

**WHEN RECORDED PLEASE MAIL TO:**

Attn: Phil Brandt  
Marriott International, Inc.  
10400 Fernwood Road  
Dept. 52/923  
Bethesda, MD 20817

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**SPACE ABOVE THIS LINE FOR RECORDER'S USE**

**GROUND LESSOR AGREEMENT**

**THIS GROUND LESSOR AGREEMENT** (this "Agreement") is executed as of \_\_\_\_\_, 202\_\_ by: (i) **SAN DIEGO UNIFIED PORT DISTRICT** (together with its successors and permitted assignees, "Ground Lessor"), a public corporation; and (ii) **MARRIOTT INTERNATIONAL, INC.** ("Manager"), a Delaware corporation, and relates to property leased by **RIDA CHULA VISTA, LLC** ("Owner"), a Delaware limited liability company.

**RECITALS**

- A. Ground Lessor is the trustee of state tidelands owned by the State of California more particularly described on Exhibit A (the "Site"). The Hotel will be constructed on the Site.
- B. Ground Lessor leased the Site to Owner pursuant to the Ground Lease.
- C. Manager and Owner entered into the Management Agreement under which Manager will operate the Hotel.

**NOW, THEREFORE**, in consideration of the promises in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Ground Lessor and Manager agree as follows:

**1. Definitions.** Capitalized terms used but not defined in this Agreement have the meanings in the Management Agreement. The following terms used in this Agreement have the meanings given below:

"Ground Lease" for purposes of this Agreement, means, collectively, (i) that certain Lease to RIDA Chula Vista, LLC, of Property Located at \_\_\_\_\_, Chula Vista, California dated \_\_\_\_\_, 202\_\_, a memorandum of which was recorded on \_\_\_\_\_, 202\_\_, in the Official Records of the San Diego County Recorder's Office as document # \_\_\_\_\_ and (ii) any New Lease (as defined in the Ground Lease) entered into within the timeframes prescribed in the Ground Lease.

“Hotel” means that certain Gaylord Hotel containing approximately 1,600 guest rooms that will be constructed on the Site.

“Management Agreement” means that certain management agreement, dated December 17, 2018, between Owner and Manager under which Manager will operate the Hotel, as may be amended.

“Marriott Mezzanine Loan Documents” shall refer to those certain mezzanine loan documents entered into on or about the date hereof, with GPR Mezz, LLC, a Delaware limited liability company, as mezzanine borrower, and MARRIOTT INTERNATIONAL CAPITAL CORPORATION, a Delaware corporation, as the mezzanine lender.

“Site” is defined in Recital A.

**2. Notices of Default.** If Owner defaults under the Ground Lease and Ground Lessor notifies Owner of the default, then Ground Lessor will also give Manager a copy of such notice concurrently with Ground Lessor's delivery of such notice to Owner. In addition, if Owner defaults under the Management Agreement and Manager notifies Owner of the default, then Manager will also give Ground Lessor a copy of such notice concurrently with Manager's delivery of such notice to Owner.

**3. Effect of Ground Lease Termination.**

A. *Ground Lessor's Rights under Management Agreement.* If the Management Agreement is in effect, then upon any termination of the Ground Lease, Manager will recognize Ground Lessor as “Owner” under the Management Agreement and Ground Lessor's rights as “Owner” thereunder and Manager will remain bound by all of the terms of the Management Agreement; except that Manager will have no such obligation to recognize Ground Lessor if Ground Lessor does not qualify as a permitted transferee under Section 10.02.A of the Management Agreement, or unless within 20 days after the termination date of the Ground Lease, Ground Lessor cures all outstanding Defaults on behalf of “Owner” under the Management Agreement that: (i) are of a continuing nature; (ii) exist as of the termination date of the Ground Lease; (iii) are not personal to Owner; and (iv) are reasonably susceptible to cure by Ground Lessor. By way of example and without limitation, the following financial obligations accruing before the date of termination of the Ground Lease are “personal” to Owner and will not be obligations of Ground Lessor: unpaid management fees, the reimbursement of the Key Money, funds advanced by Manager in order to fund a pre-termination deficiency under the Management Agreement, any transfer fee due in connection with a Permitted Transfer by Owner, damages (including attorney's fees) awarded to Manager by a court or arbitral body for claims against Owner, costs of any pre-termination environmental remediation, and any obligations under the Marriott Mezzanine Loan Documents insofar as constituting an obligation of Owner under the Management Agreement.

