

## **INDEMNIFICATION AGREEMENT**

This INDEMNIFICATION AGREEMENT (“Agreement”) is made by and between the CITY OF IRVINE, a municipal corporation (“CITY”), and Hyatt Regency Irvine,  
HE Irvine Owner LLC (“HOTEL”), as follows:

Entity Type

Irvine Hotel Name

### **RECITALS**

**WHEREAS**, on November 22, 2022, the CITY passed Ordinance 22-13 commonly known as the Hotel Worker Protection Ordinance (“HWPO”) which established certain protections for hotel workers employed by hotels operating within city limits located in Division 6 of Title 3 of the Irvine Municipal Code (“IMC”); and

**WHEREAS**, pursuant to IMC Section 3-6-104, hotel employers for hotels of forty-five (45) or more guest rooms may apply for a waiver of the HWPO requirements for consideration by the City Manager or designee (“Waiver”); and

**WHEREAS**, HOTEL applied for a Waiver and provided documents to CITY including information related to HOTEL’s finances and business; and

**WHEREAS**, CITY received one or more requests pursuant to the California Public Records Act (PRA) (Gov. Code, § 7920.000 *et. seq.*) which, among other things, requested the documents related to Waiver applications made by hotels in CITY (the “Request”);

**WHEREAS**, Government Code Section 7924.510 (c) and (f) exempt “trade secrets” from production under the PRA; and

**WHEREAS**, Government Code Section 7927.705 exempts records which are privileged from disclosure from production under the PRA; and

**WHEREAS**, Evidence Code Section 1040(a) establishes a privilege for “information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made;” and

**WHEREAS**, Government Code Section 7927.605(a) clarifies that the PRA does not require the disclosure of “corporate financial records, corporate proprietary information including trade secrets, and information relating to siting within the state furnished to a government agency by a private company for the purpose of permitting the agency to work with the company in retaining, locating, or expanding a facility within California;” and

**WHEREAS**, Government Code Section 7922.525 requires that where records contain a combination of exempt and non-exempt content which are reasonably segregable, those records must be redacted to remove only the exempt or privileged information; and

**WHEREAS**, HOTEL asserts that the Waiver contains trade secrets, financial data, information subject to the official information privilege, and other corporate proprietary information furnished to the CITY for the purpose of obtaining the Waiver, and that exempt

information is not reasonably segregable from non-exempt portions of the underlying documents; and

**WHEREAS**, CITY agrees that the Waiver contains information which is exempt from production under the PRA and certain documents made in the Waiver application are not reasonably segregable from the non-exempt portions thereof, and relies on HOTEL's assertion that the information there is has continuously been treated as confidential, proprietary, and a trade secret; and

**WHEREAS**, in consideration for CITY's cooperation and protection of HOTEL's trade secrets, HOTEL agrees to indemnify, defend, and hold CITY harmless from all claims arising from the exemption of the Waiver and any other HOTEL documents or portions thereof from the PRA.

**NOW, THEREFORE**, it is mutually agreed between the CITY and HOTEL as follows:

### **AGREEMENT**

1. ***Indemnification***. HOTEL, at its sole cost and expense shall indemnify, protect, defend (with counsel selected by CITY), and hold harmless CITY, and any and all of its officers, employees, officials, volunteers, and agents from and against any and all claims, losses, costs, damages, expenses, liabilities, liens, actions, causes of action (whether in tort, contract, under statute, at law, in equity, or otherwise) charges, awards, assessments, fines, or penalties of any kind (including all reasonable consultant and expert fees and expenses of investigation, costs of whatever kind and nature and, if HOTEL fails to provide a defense for CITY, the attorney fees incurred by CITY) and any judgment (collectively, "Claims") where the same arise out of, are a consequence of, or are in any way attributable to, in whole or in part, CITY's exemption of the Waiver and any other HOTEL documents or portions thereof, from disclosure pursuant to the Request, any other PRA request seeking the same.

2. ***Notices***. For all purposes herein, notices shall be effective when personally delivered, delivered by commercial overnight delivery service, sent by certified or registered mail, return receipt requested, or by email as long as the date of receipt is a business day (and if it is not, then on the next succeeding business day) to the appropriate address set forth below:

CITY:

City of Irvine  
Attn: City Clerk  
1 Civic Center Plaza  
Irvine, CA, 92606-5207

HOTEL: Hyatt Regency Irvine  
Sid Ramani  
17900 Jamboree Road Irvine CA 92614  
[INSERT CONTACT INFORMATION]

With a mandatory copy which does not constitute notice to:

Jeffrey Melching  
Rutan & Tucker, LLP  
18575 Jamboree Road 9th Floor  
Irvine, California 92612  
[jmelching@rutan.com](mailto:jmelching@rutan.com)  
(714) 641-5100

