

DRAFT**OPTION TO GROUND LEASE AGREEMENT**

THIS OPTION TO GROUND LEASE AGREEMENT ("Agreement") is made and entered into as of this ____ day of _____, 20__ (the "Effective Date"), by and between the SAN DIEGO UNIFIED PORT DISTRICT, a public corporation, ("District"), and MANCHESTER GRAND RESORTS, L.P., a California limited partnership ("Optionee").

WITNESSETH:

WHEREAS, the District owns certain lands conveyed to the San Diego Unified Port District by that certain Act of the Legislature of the State of California entitled "San Diego Unified Port District Act," Stats. 1962, 1st Ex. Sess., c. 67, as amended ("District's Lands");

WHEREAS, pursuant to that certain Amended and Restated Lease, dated as of June 5, 2001, by and between District and Optionee (the "Original Lease"), District leases to Optionee, and Optionee leases from District, for the term and upon the conditions set forth therein, a portion of District's Lands, which lands are more particularly described on Exhibit "A" attached hereto (and are hereinafter referred to as the "Premises"); and.

WHEREAS, Optionee desires to obtain and the District is willing to give to Optionee an option to amend, restate and combine the terms of the Original Lease for the Premises upon the terms and conditions of the Original Lease, as such Original Lease is amended following the Effective Date but prior to the Exercise Notice (the "Lease"), as modified solely by the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto mutually agree as follows:

1. **GRANT OF OPTION:** Subject to the conditions set forth in this Agreement, District hereby grants Optionee an option to enter into an Amended, Restated, and Combined Lease ("ARC Lease") for the Premises ("Option") in accordance with the covenants and conditions set forth in this Agreement.
2. **OPTION AGREEMENT TERM:** Unless otherwise extended by written agreement by the parties, the term ("Option Agreement Term") of this Option shall commence on the Effective Date ("Option Agreement Commencement Date") and shall expire at 5:00 p.m. (Pacific Time) on May 31, 2067. Notwithstanding any other provision of this Agreement, Optionee's right to exercise the Option and execute the ARC Lease will automatically terminate and be of no further force and effect if the Lease is terminated or the Option not properly exercised before the expiration of the Option Agreement Term.
3. **TERMS OF THE ARC LEASE:**
 - a. Term of the ARC Lease. The term of the ARC Lease (the "ARC Lease Term") shall be for a period from the ARC Lease Term Commencement Date until May 31, 2083.

b. Rental during the ARC Lease Term. During the ARC Lease Term, Optionee shall pay to the District Rental pursuant to the terms of the Lease: (i) Minimum Annual Rent; and (ii) percentage rents payable with respect to Optionee's gross income. During the ARC Lease Term, such percentage rents shall be as set forth in the Lease with the following exceptions:

Minimum Annual Rent set forth in Section 2(a) will add the following:

- (9) for the sixteen (16) year period commencing June 1, 2067 and for the remainder of the ARC Lease Term (the "2067/2083 Rental Period") a Minimum Annual Rent applicable during the 2046/2067 Rental Period, adjusted by the Consumer Price Index as provided in 2(c) below.

Except for the percentage rent set forth in Paragraph 2(b)(1), (3) and (5), all percentage rents payable pursuant to Paragraph 2(b) of the Lease shall remain unchanged in the ARC Lease. Paragraph 2(b)(1), (3) and (5) of the ARC Lease shall reflect percentage rents being paid on, as more particularly described in the Original Lease, rental of guest rooms (including the gross income from in-room movies and similar forms of in-room entertainment) and rental of conference and banquet rooms (including related accommodation sales and services provided to conference and banquet room users); food sold from restaurants, snack bars and delicatessens; and from on-sale alcoholic and nonalcoholic beverage sales in the following amounts beginning with the ARC Lease Term Commencement Date whenever such ARC Lease Term Commencement Date occurs:

2(b)(1)

Time Period	Percentage Rental
June 1, 2001 through May 31, 2026	Seven percent (7%)
June 1, 2026 through May 31, 2046	Eight percent (8%)
June 1, 2046 through May 31, 2083	Nine percent (9%)

2(b)(3)

Time Period	Percentage Rental
June 1, 2001 through May 31, 2026	Three percent (3%)
June 1, 2026 through May 31, 2046	Four percent (4%)
June 1, 2046 through May 31, 2083	Five percent (5%)

2(b)(5)

Time Period	Percentage Rental
June 1, 2001 through May 31, 2026	Five percent (5%)
June 1, 2026 through May 31, 2046	Six percent (6%)
June 1, 2046 through May 31, 2083	Seven percent (7%)

c. Except as set forth in paragraphs 3.a and 3.b above, all terms, conditions and provisions of the ARC Lease shall be the same as the Lease.