B. *Limitations on Ground Lessor Obligations.* Notwithstanding anything to the contrary stated in this Agreement, Ground Lessor will not be:

1. liable for any act, omission, default, misrepresentation or breach of warranty of Owner or any obligations accruing prior to the termination of the Ground Lease (except for defaults under the Management Agreement cured by Ground Lessor under Section 3.A);

2. subject to any offset, defense, claim or counterclaim which Manager might be entitled to assert against Owner;
3. unless paid over to Ground Lessor, bound by any payment made by Manager to Owner;
4. unless disclosed to Ground Lessor in a notice delivered to Ground Lessor by Owner or Manager, bound by any waiver or forbearance by Owner or any amendment or modification of the Management Agreement, or waiver of the terms thereof, hereafter made, or consent or acquiescence by Owner; further provided that Ground Lessor will not be bound by any waiver, forbearance, amendment or other modification to the Management Agreement that has the effect of materially increasing Owner's obligations or materially reducing Owner's rights, or materially increasing Manager's rights or materially reducing Manager's obligations, unless Ground Lessor expressly consents to the same in writing (such consent not to be unreasonably withheld, conditioned or delayed);
5. bound by any warranties or indemnities given or required to be given by Owner under the terms of the Management Agreement;
6. liable for constructing or causing the construction of any improvements on the Site or for funding any obligation of Owner to Manager for payment or reimbursement of any expense incurred by Manager in connection the construction of such improvements; or
7. liable for any deposit, reserve fund, capital, advance or other monies that Manager may have given to Owner, or paid on behalf of Owner, unless such deposit, reserve fund, capital, advance or other monies are paid over to Ground Lessor.

Without affecting the provisions of Section 3.A, nothing contained in this Section 3.B will prevent Ground Lessor from being required to cure any prior state of events which continues after the termination date of the Ground Lease, to the extent that such state of events would have imposed liability on Ground Lessor, as "Owner" under the Management Agreement, had it occurred on or after the termination date of the Ground Lease.

By way of example, Working Capital, Inventories, Fixed Asset Supplies and the FF&E Reserve must be maintained at the levels required under the Management Agreement even if any shortfall in such amounts began prior to the termination date of the Ground Lease. Additionally, Ground Lessor would be obligated to repair physical damage to the Hotel in accordance with the provisions of the Management Agreement notwithstanding that such damage may have occurred prior to the termination date of the Ground Lease.

C. *Manager's Rights under Management Agreement.* If the Management Agreement is in effect and Manager is not in default thereunder beyond any applicable notice and cure periods, then (i) a default under the Ground Lease will not result in a termination of the Management Agreement; (ii) the termination of the Ground Lease will not result in the termination of the Management Agreement, and except as may be required by law, Ground Lessor will not name Manager in any action or proceeding to terminate the Ground Lease; and (iii) upon any early termination of the Ground Lease, Ground Lessor will recognize the Management Agreement and Manager's rights thereunder and will assume all obligations of "Owner" under the Management Agreement that continue or arise after the termination date of the Ground Lease subject to the terms and conditions of Section 3.B.

D. *Additional Assurances.* The provisions of this Section 3 will be self-operative and effective without the necessity of execution of any new management agreement or other document on the part of any party hereto or the respective heirs, legal representatives, successors or assigns of any such party. Ground Lessor and Manager each agrees, however, to execute and deliver upon the request of the other, any instrument or certificate which in the reasonable judgment of the requesting party, as applicable, may be necessary or appropriate to evidence such attornment, including a new management agreement on the same terms and conditions as the Management Agreement for the unexpired term of the Management Agreement.

**4. Performance by Manager and Payment Defaults.**

A. *Performance by Manager.* Ground Lessor will accept performance by Manager of Owner's obligations under the Ground Lease as if the same were performed by Owner in accordance with the terms of the Ground Lease.

B. *Payment Defaults.* If there is a payment default by Owner under the Ground Lease after all notices have been given and cure periods have expired as provided for in the Ground Lease, with respect to which Ground Lessor gives notice to Manager under Section 2, and if Manager elects to cure the payment default under the terms of the Ground Lease, then unless Owner is contesting the payment default alleged by Ground Lessor, Owner authorizes Manager to make such payment directly to Ground Lessor from funds otherwise to be distributed to Owner under the Management Agreement.

