and serve copies on both Defendants and Class Counsel within
19 two (2) business days of receipt of such statement. The Claims Administrator will also
20 file the original Opt-out Statements with the Clerk of the Court no later than five (5) days
21 prior to the scheduled Final Approval Hearing date. The Claims Administrator shall
22 retain copies of all Opt-out statements until such time as it has completed its duties and
23 responsibilities under this Agreement.

24 c. Rescission of Class Member Opt-Outs

25 i. The Parties recognize that some Class Members who initially
26 submit Opt-out forms seeking exclusion may, upon further reflection, wish to rescind
27 such Opt-out statements. Class Members may rescind their Opt-out statements by
28 submitting a “Rescission of Opt-out” statement to the Claims Administrator. The
29 Rescission of Opt-out statement shall include the following language:

1 I previously submitted an Opt-out statement seeking exclusion from the
2 class monetary settlement. I have reconsidered and wish to withdraw my
3 Opt-out statement. I understand that by rescinding my Opt-out, I may be
4 eligible to receive an award from the claims settlement fund and may not
5 bring a separate legal action against Motel 6 seeking damages.

6 ii. A Class Member wishing to rescind his or her opt-out from
7 the Settlement Class shall sign and date the Rescission of Opt-out statement and cause it
8 to be delivered to the Claims Administrator no later than the deadline for claims filing
9 period specified in the Preliminary Approval Order. The Claims Administrator shall
10 stamp the date received on the original of any Rescission of Opt-out statement and serve
11 copies to counsel for Defendants and Class Counsel no later than two (2) business days
12 after receipt and shall file the date-stamped originals with the Clerk of the Court no later
13 than five (5) business days prior to the date of the Final Approval Hearing.

14 iii. The Claims Administrator shall retain copies of all
15 Rescissions of Opt-Out statements until such time as the Claims Administrator is relieved
16 of its duties and responsibilities under this Agreement.

17 **G. Claims Administration**

18 1. The Claims Administrator shall (1) prepare and mail settlement notices and
19 claim forms to potential Class Members; (2) establish and operate a website designed to
20 provide information to and communication with potential Class Members; (3) receive and
21 evaluate claims eligibility; (4) seek additional information from claimants, when
22 appropriate; (5) receive and file opt-out statements and objections; (6) respond to
23 questions from potential Class Members; (7) implement the allocation plan; (8) maintain
24 a toll-free number for communicating with Class Members; and (9) perform any other
25 duties necessary to carry out its responsibilities set forth in this Agreement.

26 2. The Claims Administrator shall make claim forms available to potential
27 Class Members who submit oral, e-mail, or written requests for claim forms. The Claims
28 Administrator shall mail the requested claim form via first class postage within two (2)
29 business days after receiving a request. If Defendants, or their counsel, receive requests
30 for claim forms or for information regarding the class settlement, they shall refer such

1 requestors to the toll-free number established by the Claims Administrator for the
2 purpose of administering this Agreement. The requestors shall be informed that any
3 requests for claim forms or information should be directed to the Claims Administrator.
4 The Claims Administrator shall retain copies of all written requests for claim forms and
5 all records of oral or e-mail requests for claim forms until such time as it has completed
6 its duties and responsibilities under this Agreement.

7 **H. Submission of Claim Forms**

8 1. Potential Class Members who seek monetary damages must complete a
9 claim form and cause it to be filed with the Claims Administrator by the claim filing
10 deadline set forth in the Preliminary Approval Order. The claim form must be
11 postmarked or submitted online on or before such date in order to be considered timely.
12 All claim forms must be signed under penalty of perjury to be considered. Failure to file
13 a timely claim form, for any reason whatsoever, shall bar the potential Class Member
14 from having his or her claim considered and from receiving monetary damages from the
15 Settlement Account. Potential Class Members who file a claim form must notify the
16 Claims Administrator of any change of address. A failure to notify the Claims
17 Administrator of a change of address may result in the forfeiture of a monetary award.
18 The Claims Administrator shall be available through a toll-free line and via e-mail
19 through the website established by the Claims Administrator to respond to requests from
20 potential Class Members for assistance in completing and filing claim forms. Class
21 Counsel shall also be available to consult with potential Class Members.

22 **I. Deceased Claimants**

23 1. Claims may be filed by deceased claimants through representatives of their
24 estate if appropriate documentation is provided. Any claims paid to a deceased claimant
25 shall be made payable to the estate of the deceased claimant.

