MI DRAFT: May 10, 2023

DESIGN REVIEW AGREEMENT

[THIS DRAFT REMAINS SUBJECT TO REVIEW AND COMMENT BY MIDCS’ LOCAL COUNSEL. THE FINALLY AGREED AGREEMENT WILL BE SUBJECT TO BOARD APPROVAL.]

MARRIOTT INTERNATIONAL DESIGN & CONSTRUCTION SERVICES, INC.

Licensee**:** DYC TURİZM İŞLETMECİLİK TİC A.Ş.

KIRAZLI MAH., ULUDAG OTELLER BÖLGESI 2

BURSA, TURKEY

\_\_\_\_\_\_\_\_\_\_\_\_\_, 2023

DESIGN REVIEW AGREEMENT

This Design Review Agreement (“Agreement”) is signed and becomes effective as of \_\_\_\_\_\_\_\_\_\_\_\_, 2023 (“Effective Date”) by:

**Marriott International Design & Construction Services, Inc.**, a corporation organized and existing under the laws of the State of Delaware, United States of America, with its principal place of business at 7750 Wisconsin Avenue, Bethesda, Maryland 20814 United States of America (“MIDCS”);

and

**DYC TURİZM İŞLETMECİLİK TİC A.Ş.**, a joint-stock company organized and existing under the laws of Turkey with its registered office at Görükle Mahallesi, Atatürk Caddesi, Trio Eğlence Merkezi No:101 A/G Nilüfer, Bursa, Turkey and registered with Bursa Chamber of Commerce and Industry under tax no: 321 037 2214 (“Licensee”).

RECITALS

A. Licensee and Global Hospitality Licensing S.à r.l. (“Licensor”) have entered into a license agreement (“License Agreement”) as of the Effective Date to operate the Hotel as a System Hotel;

B. Licensee wishes to retain MIDCS to provide design review services for the Hotel Project; and

C. Licensee is the lessee of the Hotel under a Lease with Owner.**[MI Note: ownership status to be confirmed based on due diligence]**

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, MIDCS and Licensee agree as follows:

**1.** **Review.** Licensee will plan, design, construct, renovate, furnish and equip the Hotel (“Design and Complete”) as required in the Design Criteria, the License Agreement and this Agreement, or cause Owner to do so under Section 20.2 of the License Agreement (the “Hotel Project”). Licensor has designated MIDCS to verify that the Hotel Project is Designed and Completed consistent with the Design Criteria (the “Review”). MIDCS or Licensor may, each in its sole discretion, designate an Affiliate of Licensor or consultants to perform the Review.

**2.** Design **Criteria.** Licensee will Design and Complete the Hotel Project in conformity with the current versions of the Standards for the design of Hotel Improvements and such other information for planning, constructing or renovating and furnishing a System Hotel that will be made available by MIDCS and the Plans that Licensee and MIDCS agree on for the Hotel (the “Design Criteria”).

If the Standards for fire protection and life safety are updated before Licensee submits its final construction or renovation Plans, Licensee will incorporate such updated requirements if doing so will not materially increase Licensee’s costs for Licensee to Design and Complete the Hotel Project. The Hotel Project will also comply with Legal Requirements, which may exceed the Design Criteria.

**3. Project Schedule.** Licensee will provide to MIDCS a schedule and budget to Design and Complete the Hotel Project no later than 30 days after the Effective Date. The schedule will include dates for: (i) submissions required under this Agreement; (ii) meetings between Licensee and MIDCS; and (iii) Hotel visits by MIDCS. Licensee will consult with MIDCS before making any material modifications to the schedule or budget and Licensee will not change the scheduled commencement date or the scheduled opening date without Licensor’s prior consent. Licensee will promptly inform MIDCS if Licensee reasonably believes that the scheduled dates will not be met or if any material milestone in the schedule is missed or is likely to be missed. Licensee will periodically update the schedule as the Hotel Project requires or at MIDCS’ request.

