

## FOURTH MODIFICATION TO HOTEL MANAGEMENT AGREEMENT

THIS FOURTH MODIFICATION TO HOTEL MANAGEMENT AGREEMENT (this “**Modification**”) is made as of \_\_\_\_\_, 2021, by and between the **AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO** (“**Owner**”) and **HYATT CORPORATION** (“**Manager**”).

### RECITALS

- A. Owner and Manager have entered into the Agreement (as defined below).
- B. On September 22, 2015, by Resolution No. 15-0178, Owner awarded this Agreement to Manager.
- C. On December 1, 2015, by Resolution No. 434-15, the Board of Supervisors of the City and County of San Francisco (“**City**”) approved this Agreement under San Francisco Charter Section 9.118.
- D. In light of the significant financial challenges to the Hotel arising out of the COVID-19 pandemic, Owner and Manager desire to modify the Agreement on the terms and conditions set forth herein to provide for a discount to the Management Fees payable in 2021 and 2022, and to extend the term by two (2) years, among other modifications.
- E. On April 6, 2021, by Resolution No. 21-0092, the Airport Commission approved this Modification.
- F. On \_\_\_\_\_, 2021, by Resolution No. \_\_\_\_-21, the Board of Supervisors of the City approved this Modification under San Francisco Charter Section 9.118.
- G. Owner and Manager have each obtained such approvals, if any, as are required for the execution of this Modification, and Owner and Manager have obtained the consent of the Trustee to this Modification pursuant to Section 12.4 of this Agreement, which consent is attached hereto.

### AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein and in the Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Owner and Manager agree as follows:

#### 1. Definitions.

**a. Agreement.** The definition of “Agreement” in Section 1.1 is hereby replaced in its entirety as follows:

“**Agreement**” means the Hotel Management Agreement dated as of January 1, 2016 between Manager and Owner, as amended by the First Modification dated as of June 1, 2017; the Second Modification dated as of August 1, 2017; the Third Modification dated as of May 9, 2018; and the Fourth Modification dated as of \_\_\_\_\_, 2021.

**b. Opening Date.** The definition of “Opening Date” in Section 1.1 is hereby replaced in its entirety as follows:

“*Opening Date*” means October 4, 2019, which is the first date on which the Hotel opened for business.

**c. Other Terms.** Terms used and not defined in this Modification shall have the meanings assigned to such terms in the Agreement.

**2. Section 4.1(b), Payment of Management Fees,** is hereby amended and restated as follows, to clarify the timing of payment of the Base Management Fee and Subordinate Management Fee:

One-twelfth of the annual Base Management Fee for the applicable year of Hotel operations shall be paid on the first Business Day of each month in each Operating Year, and on the first Business Day following the last day of the last Operating Year, in arrears. Owner hereby authorizes Manager to withdraw the monthly installment of the Base Management Fee on the first Business Day of each such month from the Lockbox Fund. For any period of time that is a partial month, the monthly Base Management Fee for such partial month shall be the *pro rata* amount based on the number of days in such partial month divided by 30. The Subordinate Management Fee shall be payable annually on the first Business Day following the anniversary of the Opening Date during the Term, and on the first Business Day following the last day of the last Operating Year, in arrears. Owner hereby authorizes Manager to withdraw the annual installment of the Subordinate Management Fee on each such date from the Subordinate Management Fee Fund established under the Trust Agreement. For any period of time that is a partial twelve (12)-month period, the annual Subordinate Management Fee in such partial twelve (12)-month period shall be the *pro rata* amount based on the number of days in such partial twelve (12)-month period divided by 365.

**3. Section 4.1(c), Carryforward of Subordinate Management Fee,** is hereby amended and restated as follows, to provide for interest and sooner repayment of the unpaid balance of the Subordinate Management Fee:

To the extent there are insufficient funds in any Operating Year to pay all or a portion of the Subordinate Management Fee, the unpaid balance of the Subordinate Management Fee shall accrue interest at 0.56%, compounded annually, and be paid if and to the extent there are moneys available therefor in subsequent Operating Years in the order of priority set forth in the Trust Agreement. Notwithstanding the foregoing, the unpaid balance of the Subordinate Management Fee will be paid in full, together with any accrued interest thereon, on the earlier of: (x) the date that is five (5) years after such unpaid balance shall have become due and payable, or (y) the date of expiration or Termination of this Agreement.