**5. Termination.** If a casualty or condemnation occurs that affords Owner the right, in its discretion, to terminate the Ground Lease pursuant to Sections 14.4 or 20.2, then Owner agrees, in addition to the conditions to such termination specified in Sections 14.4 or 20.2 of the Ground Lease, the following condition must also be satisfied in order for any termination to be effective: (a) the Management Agreement shall have terminated or (b) Manager shall have consented to the termination of the Management Agreement and the Ground Lease.

**6. Performance by Ground Lessor and Payment Defaults.**

A. *Performance by Ground Lessor.* Manager will accept performance by Ground Lessor of Owner's obligations under the Management Agreement as if the same were performed by Owner in accordance with the terms of the Management Agreement.

B. *Payment Defaults.* If there is a payment default by Owner under the Management Agreement after all notices have been given and cure periods have expired as provided for in the Management Agreement, with respect to which Manager gives notice to Ground Lessor under Section 2, and if Ground Lessor elects to cure the payment default under the terms of the Management Agreement, then unless Owner is contesting the payment default alleged by Manager, Owner authorizes Ground Lessor to make such payment directly to Manager and such payments will immediately become due and payable by Owner as "Additional Rent" under the Ground Lease.

**7. Bankruptcy.** In the event of Owner's bankruptcy, and notwithstanding a rejection by or on behalf of Owner of the Ground Lease or the Management Agreement, Ground Lessor agrees that the terms of this Agreement will remain in full force and effect between Ground Lessor and Manager. This

provision constitutes an independent agreement between Ground Lessor and Manager and is intended by the parties to survive any rejection of the Ground Lease or the Management Agreement in bankruptcy.

**8. Initial Construction.** Manager acknowledges that Ground Lessor has no obligation with respect to initial construction of the Hotel and, for so long as the Ground Lease remains in effect, the maintenance and repair of the Hotel. Manager hereby agrees to fully and forever release Ground Lessor from any liability arising from the initial construction, maintenance and repair of the Hotel and expressly waives the provisions of Section 1542 of the California Civil Code which provides:

"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."

\_\_\_\_\_  
Initials of Manager Signatory

**9. Limitation on Ground Lessor's Liability.** Without impacting the effect of the liability limitations set forth in the Management Agreement, Ground Lessor shall have no obligation, nor shall it incur any liability, beyond the value of Ground Lessor's interest in the Site, and Manager shall look exclusively to the value of such interest of Ground Lessor as a limit for the payment and discharge of any obligations imposed upon Ground Lessor hereunder or under the Management Agreement or for recovery of any judgment from Ground Lessor, and in no event shall Ground Lessor or any of their respective officers, directors, shareholders, agents, administrators, representatives, servants, employees or partners ever be personally liable for such judgment. For sake of clarity, if the Ground Lease is terminated, the Management Agreement remains in effect and Ground Lessor is recognized as "Owner" pursuant to this Agreement, then Ground Lessor's assets (other than its interest in the Site and the Hotel) will **not** be subject to, or, unless the Ground Lessor so chooses (in its sole discretion), a source of payment of, any liability or obligation that may be owed by Ground Lessor to Manager pursuant to the Management Agreement (as modified by this Agreement). It is the intent of this provision to create the same result as would apply if Ground Lessor were a single purpose limited liability company whose sole assets were the Site, the Hotel and the proceeds thereof.

**10. Notices.** Notices and other communications under this Agreement must be (i) in writing; (ii) delivered by hand against receipt, by certified or registered mail, postage prepaid, return receipt requested or by a nationally recognized overnight delivery service; and (iii) sent to the address below or another address designated by the party. Any notice will be deemed received when delivery is received or refused at the address below or the other address designated by the party.

To Ground Lessor: San Diego Unified Port District  
Post Office Box 120488  
San Diego, CA 92112-0488  
Attn: Executive Director  
Phone: (619) 686-6200

with copy to:

San Diego Unified Port District  
Post Office Box 120488  
San Diego, CA 92112-0488  
Attn: Port Attorney  
Phone: (619) 686-6200

To Manager:

Marriott International Capital Corporation  
c/o Marriott International, Inc.  
Department 52/923.28  
10400 Fernwood Road  
Bethesda, Maryland 20817  
Attention: Treasurer, Dept. No. 52/924.11