26 **J. Determining Eligibility**

27 1. The Claims Administrator shall make the determination as to whether a
28 claim form is complete. If it is not complete, the Claims Administrator shall request
29 additional information from the claimant, if it appears that such additional information

1 would complete the Claim Form. Such requests for information shall be in writing and
2 shall specify the information necessary to complete the claim form. The requests for
3 information will be sent via first class mail, printed in English and Spanish, and inform
4 the claimant that a response must be returned no later than forty-five (45) days from the
5 date the request for information was mailed. The claimant must provide the requested
6 information, signed under penalty of perjury, to the Claims Administrator by mail with a
7 postmark no later than forty-five (45) days from the date of the mailed request for
8 information. Such additional information shall be considered part of the original claim
9 form and will relate back to the original filing date. The failure of a claimant to timely
10 respond to the request for information may result in the denial of the claim.

11 **K. Late-Filed Claims**

12 1. For claims received after the filing deadline, the Claims Administrator shall
13 notify late-filing claimants that their claims are untimely and that they are not eligible for
14 any monetary award. The Claims Administrator shall also inform late-filing claimants
15 that they may seek a review of the determination that they filed untimely by requesting the
16 Claims Administrator to reconsider its determination. The Claims Administrator may
17 reverse its determination that a claim was not timely filed only if the claimant proves that
18 (1) the claim form was filed on or before the filing deadline and that the untimeliness
19 determination is erroneous; or (2) that he or she could not timely complete the claim form
20 due to exceptional circumstances, which includes deportation, change of address, or other
21 events that the Claims Administrator may consider.

22 **L. Appeals of Claims Eligibility**

23 1. Within ninety (90) days of the close of the claims filing period, all
24 ineligible claimants shall receive written notice of their ineligibility for monetary
25 damages. Any claimants wishing to seek review of their ineligibility determinations must
26 do so by returning a written request for review to the Claims Administrator online by
27 mail with a postmark no later than twenty-one (21) days from the date of the notice of
28 claim ineligibility. Failure to file a timely request for review shall bar a claimant from
29 challenging a determination of ineligibility.

1 2. The Claims Administrator shall resolve the requests for review based on the
2 written requests for review and any other documentation or written information submitted
3 by the claimant, or deemed necessary by the Claims Administrator. The Claims
4 Administrator may seek further written information from the claimant as to the basis of
5 their request and may consider the written arguments of Class Counsel or Defendants.

6 3. The Claims Administrator shall attempt to expeditiously resolve any
7 requests for review within sixty (60) days after the filing of the request for review. The
8 Claims Administrator's decisions shall be communicated to the claimant in writing and
9 shall be binding and nonappealable.

10 **M. Claimant Information Provided by Defendants**

11 1. The Parties understand and agree that Defendants may possess information
12 that may assist in the determination of eligibility of potential Class Members for
13 monetary damages. Defendants shall reasonably cooperate in providing such information
14 that Class Counsel or the Claims Administrator deems reasonably necessary to assist in
15 determining the eligibility of any potential Class Member for monetary damages.
16 Defendants shall attempt to provide such information within fourteen (14) days of any
17 written requests for the information.

18 **N. Allocation Plan**

19 1. Class Members shall receive monetary damages to compensate them for the
20 injuries they have suffered as set forth in this Section. The Claims Administrator shall
21 determine that a claimant is a member of the Primary Class if it can reasonably be
22 determined from Defendants' records and the information provided in the claim form that
23 the claimant's Guest Information was provided to Federal Immigration Authorities.

24 2. Members of the Primary Class that submit a claim form and are determined
25 not to be members of Class 2 or Class 3 shall receive the compensation set forth in
26 Section XII.A.1.

27 3. The Claims Administrator shall determine whether a claimant is a member
28 of either Class 2 or Class 3 if it can reasonably be determined from Defendants' records
29 and the information provided in the claim form that their encounter with Federal

1 Immigration Authorities at an Operated Location was a result of a Primary Class
2 Member's Guest Information being provided to Federal Immigration Authorities.

3 4. Members of Class 2 that submit a claim form shall receive the
4 compensation set forth in Section XII.A.2.