**4. Design Review Process.** Using the Design Criteria, the applicable Standards, and Licensor’s hotel design programs and materials to which Licensee is provided access, Licensee will submit all drawings, Plans, specifications, brochures, shop drawings, product data, manufactures’ literature, manufacturers’ technical data, samples, variance notices and any other material prepared by Licensee or its consultants to Design and Complete the Hotel Project (“Submittals”) to MIDCS for its Review (the “Design Review Process”). MIDCS will review the Submittals and provide comments to Licensee, which Licensee will incorporate in subsequent Submittals provided to MIDCS. If MIDCS requests, Licensee will provide additional Submittals that incorporate MIDCS’ prior comments for Review. Licensee will provide MIDCS with status reports and progress photos in accordance with the Design Review Process.

**5. Sample Guestrooms.** As specified in the applicable Standards and in accordance with the Design Review Process, Licensee will prepare sample Guestroom(s) and corridors based on the accepted Submittals. MIDCS will inspect the sample Guestroom(s) for compliance with the Standards, including whether the finishes and furnishings are consistent with the accepted designs, color boards, samples, and for quality, effect and fit. Once accepted, the sample Guestroom(s) and corridors will be the reference standard required for the entire Hotel Project.

**6. MIDCS Hotel Visits.** Licensee will permit MIDCS to visit the Hotel in person (or virtually) as stated in Exhibit A. MIDCS and Licensee will agree on specific dates for such visits to avoid disruption of the Hotel Project. For these visits, Licensee will provide MIDCS adequate office space and equipment, work-space and other services at no cost to MIDCS.

**7. Licensee** **Performance.** Licensee will follow the Design Review Process and Design and Complete the Hotel Project in accordance with the Hotel Agreements. Licensee will not proceed with any construction, renovation or purchasing for the Hotel until the relevant Submittals and sample Guestroom(s) have been accepted for such items. Licensee will reject and replace any work performed to Design and Complete the Hotel Project that fails to meet the Design Criteria and the accepted Submittals. Licensee is responsible for: (i) ensuring that the Hotel Project complies with Legal Requirements, including any accessibility requirements; (ii) any errors or omissions; and (iii) discrepancies in any drawings or specifications. Licensee will obtain all assignments required under Section 11.2.B.5 of the License Agreement relating to any modifications, derivatives or additions to the Licensor’s Intellectual Property developed as part of the Hotel Project.

**8. Final Inspections.** As specified in the applicable Standards,Licensee will notify MIDCS at least 30 days before completion of the sample Guestroom(s) and final completion of the Hotel Project to enable MIDCS to schedule inspections. If MIDCS determines that the Hotel does not comply with the Design Criteria, Licensee will immediately resolve any non-compliance and complete the Hotel Project to MIDCS’ satisfaction.

**9. Representatives and Consultants.**

A. *MIDCS and Licensee* *Representatives.* Each of MIDCS and Licensee will designate a representative to coordinate its activities under this Agreement (each, a “Representative”). Licensee will make its Representative, employees, consultants, contractors and agents working on the Hotel Project available to MIDCS. MIDCS will make its Representative available to Licensee for consultation on the Hotel Project.

B. *Engagement of Consultants by Licensee.* Licensee will engage consultants, contractors and agents for the Hotel Project that have completed at least two international hotel projects that are comparable in size, quality and facilities to the Hotel. MIDCS will provide a list of architects, interior designers and if available other consultants that have such experience. If Licensee does not select an architect or interior design firm from the list of firms that have been verified by MIDCS as having the required experience, MIDCS may require Licensee to compensate MIDCS for any additional work described in Section 10.C resulting from such firm’s lack of experience. In all cases, Licensee will ensure that each consultant, contractor and agent holds a valid license or other authorization to perform the work for which the Consultant has been engaged, if required by the laws of the Jurisdiction.

C. *Engagement of Consultants by MIDCS.* MIDCS may, at its cost, engage consultants to perform any of its services under this Agreement. MIDCS will use the Design Review Payments received from Licensee to pay these consultants. If the Design Review Payments are insufficient, MIDCS will pay the balance due out of its own funds. For the avoidance of doubt, any use by MIDCS of consultants will not diminish MIDCS’ obligations under this Agreement.