With a copy to: c/o Marriott International, Inc.  
10400 Fernwood Road  
Bethesda, Maryland 20817  
Attention: Associate General Counsel – Corporate Transactions,  
Dept. No. 52/923.23

Effective as of September 1, 2022:  
c/o Marriott International, Inc.  
Department 52/923.28  
7750 Wisconsin Ave  
Bethesda, MD 20814  
Attention: Treasurer, Dept. No. 52/924.11

With a copy to: c/o Marriott International, Inc.  
7750 Wisconsin Ave  
Bethesda, MD 20814  
Attention: Associate General Counsel – Corporate Transactions,  
Dept. No. 52/923.23

## **11. Miscellaneous.**

A. *Counterparts.* This Agreement may be executed in any number of counterparts, each of which will be deemed to be an original and all of which constitute one and the same instrument. The submission of an unsigned copy of this Agreement to either party is not an offer or acceptance.

B. *Recordation of Agreement.* The terms of this Agreement run with the Site and will benefit and bind the respective successors, heirs, legal representatives and assigns of the parties. Any party to this Agreement may at any time require or cause this Agreement to be recorded in the jurisdiction where the Hotel is located, provided that upon request following termination of the Management Agreement, each party agrees to execute and consents to the recording of an instrument sufficient to remove this Agreement from title to the Site.

C. *Interpretation of Agreement.* Ground Lessor and Manager intend that this Agreement excludes all implied terms to the maximum extent permitted by law. Headings of, Sections and subsections are only for convenience and are in no way to be used to interpret the Sections or subsections to which they refer. Any Recitals, Sections, Exhibits and Schedules to this Agreement are incorporated by reference and are part of this Agreement. Words indicating the singular include the plural and vice versa as the context may require. References to days, months and years are to calendar days, calendar months and calendar years, unless otherwise specifically provided. References that a person “will” do something mean that the person has an obligation to do that thing. References that a person “may” do something mean that the person has the right, but not the obligation, to do that thing. References that a person “will not” or “may not” do something mean that the person is prohibited from doing that thing. Examples used in this Agreement and references to “includes” and “including” are illustrative and not exhaustive.

D. *Amendment of Ground Lease or Management Agreement.* If the Ground Lease or Management Agreement is amended, modified or supplemented, the Ground Lease or Management Agreement, as so amended, modified or supplemented will continue to be subject to the provisions of this Agreement without the necessity of any further act by Ground Lessor and Manager. Nothing in this Section 11.D will in any way expand Ground Lessor's obligations hereunder with specific reference to Section 3.A(iv) hereof.

E. *Entire Agreement; Amendment of this Agreement; Severability.* This Agreement may only be changed by a document manually executed with a non-electronic signature of the authorized representative of Ground Lessor and Manager and consented to by Owner. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then (i) the remainder of this Agreement, or the application of such term, covenant or condition to persons or circumstances other than those to which it is held invalid or enforceable, shall not be affected thereby and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law; and (ii) Ground Lessor and Manager will negotiate in good faith to modify this Agreement to implement their original intent as closely as possible in a mutually acceptable manner.

F. *Applicable Law.* This Agreement will be construed under and governed by the laws of the State of California.

G. *Waiver.* The failure or delay of either party to insist on strict performance of any of the terms of this Agreement, or to exercise any right or remedy, will not be a waiver for the future. Any waiver must be manually executed with a non-electronic signature by the party giving the waiver.

H. *Non-Exclusive Remedies & Rights.* Each remedy and right in this Agreement is in addition to and not in substitution for any other remedy or right in this Agreement or under applicable law or in equity.

I. *Attorney's Fees.* In the event of any legal action or proceeding between the parties hereto being initiated as a result of this Agreement, then the prevailing party in such action or proceeding will be entitled to recover its reasonable attorneys' fees and expenses arising from any such action or proceeding from the non-prevailing party.

J. *Permitted Transferee.* Manager agrees that as of the date of this Agreement Ground Lessor qualifies as a permitted transferee under Section 10.02.A of the Management Agreement. Ground Lessor will continue to qualify as a permitted transferee so long as no change occurs in Ground Lessor's ownership or status that would cause Ground Lessor to be, be controlled by, or be an Affiliate of (i) a Competitor; (ii) a Specially Designated National or Blocked Person; or (iii) a convicted felon or Person otherwise known in the community as being of bad moral character.