4. **CONDITIONS PRECEDENT:** Optionee will have no right to exercise the Option if Optionee is in default under the Lease at the time of such exercise.
5. **EXERCISE OF OPTION:** Optionee may exercise the Option only by delivering to the District written notice of its election to do so ("Exercise Notice") on or before November 30, 2066 (the date of such exercise, the "Exercise Date"). Within ninety (90) days following receipt of the Exercise Notice, District shall prepare the ARC Lease for execution in the same form as the Lease as it exists as of the Exercise Date incorporating only those changes as are set forth in Paragraph 3 of this Agreement. Upon receipt of the ARC Lease conforming to the requirements of this Agreement, Optionee shall deliver to the District properly executed copies of the ARC Lease in duplicate, together with a Memorandum of ARC Lease (the "Memorandum") in recordable form. In the event Optionee timely exercises the Option and delivers to the District executed copies of the ARC Lease in duplicate, then the Executive Director of the District (or authorized representative) shall promptly thereafter execute the ARC Lease and Memorandum in duplicate. The Executive Director of the District shall deliver the ARC Lease and Memorandum executed by the District to Optionee no later than thirty (30) days following Optionee's delivery of the ARC Lease to the District. Optionee shall pay all costs of recording the Memorandum.
6. **ARC LEASE COMMENCEMENT:** It is understood and agreed that the commencement date of the ARC Lease Term (the "ARC Lease Term Commencement Date") shall be the first day of the month following the month in which the ARC Lease is mutually executed and delivered by District and Optionee pursuant to Paragraph 4 above.
7. **RESTRICTIONS ON AGREEMENT TRANSFERS:** This Agreement shall be subject to the terms and provisions of the Lease relating to any transfers thereof, including but not limited to Paragraph 9 Assignment-Sublease of the Lease (collectively, the "Transfer Provisions"), provided, however, all references therein to (i) "Lessee" shall mean "Optionee," (ii) "Lessor" shall mean the "District," (iii) "this Lease" shall mean this Agreement, and (iv) "Leased Premises" shall mean the Premises. In the event that the Lease shall be assigned to a transferee in accordance with the Transfer Provisions, then this Agreement shall automatically be assigned to such transferee, effective as of the date of such assignment of the Lease.

8. **NOTICES:** Notices given or to be given by District or Optionee to the other may be personally served upon District or Optionee or any person hereafter authorized by either in writing to receive such notice, may be served by nationally recognized overnight courier service or may be served by certified letter addressed to the appropriate address hereinafter set forth or to such other address as District and Optionee may hereafter designate by written notice. If served by certified mail, forty-eight (48) hours after deposit in the U.S. Mail, service will be considered completed and binding on the other party. All notices and payments shall be made as follows:

a. All notices to Optionee shall be given or sent by nationally recognized overnight courier service or certified mail to:

Manchester Grand Resorts, L.P.
Attn: Asset Manager – Manchester Grand Hyatt
c/o Host Hotels & Resorts, L.P.
Rockledge Drive, Suite 1500
Bethesda, MD 20817

With a copy to:

Host Hotels & Resorts
Attn: General Counsel
Rockledge Drive, Suite 1500
Bethesda, MD 20817

b. All notices and payments to the District shall be given or sent by certified mail to:

Director
Real Estate Department
San Diego Unified Port District
3165 Pacific Highway
P. O. Box 120488
San Diego, CA 92112-0488

c. Any party may designate a different address by giving written notice as set forth in this paragraph.