**10. Compensation.**

A. *Fee*. For MIDCS’ services, Licensee will pay US$140,000, plus applicable Taxes, fees and charges (“Design Review Payment”) to MIDCS in accordance with the schedule on Exhibit B.

B. *Compensation for Failure to Opening Deadline*. If the Hotel does not open by September 30, 2024 (the “Opening Deadline”) and MIDCS continues to provide services under this Agreement, MIDCS may require Licensee to pay a fee of US$5,000 per month until the Opening Date.

C. *Additional Work*. If Licensee requests MIDCS to perform additional work or MIDCS will incur additional cost and expense in connection with the Hotel Project, Licensee will compensate MIDCS for such additional work, cost or expense. Examples of additional work or conditions that may cause additional cost and expense include:

(i) services requested by Licensee outside the scope of this Agreement;

(ii) changes in the facilities program and other documents that describe the size, layout and quality of the Hotel Project, which Licensee and MIDCS have previously agreed;

(iii) additional document review due to (a) on-going non-compliance of revised Submittals with the DesignCriteria after MIDCS has notified Licensee ofsuch non-compliance, (b) incomplete submissions, or (c) changes to previously accepted documents;

(iv) participation in meetings and site observations in addition to those listed in the schedule in Exhibit A;

(v) delays in the previously agreed upon schedule for the Hotel Project’s completion (that are not charged for under Section 10.B);

(vi) services are provided by MIDCS after the Opening Date; and

(vii) substantial increase in the cost of MIDCS’ services under this Agreement caused by events outside of MIDCS’ control.

Compensation due MIDCS for additional work will be based on time spent by MIDCS or its Affiliates in undertaking the additional work, and will be computed using the standard hourly rates applicable to the individuals performing the work, and will include MIDCS’ out-of-pocket costs in undertaking the additional work. MIDCS will invoice Licensee each month for costs incurred in providing the additional work. MIDCS will provide Licensee with system‑generated information from MIDCS’ expense reporting system to substantiate out-of-pocket costs incurred in doing the additional work, but will not provide originals of any travel receipts. MIDCS will send invoices to Licensee by email as described in Section 10.D. Licensee will pay the invoiced amount by wire transfer to the account designated on the invoice within 30 days after the invoice date.

D. *Payment*. MIDCS will invoice Licensee for the amounts due under this Agreement based on the payment schedule in Exhibit B and Licensee will pay such amounts by wire transfer to an account designated by MIDCS. The invoices will not include supporting documentation for hourly rates or expense receipts as the Design Review Payment is an agreed amount. MIDCS will send invoices to Licensee at the email address in Exhibit C. Licensee specifically acknowledges and agrees that the following Sections of the License Agreement will apply to payments under this Agreement: Section 3.6 (Interest on Late Payments); Section 13.6 (Restrictions on Transfers of Funds); and Section 13.7 (Currency).

E. *Withholding Taxes.*

1. The amounts payable to MIDCS will not be reduced by any deduction or withholding for any present or future taxes, levies, imposts, duties, fees, charges or liabilities imposed by any governmental authority in the Jurisdiction, including any interest, additions to tax or penalties applicable to any of the foregoing (collectively, “Taxes”).

2. If Legal Requirements impose an obligation on Licensee to deduct or withhold Taxes directly from any amount paid to MIDCS, then Licensee will deduct or withhold the required amount and will timely pay the full amount deducted or withheld to the relevant governmental authority in accordance with Legal Requirements. The amount paid to MIDCS will be increased so that after the deduction or withholding has been made in accordance with Legal Requirements, the net amount actually received by MIDCS will equal the full amount originally invoiced or otherwise payable. To the extent any Legal Requirements require or allow any such deduction, payment or withholding to be paid by Licensee directly to a governmental authority, Licensee must account for and pay such amounts promptly and provide MIDCS with receipts or other proof of such payment promptly upon receipt.