**4. Extension of Term.** The first sentence of Section 5.1(a), Term, of the Agreement is hereby amended and restated as follows, to extend the initial Term of the Agreement by two (2) years:

Unless sooner terminated pursuant to the provisions of this Agreement, the term of this Agreement shall commence on the Execution Date and continue for a period of twelve (12) years from and after the Opening Date (as it may be extended pursuant to paragraph (b) of this Section, the “Term”).

**5. Section 5.1(b), Extension of Term,** is hereby amended and restated as follows, to reflect the two-year extension of the initial Term of the Agreement:

Owner shall have the option, by written notice to Manager no less than one year prior to the end of the initial Term, to extend this Agreement for an additional five (5)-year term commencing on the expiration date of the initial Term and ending on the five (5)-year anniversary date thereof; provided, that (i) the Hotel is in compliance with the Brand Standards as of the date such notice is received by Manager, and (ii) the Building satisfies the Brand Standards as of the commencement of such five (5)-year renewal term. The Base Management Fee and Subordinate Management Fee, respectively, for each Operating Year during any such additional five (5)-year term shall be equal to (x) the average of Total Operating Revenues for the tenth (10th) and the eleventh (11th) Operating Years, multiplied by (y) two and one-half percent (2.5%) and eighty-three hundredths of one percent (0.83%), respectively, for the thirteenth (13th) Operating Year, adjusted for each Operating Year thereafter by the change in the Bay Area CPI for the preceding calendar year.

**6. Section 5.5 (a), Right to Terminate,** is hereby amended and restated as follows, to extend the commencement of each Performance Termination Event defined therein:

In addition to any termination right that Owner has pursuant to Section 5.4, Owner shall have the right to terminate this Agreement under any of the following circumstances (each such event a “**Performance Termination Event**”), none of which shall constitute a Manager Event of Default:

(i) ADR Requirement: Commencing with the fifth (5th) full Operating Year, if the ADR for the Hotel, as certified in writing by Manager’s Chief Financial Officer, is less than 135% of the ADR for the Excluded Hotel in any two (2) Operating Years during all of which Operating Year Manager was the owner, lessee, operator, manager, franchisee or licensee of the Excluded Hotel or any substitute hotel pursuant to Section 3.30;

(ii) RevPAR Requirement: Commencing with the sixth (6th) full Operating Year, if the RevPAR for the Hotel is less than 120% of the average RevPAR for the Competitive Set in any two (2) consecutive Operating Years; or

(iii) NOI Requirement: Commencing with the sixth (6th) full Operating Year, if Net Operating Income is less than ten million two

hundred thousand dollars (\$10,200,000) (the “**Hurdle Amount**”), in any two (2) consecutive Operating Years. The Hurdle Amount shall be adjusted each Operating Year commencing with the sixth (6th) full Operating Year by the Bay Area CPI for the immediately preceding calendar year.

Each of the foregoing requirements is independent of the others. For purposes of this Section, a full Operating Year is an Operating Year consisting of twelve (12) calendar months.

**7. Acknowledgment of Parties.** Owner and Manager each hereby acknowledge that, in light of the modifications herein, the initial Term, as defined in Section 5.1, shall end at 11:59 P.M., Pacific Time, on October 3, 2031, subject to the provisions of Section 5.1.

**8. Management Fees.** Owner and Manager hereby agree that the Base Management Fee shall be reduced by 60% for each month of calendar year 2021 and by 30% for each month of calendar year 2022. To document this agreement and the Term extension set forth above, Exhibit K, Management Fees, is hereby deleted in its entirety and replaced with Exhibit K-1, Management Fees, attached hereto. All references to “Exhibit K” in the Agreement are amended accordingly to refer to “Exhibit K-1” hereto.

**9. Confirmation of Manager Role.** Manager agrees that it acting in the capacity of a service provider, and not as a lessee or owner of the Hotel, and that it is not entitled to and will not take any tax position inconsistent with being a service provider (*i.e.*, will not claim depreciation or other tax benefits that may be eligible to an lessee or owner).

**10. Effective Date.** Each of the changes set forth in this Modification shall be effective on and after January 1, 2021.

**11. Legal Effect.** Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Modification on the day and year first above written.