3. ***Default and Termination.*** This Agreement is not subject to termination, except by mutual agreement or as otherwise provided herein. In the event HOTEL fails to comply with its obligations pursuant to Section 1 of this Agreement, CITY shall provide written notice to HOTEL of an alleged default and HOTEL shall have thirty (30) days after receipt to cure any such alleged default. If HOTEL fails to cure the alleged default within the specified time period, or otherwise reach agreement with CITY on a resolution of the alleged default, CITY may, in its sole discretion, do any of the following, or a combination thereof:

- a. Deem HOTEL's default a breach of this Agreement; and/or
- b. Defend itself against any Claims covered by this Agreement, and hold HOTEL accountable for CITY's costs of defending against such claims; and/or
- c. Process any PRA requests related to the Waiver or other HOTEL Documents without consultation with HOTEL unless consultation is required by law; and/or
- d. Pursue any remedy available to CITY at law or in equity.

In the event of a default, HOTEL shall remain responsible for any costs and attorney's fees awarded by the Court or as a result of settlement and other expenses incurred by the CITY related to the Claims. This Section 3 will survive any termination of the Agreement.

4. ***Complete Agreement/Governing Law.*** This Agreement represents the final and exclusive expression of and understanding between CITY and HOTEL with respect to matters set forth herein. This Agreement shall be construed in accordance with the laws of the State of California. No other agreements, representations, or warranties, express or implied, oral or written, have been made by any party to the other with respect to this Agreement.

5. ***Successors and Assigns.*** The obligations specific herein shall be made, and are binding on the successors in interest of the HOTEL, whether the succession is by agreement, by operation of law or by any other means.

6. ***Amendment and Waiver.*** No modification, waiver, amendment or discharge of this Agreement shall be valid unless the same is in writing and signed by HOTEL and CITY.

7. ***Severability.*** If any term, provision, covenant or condition of this Agreement is held to be invalid, void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term, provision, covenant or condition of this Agreement shall be valid and enforceable to the fullest

extent permitted by law unless the deletion of such provision or provisions would result in such a material change as to cause performance under this Agreement to be unreasonable. CITY and HOTEL must seek in good faith to replace any void or unenforceable term or covenant with a valid term or covenant, which most nearly and fairly approaches the effect of the void or unenforceable term or covenant and the intent of the parties in entering into this Agreement.

8. ***Survival of Indemnification.*** CITY and HOTEL agree that this Agreement shall survive the completion, termination, or rescission of the Request.

9. ***Interpretation.*** CITY and HOTEL have been advised by their respective attorneys, or if not represented by an attorney, represent that they had an opportunity to be so represented in the review of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. This Agreement must not be construed for or against any party based upon the contention that the party in question was the source of the language or clause in issue, and all language used will be deemed to be the language jointly chosen by the parties. The masculine, feminine, and neuter gender, and the singular and plural number, include the other whenever the context so indicates.

10. ***Captions and Headings.*** The captions and section headings used in this Agreement are inserted for convenience of reference only and are not intended to define, limit, or affect the construction or interpretation of any term or provision hereof.

11. ***Recitals.*** The Recitals set forth above are incorporated herein by reference as though fully set forth in this Agreement.

12. ***Jurisdiction and Venue.*** Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed in the Courts of Orange County, State of California, and the parties waive all provisions of law providing for the filing, removal or change of venue to any other court or jurisdiction.

13. ***Counterparts; Facsimile & Electronic Execution.*** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. To facilitate execution of this Agreement, the parties may execute and exchange facsimile or electronic counterparts, and facsimile or electronic counterparts shall serve as and are equivalent to originals.

14. ***Effective Date.*** The effective date of this Agreement is the date CITY and HOTEL sign the Agreement. If CITY and HOTEL sign the Agreement on more than one date, then the last date the Agreement is signed by a party shall be the effective date.

**IN WITNESS WHEREOF**, CITY and HOTEL hereto have duly caused this Agreement to be executed by their authorized representatives as of the date written.

**CITY:**

CITY OF IRVINE,  
a municipal corporation

DocuSigned by:

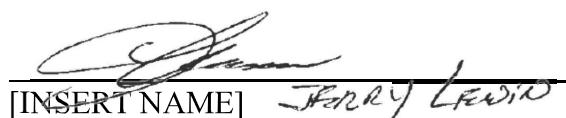


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Oliver Chi, City Manager

3/12/2024



[INSERT NAME] Sid Ramani



2/13/24

**APPROVED AS TO FORM**

DocuSigned by:



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Jeffrey T. Melching, City Attorney

Attest:

DocuSigned by:



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Carl Petersen, City Clerk