3. If Legal Requirements do not impose an obligation on Licensee to deduct or withhold Taxes directly from any amount paid to MIDCS, but otherwise impose Taxes on any such amount, then Licensee will pay to MIDCS, within 15 days after request, the full amount of the Taxes paid or payable by MIDCS with respect to such payment so that the net amount actually received by MIDCS after payment of any Taxes will equal the full amount originally invoiced or otherwise payable.

F. *Value Added Tax & Similar Taxes.* The amounts payable to MIDCS will not be reduced by any value added, goods and services, sales or similar taxes, all of which will be paid by Licensee. Therefore, in addition to making any payment to MIDCS required under this Agreement, Licensee will: (i) pay MIDCS the amount of these taxes due with respect to the payment; or (ii) if required or permitted by Legal Requirements, pay these taxes directly to the relevant taxing authority. If a reverse charge mechanism is available to Licensee, Licensee will promptly account for and pay these taxes in accordance with Legal Requirements.

G. *Stamp Duties.* Licensee will pay any stamp duty applicable to this Agreement.

H. *Tax Disputes.* If there is a dispute by Licensee as to any Tax liability related to payments under this Agreement, Licensee may contest the Tax liability in accordance with Legal Requirements, but Licensee will not permit a sale, seizure or attachment to occur against the Hotel. If such dispute involves payments of Taxes that will be withheld, deducted, and paid by Licensee related to payments to MIDCS as provided in Section 10, Licensee will notify MIDCS before taking action concerning the dispute with the tax authority, and, if requested by MIDCS, cooperate with MIDCS in preparing its response. On MIDCS’ request, Licensee will pay such Taxes and seek reimbursement from the governmental authority, and Licensee will be responsible for any interest or penalties assessed. The obligations of this Section 10.H will apply regardless of whether Licensee or MIDCS is responsible for payment of any Taxes.

**11.** **Term.** The term of this Agreement (the “Term”) begins on the Effective Date and ends on the earlier of: (i) the date on which Licensee and MIDCS have fulfilled their obligations under this Agreement; or (ii) termination of the License Agreement. A termination under subsection (ii) will not affect MIDCS’ other rights and remedies under this Agreement.

**12.** **Licensee Liable for Hotel Project.** Licenseewill be solely responsible for the financing of the Hotel Project and any cost overruns. Licensee, and not MIDCS or any of its Affiliates, will be responsible for: (i) managing and supervising Licensee’s employees, consultants, contractors and agents; (ii) construction or renovation means, methods, techniques, sequences, and procedures; (iii) safety precautions and programs to Design and Complete the Hotel Project; and (iv) any contractor’s failure to perform its obligations to Design and Complete the Hotel Project. Licensee will be solely responsible for paying all invoices and requisitions of contractors, vendors, and suppliers for the Hotel Project.

**13. Indemnification and Compliance with Law.** Licensee agrees that: (i) the indemnification and hold harmless obligations of Licensee under Section 14.1 of the License Agreement will extend to MIDCS and all activities under this Agreement; and (ii) its covenant to comply with Legal Requirements under Section 21.1 of the License Agreement applies to all activities under this Agreement, including Licensee’s obligation to obtain licenses, permits or other approvals required for the Hotel Project and to ensure that all Submittals and other drawings prepared by Licensee comply with Legal Requirements.

**14. No Warranties or Guaranties.** Neither MIDCS nor its Affiliates make any representation or warranty, express or implied, with respect to, and will have no liability for: (i) the sufficiency of (or any error or omission in) any designs, Plans or drawings provided under the Hotel Agreements or Reviewed by MIDCS under the Hotel Agreements; or (ii) any budgets or cost estimates where MIDCS participated in the preparation.

**15. Limited Scope of Review and Acceptances.** Licensee agrees that any Review or acceptance by MIDCS is for the sole purpose of verifying that the Hotel Project is Designed and Completed in accordance with the Design Criteria. MIDCS’ acceptance will not be deemed to be a representation, warranty or guarantee by MIDCS or its Affiliates under the Hotel Agreements that the Hotel Project or any work related to the Hotel Project complies with Legal Requirements.