5 5. The disbursement of the Settlement Account to members of Class 3 shall
6 follow the allocation plan described below:

7 a. Each potential member of Class 3 who seeks to receive an award
8 must fill out the claim form and supply information related to his or
9 her claim. On the basis of a review of the information supplied, Class
10 Counsel and the Claims Administrator shall allocate a certain dollar
11 amount to each factor determined by Class Counsel and the Claims
12 Administrator to relate to the claims. The specific factors shall
13 include:

- 14 i. Whether the member of Class 3 has minor children or other
15 dependents;
16 ii. Whether the member of Class 3 was arrested;
17 iii. Length of the member of Class 3's detention;
18 iv. Legal fees and other financial costs associated with
19 participation in immigration proceedings;; and
20 v. Any other circumstances that warrant recognition of an award.

21 6. The Claims Administrator shall total dollar amounts applicable to all
22 members of Class 3 who submitted claim forms. The Claims Administrator, in
23 consultation as necessary with Class Counsel, shall jointly determine each member of
24 Class 3's total dollar amount and allocate each member of Class 3's proportionate share
25 of the Settlement Account based on the member of Class 3's total dollar amount.

26 **O. Distribution of the Monetary Damages**

27 1. As soon as practicable after making the calculations required by the
28 allocation plan set forth in Section XII.N, the Claims Administrator shall distribute the
29 monetary damages to eligible Class Members via first class mail. The Claims

1 Administrator shall only issue the checks in the name of the eligible Class Members
2 unless Section XII.I is applicable. Included with the check due to the Class Member will
3 be a statement showing the gross amount of the payment.

4 **P. Cy Pres Fund**

5 1. In the event that checks intended to compensate members of Class 2 and/or
6 Class 3 are returned and/or the portion of the Settlement Fund allocated to compensate
7 members of Class 2 and/or Class 3 is not completely distributed for any reason, the
8 remaining sum shall become part of a *cy pres* fund to be distributed to a non-profit
9 organization or organizations approved by the Court. The Parties shall nominate an
10 organization or organizations for the Court's approval in the motion for preliminary
11 approval of the Agreement. In the event that checks intended to compensate members of
12 the Primary Class who are not members of Class 2 or Class 3 are returned, such amounts
13 shall be returned to Defendants.

14 2. The *cy pres* award shall be funded and distributed in the manner described
15 in Section XII.B.2.

16 **Q. Report from Claims Administrator**

17 1. Within thirty (30) days of the distribution of the monies from the
18 Settlement Fund, the Claims Administrator shall furnish an accounting of all distributions
19 from the Settlement Fund to the Court with copies to Class Counsel and Defendants.

20 **XIII. ATTORNEYS' FEES, COSTS, AND EXPENSES**

21 **A. Settlement of Fees, Costs, and Expenses**

22 Defendants shall pay Class Counsel's reasonable attorneys' fees, litigation
23 expenses, and costs in the amount of \$300,000.00 for work performed and costs and
24 expenses incurred. This payment is made in full satisfaction of any arguable obligation
25 Defendants may have at law to pay attorneys' fees, litigation expenses, and costs for
26 and/or on behalf of the Plaintiffs, Class Representatives, and the Settlement Class for any
27 and all work performed and costs and expenses incurred.

1 **B. Payment of Award**

2 Within fourteen (14) days following Effective Approval, Defendants shall pay to
3 MALDEF \$300,000.00, for litigation-related attorneys' fees, expenses and costs as set
4 forth in Section XIII.A. MALDEF shall have sole responsibility to distribute attorneys'
5 fees, expenses, and costs to other Class Counsel, and if Defendants make such payments
6 to MALDEF, no Class Counsel may assert any claim for such payments from
7 Defendants.

8 **XIV. Miscellaneous Provisions**

9 **A. No Admission of Liability**

10 This Agreement does not constitute and shall not be deemed to be a finding or
11 determination by the Court, or an admission by any Party, regarding the merits, validity
12 or accuracy of any of the allegations, claims or defenses presented in the Action. This
13 Agreement represents the compromise of disputed claims that the Parties recognize
14 would require protracted and costly litigation to determine. Defendants deny that they
15 have engaged in any unlawful conduct of any kind associated with the claims alleged in
16 the Action, and Defendants' entry into this Agreement is not and may not be used by any
17 person in this action or any other proceeding as an admission or evidence that any Motel
18 6 Entity has on any occasion engaged in any unlawful conduct of any kind, such being
19 expressly denied. Defendants are not estopped from challenging class certification in
20 further proceedings in this action or in any other action if the Agreement is not finally
21 approved.