HYATT CORPORATION

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

AIRPORT COMMISSION OF THE CITY AND  
COUNTY OF SAN FRANCISCO

By \_\_\_\_\_  
Ivar C. Satero  
Airport Director

AUTHORIZED BY AIRPORT COMMISSION

Resolution No. 21-0092

Adopted: April 6, 2021

Attest: \_\_\_\_\_

Secretary  
Airport Commission

Approved by Board of Supervisors on \_\_\_\_\_, pursuant to Resolution No.  
\_\_\_\_\_

Approved as to form:  
DENNIS J. HERRERA,  
City Attorney

By \_\_\_\_\_  
Brooke D. Abola  
Deputy City Attorney

**TRUSTEE CONSENT**

Pursuant to Section 12.4 of the Hotel Management Agreement dated as of January 1, 2016 between Hyatt Corporation and the San Francisco Airport Commission, as amended (the "Agreement"), and in its capacity as trustee under the Trust Agreement, dated as of June 1, 2018 (the "Trust Agreement"), by and between Owner and U.S. Bank National Association, as trustee (the "Trustee"), the undersigned does hereby acknowledge, accept and consent to the foregoing Fourth Modification to the Agreement, subject to and in accordance with the terms and provisions of the Trust Agreement.

**U.S. BANK NATIONAL ASSOCIATION**

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT K-1**  
**MANAGEMENT FEES**

**A. Base Management Fee**

Owner shall pay Manager a management fee (the “**Base Management Fee**”) for its services as shown in the following table:

Year	Annual Base Management Fee
Year 1 (10/4/19-10/3/20)	\$ 710,473.00
Year 2 (10/4/20-10/3/21)*	\$ 597,692.70 *
Year 3 (10/4/21-10/3/22)*	\$ 925,253.75 *
Year 4 (10/4/22-10/3/23)*	\$ 1,410,457.58 *
Year 5 (10/4/23-10/3/24)	\$ 1,570,564.00
Year 6 (10/4/24-10/3/25)	\$ 1,622,111.00
Year 7 (10/4/25-10/3/26)	\$ 1,666,211.00
Year 8 (10/4/26-10/3/27)	\$ 1,716,197.00
Year 9 (10/4/27-10/3/28)	\$ 1,767,682.00
Year 10 (10/4/28-10/3/29)	\$ 1,825,702.00
Year 11 (10/4/29-10/3/30)	\$ 1,873,170.25
Year 12 (10/4/30-10/3/31)	\$ 1,921,872.68

\* The annual Base Management Fee reflected in the table above has been reduced by 60% for each month of calendar year 2021 and by 30% for each month of calendar year 2022.

The following table shows a breakdown of the monthly amount of the Base Management Fee that Owner shall pay Manager with respect to each month of Year 2 (October 2020 – September 2021), Year 3 (October 2021 – September 2022) and Year 4 (October 2022 – September 2023) of this Agreement. The monthly Base Management Fee amounts reflected in the table below have been reduced by 60% for each month of calendar year 2021 and by 30% for each month of calendar year 2022.

<b>Months</b>	<b>Monthly Base Management Fee</b>
October 2020 – December 2020	\$ 90,559.50
January 2021 – September 2021*	\$ 36,223.80
October 2021 – December 2021*	\$ 49,346.87
January 2022 – September 2022*	\$ 86,357.02
October 2022 – December 2022*	\$ 88,947.78
January 2023 – September 2023	\$ 127,068.25

\*Amended periods.

**B. Subordinate Management Fee**

Owner shall pay Manager a subordinate management fee (the “**Subordinate Management Fee**”) for its services as shown in the following table:

<b>Year</b>	<b>Subordinate Management Fee</b>
Year 1 (10/4/19-10/3/20)	\$ 236,824
Year 2 (10/4/20-10/3/21)	\$ 364,049
Year 3 (10/4/21-10/3/22)	\$ 491,495
Year 4 (10/4/22-10/3/23)	\$ 506,240
Year 5 (10/4/23-10/3/24)	\$ 521,427
Year 6 (10/4/24-10/3/25)	\$ 538,541
Year 7 (10/4/25-10/3/26)	\$ 553,182
Year 8 (10/4/26-10/3/27)	\$ 569,777
Year 9 (10/4/27-10/3/28)	\$ 586,871
Year 10 (10/4/28-10/3/29)	\$ 606,133
Year 11 (10/4/29-10/3/30)	\$ 621,892
Year 12 (10/4/30-10/3/31)	\$ 638,062