9. **TIME IS OF THE ESSENCE:** Time is of the essence of all the express conditions contained herein, and failure of Optionee to so perform within the time limits stated shall automatically terminate Optionee's rights hereunder.
10. **PREMISES "AS IS, WITH ALL FAULTS":** Optionee understands and agrees that the Premises will be leased in an "as is, with all faults" condition and that improvements, grading, filling, removal of existing improvements, shoreline protection and relocation of utility lines, if applicable, shall be made and performed by Optionee at the sole cost and expense of Optionee.
11. **TERMINATION OF OPTION:** In the event that Optionee fails to fulfill and comply with any of the above conditions or the Lease terminates, or in the event the Option

Agreement Term expires without having been duly exercised, the Option shall automatically expire and terminate without notice to Optionee and all rights of Optionee arising out of the Option shall immediately cease. Optionee agrees to execute, acknowledge, and deliver to the District within thirty (30) days after written request, a Quitclaim Deed or other recordable document required by a title insurance company selected by the District to remove any cloud of the Option from the Premises if the Lease terminates or in the event the Option Agreement Term expires without having been duly exercised.

12. **FORCE MAJEURE:** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes, acts of God, inability to obtain services, labor, or materials or reasonable substitutes therefor, inclement weather, governmental actions, civil commotions, fire or other casualty, and other causes beyond the reasonable control of the party obligated to perform, notwithstanding anything to the contrary contained herein, shall excuse the performance of such party for a period equal to any such prevention, delay or stoppage.
13. **THIRD PARTIES:** Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than Optionee and the District and their respective permitted successors and assigns. Nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement.
14. **ATTORNEY'S FEES:** In the event of any dispute between the parties hereto involving the covenants or conditions contained in this Agreement or arising out of the subject matter of this Agreement, the prevailing party shall be entitled to recover reasonable expenses, including (without limitation) attorneys' fees (including for work performed by in-house attorneys) and costs.
15. **COMPUTATION OF TIME PERIODS:** If any date or time period specified in this Agreement is or ends on a Saturday, Sunday or federal, state or legal holiday, such date will automatically be extended until 5:00 p.m., Pacific Time, of the next day which is not a Saturday, Sunday or federal, state or legal holiday.
16. **AMENDMENT TO THIS AGREEMENT:** The terms of this Agreement may not be modified or amended except by an instrument in writing executed by each of the parties.
17. **NO WAIVER:** The waiver or failure to enforce any provision of this Agreement will not operate as a waiver of such party's right to enforce future breaches of any such provision or any other provision of this Agreement.
18. **APPLICABLE LAW:** This Agreement will be governed by and construed and enforced in accordance with the laws of the State of California.
19. **ENTIRE AGREEMENT:** This Agreement supersedes all prior agreements, negotiations, and communications, oral or written, and contains the entire agreement between District and Optionee as to the option to enter into the ARC Lease.
20. **PARTIAL INVALIDITY:** If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, that portion will be

deemed severed from this Agreement and the remaining parts of this Agreement will remain in full force as fully as though the invalid, illegal or unenforceable portion had never been part of this Agreement.

21. **CAPTIONS:** All captions to, or headings of, the paragraphs or sub-paragraphs of this Agreement are solely for the convenience of the parties, are not a part of this Agreement and will not be used for the interpretation or determination of the validity of this Agreement or any provision hereof.
22. **COUNTERPARTS:** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which combined shall constitute one and the same instrument.
23. **MEMORANDUM OF OPTION AGREEMENT:** District and Optionee agree that a Memorandum of this Agreement may be recorded by Optionee in the real property records of the San Diego County Recorder's Office.
24. **NO BROKERS:** District and Optionee hereby warrant to each other that they have had no dealings with any real estate broker or agent in connection with the negotiation of this Agreement, and that they know of no real estate broker or agent who is entitled to a commission in connection with this Agreement. Each party agrees to indemnify, defend, protect and hold the other party harmless from and against any and all claims with respect to any commission or equivalent compensation alleged to be owing on account of the indemnifying party's dealings with any real estate broker or agent. The terms of this Paragraph 24 shall survive the expiration or earlier termination of this Agreement.

(SIGNATURE PAGE FOLLOWS)

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and the year first above written.

APPROVED AS TO FORM AND LEGALITY
GENERAL COUNSEL

SAN DIEGO UNIFIED PORT DISTRICT

By: _____
Assistant/Deputy

By: _____
Tony Gordon
Director, Real Estate

**MANCHESTER GRAND RESORTS, L.P.,
a California limited partnership**

**By: Manchester Grand Resorts, Inc.,
its general partner**

By: _____
Signature

PRINT NAME: _____

PRINT TITLE: _____