22 **B. Severability of the Agreement**

23 Whenever possible, each provision and term of this Agreement shall be interpreted
24 in such a manner as to be valid and enforceable; provided, however, that in the event that
25 after Effective Approval any provision or term of this Agreement should be determined
26 to be or rendered unenforceable on collateral review, all other provisions and terms of
27 this Agreement and the application to all persons and circumstances shall remain
28 unaffected to the extent permitted by law. If any application of any provisions or term of
29 this Agreement to any specific person or circumstance should be determined to be invalid

1 or unenforceable, the application of such provision or term to other persons or
2 circumstances shall remain unaffected to the extent permitted by law.

3 **D. Duty to Support and Defend the Agreement**

4 Class Representatives, Class Counsel, and Defendants each agree to abide by all of
5 the terms of this Agreement in good faith and to support it fully, and shall use Best
6 Efforts to defend this Agreement from any legal challenge, whether by appeal or
7 collateral attack.

8 **E. No Assignment**

9 Each Party represents, covenants, and warrants that he, she, or it has not directly or
10 indirectly assigned, transferred, encumbered, or purported to assign, transfer, or
11 encumber any portion of any liability, claim, demand, cause of action, or rights that he,
12 she, or it herein releases.

13 **F. Binding on Successors and Assigns**

14 This Agreement shall be binding upon and inure to the benefit of the Parties and
15 their respective heirs, trustees, executives, successors, and assigns. Without limiting the
16 generality of the foregoing, each and every covenant and agreement made herein by
17 Plaintiffs shall be binding upon all Class Members.

18 **G. Entire Agreement**

19 This Agreement contains the entire understanding of the Parties with respect to the
20 subject matter contained herein. There are no promises, representations, warranties,
21 covenants, or undertakings governing the subject matter of this Agreement other than
22 those expressly set forth in this Agreement. This Agreement supersedes all prior
23 agreements and understandings among the Parties with respect to the settlement of the
24 Action. This Agreement may not be changed, altered, or modified, except in writing
25 signed by the Parties, if any such change, alteration, or modification of the Agreement is
26 material, it must also be approved by the Court.

27 **H. Construction**

28 The Parties agree that the terms and conditions of this Agreement are the result of
29 lengthy, intensive arm's-length negotiations between the Parties, and that this Agreement

1 shall not be construed in favor of or against any Party by reason of the extent to which
2 any Party, or his, her, or its counsel, participated in the drafting of this Agreement.

3 **I. Captions**

4 Titles or captions contained herein are inserted as a matter of convenience and for
5 reference, and in no way define, limit, extend, or describe the scope of this Agreement or
6 any provision hereof.

7 **J. Class Member Signatures**

8 It is agreed that, because the Class Members are so numerous, it is impractical to
9 have each Class Member execute this Agreement. The Notice will advise all Class
10 Members of the binding nature of the releases and of the remainder of this Agreement,
11 and in the absence of a valid and timely Request for Exclusion, such Notice shall have
12 the same force and effect as if each Class Member executed this Agreement.

13 **K. Choice of Law**

14 Construction and interpretation of this Agreement shall be determined in
15 accordance with the laws of the State of Arizona, without regard to the choice-of-law
16 principles thereof.

17 **L. Counterparts**

18 This Agreement and any amendments hereto may be executed in one or more
19 counterparts, and either Party may execute any such counterpart, each of which when
20 executed and delivered shall be deemed to be an original and both of which counterparts
21 taken together shall constitute one and the same instrument. A facsimile or PDF
22 signature shall be deemed an original for all purposes.

23 **M. Authority**

24 The signatories hereto represent that they are fully authorized to enter into this
25 Agreement and bind the Parties to the terms and conditions hereof.

26 **N. Receipt of Advice of Counsel**

27 The Parties acknowledge, agree, and specifically warrant to each other that they
28 have read this Agreement, have received legal advice with respect to the advisability of
29 entering into this settlement, and fully understand its legal effect.

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1 THE UNDERSIGNED PARTIES made, executed, and entered into this Agreement as of
2 the date the last Party has signed below.

3

4 DATED: November 2, 2018

5



For Plaintiffs

6

Andrés R. Holguin-Flores

7

Printed Name

8

Class Counsel for Plaintiffs

9

Title

10

11

12 DATED: November 2, 2018

13



For Defendants

14

John Dent

15

Chief Legal Officer, G6 Hospitality LLC