K. *Priority.* The parties acknowledge that the memorandum of the Ground Lease was recorded prior to the Memorandum of Management Agreement and Ground Lessor reserves all rights afforded to it under the laws of the State of California due to such priority. Nothing in this Agreement will alter the relative priority of the Ground Lease and the Management Agreement. Furthermore, Manager agrees that Manager's rights under the Management Agreement will be subordinate to the terms of any amendment or other modification to the Ground Lease approved in writing by Manager (such approval not to be unreasonably withheld, conditioned or delayed).

**[SIGNATURES FOLLOW ON NEXT PAGE]**



**IN WITNESS WHEREOF**, Ground Lessor and Manager have caused this Agreement to be executed under seal as of the day and year first written above.

**GROUND LESSOR:**

SAN DIEGO UNIFIED PORT DISTRICT,  
a public corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF CALIFORNIA            )  
  ) ss:  
COUNTY OF SAN DIEGO        )

I hereby certify that on this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged herself/himself to be the \_\_\_\_\_ of the San Diego Unified Port District, and that she/he, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of \_\_\_\_\_, as \_\_\_\_\_ of the San Diego Unified Port District.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**MANAGER:**

MARRIOTT INTERNATIONAL, INC.,  
a Delaware corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF MARYLAND                    )  
  ) ss:  
COUNTY OF MONTGOMERY         )

I hereby certify that on this \_\_\_ day of \_\_\_\_\_, 202\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged herself/himself to be the \_\_\_\_\_ of Marriott International, Inc., and that he, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by him or herself as \_\_\_\_\_ of Marriott International, Inc.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

**EXHIBIT A**

**SITE**

**[See Attached]**

**OWNER'S AGREEMENT**

In exchange for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in connection with the execution and delivery of that certain Ground Lessor Agreement dated as of \_\_\_\_\_, 202\_\_ (the "Ground Lessor Agreement") by and between the San Diego Unified Port District, as "Ground Lessor" and Marriott International, Inc., as "Manager", from which the undersigned ("Owner") is receiving material benefit, Owner (i) agrees that the performance by Ground Lessor under the Ground Lessor Agreement in accordance with the terms thereof will not be deemed a breach of any of its obligations to Owner under the Ground Lease; (ii) agrees that the performance by Manager under the Ground Lessor Agreement in accordance with the terms thereof will not be deemed a breach of any of its obligations to Owner under the Management Agreement; (iii) agrees that any payments by Manager to Ground Lessor referenced in Section 4.B of the Ground Lessor Agreement which are made in accordance with the terms thereof satisfies Manager's obligations under the Management Agreement to distribute such funds to Owner; (iv) releases Manager from any and all obligations relating to such payments referenced in Section 4.B of the Ground Lessor Agreement which are made in accordance with the terms thereof; and (v) releases Ground Lessor from any and all obligations relating to such payments referenced in Section 6.B of the Ground Lessor Agreement which are made in accordance with the terms thereof, and such payments will be added to Owner's payment obligations under the Ground Lease that are then due and owing. Subject to the terms of the previous sentence, this agreement by Owner is irrevocable until the Ground Lease or Management Agreement terminate. Owner, as Owner under the Management Agreement and lessee under the Ground Lease, and Ground Lessor and Manager by accepting this Owner's Agreement, acknowledge and agree for themselves and their respective heirs, representatives, successors and assigns, that: (a) the Ground Lessor Agreement does not constitute a waiver by Ground Lessor or Owner of any of their respective rights under the Ground Lease, nor does the Ground Lessor Agreement in any way release Ground Lessor or Owner from their respective obligations to comply with the terms, provisions, conditions, covenants, agreements and clauses of the Ground Lease; and (b) the provisions of the Ground Lease remain in full force and effect and must be complied with by Owner and Ground Lessor.

Date: \_\_\_\_\_, 202\_\_

**OWNER:**

RIDA CHULA VISTA, LLC,  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[NOTARY ACKNOWLEDGMENT FOLLOWS ON NEXT PAGE]**

STATE OF \_\_\_\_\_ )  
 ) ss:  
CITY/COUNTY OF \_\_\_\_\_ )

I hereby certify that on this \_\_\_\_\_ day of 202\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_, who acknowledged herself/himself to be the \_\_\_\_\_ of RIDA Chula Vista, LLC, and that she/he, in such capacity, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of \_\_\_\_\_, as \_\_\_\_\_ of RIDA Chula Vista, LLC.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_