**16. Effect of Design Review Agreement.** This Agreement is an integral part of the License Agreement. A default by Licensee of this Agreement constitutes a default under Section 17.1 of the License Agreement.

**17. No Agency.** This Agreement does not create a fiduciary relationship between MIDCS and Licensee. Licensee is an independent contractor. Neither party is an agent, legal representative, joint venturer, partner, joint employer or employee of the other for any purpose, and neither party will make any representation or claim to the contrary. Licensee will not make any agreement, representation or incur any obligation on MIDCS’ behalf or in MIDCS’ name.

**18. English Language.** All documents and correspondence submitted to MIDCS under this Agreement will be in English or accompanied by a certified, accurate and complete English translation. Licensee will pay for any translation expenses relating to Submittals to MIDCS. The English language version of all Submittals will control.

**19. Cost of Enforcement.** If either party initiates any legal or equitable action to protect its rights under this Agreement, the prevailing party will be entitled to recover its costs, including reasonable legal fees.

**20. Governing Law.** This Agreement, and all non-contractual rights related to this Agreement, will be construed under and governed by the laws of England.

**21.** **Interim Relief.** Either party may seek interim or equitable relief, including restraining orders and injunctions, in any court of competent jurisdiction, and either party may request that a court refer the proceedings to arbitration under Section 22 without prejudice to interim relief granted by such court. All disputes related to this Agreement must otherwise be resolved exclusively under Section 22.

**22**. **Arbitration.**

* + 1. *Submission to Arbitration.* Any dispute between MIDCS and Licensee and their Affiliates arising out of or relating to this Agreement, including its existence, validity, interpretation, performance, default or termination, and any dispute regarding non-contractual obligations arising out of or relating to it, will be resolved by arbitration as provided in this Section.

*A.* *Tahkime Sunulması. MIDCS Licensing Alan (Licensee) ve onların İştirakleri (Affiliates) arasında bu Sözleşme’den doğan veya bu Sözleşme ile ilgili, Sözleşme’nin varlığı, geçerliliği, yorumlanması, ifası, temerrüde düşmesi veya sona ermesi, ve Sözleşme’den doğan veya Sözleşme ile ilgili tüm sözleşme dışı yükümlülükler bu Bölümde belirtildiği gibi tahkimle çözülecektir.*

* + 1. *Arbitration Proceedings.* The International Chamber of Commerce will administer the arbitration under the Rules of Arbitration of the International Chamber of Commerce (the “Rules”). The language to be used in the proceedings will be English. The seat of arbitration will be Zurich, Switzerland.

*B.* *Tahkim Duruşmaları. Uluslararası Ticaret Odası, Uluslararası Ticaret Odası'nın Tahkim Kuralları (“Kurallar”) uyarınca tahkimi yönetecektir. Duruşmalarda kullanılacak dil İngilizce olacaktır. Tahkim yeri Zürih, İsviçre olacaktır.*

* + 1. *Appointment of Arbitrators.* The arbitration will be resolved by one arbitrator selected in accordance with the Rules, but if either party objects to the arbitration being resolved by a sole arbitrator, the arbitration will be resolved by a panel of three arbitrators. In that case, each party will name one party-appointed arbitrator, and the co-arbitrators, once confirmed by the International Court of Arbitration of the International Chamber of Commerce (the “Court”) will nominate the third arbitrator. If either party fails to nominate an arbitrator or the co-arbitrators fail to nominate the third arbitrator, in each case within the time periods stated in the Rules, then the Court will appoint that arbitrator in accordance with the provisions for the appointment of arbitrators under the Rules. In agreeing on the third arbitrator, the two arbitrators may communicate directly with each other and with their respective nominating parties without the need to copy any third-party. If the Claim is related solely to fees, cost or charges that are required to be paid under the Hotel Agreements and the amount of the Claim is equal to or below the threshold amount for expedited procedure provisions under the Rules, then the dispute will be resolved under such expedited procedure provisions.

*C*. *Hakemlerin atanması. Tahkim, Kurallar uyarınca seçilecek tek bir hakem tarafından çözümlenecektir, ancak taraflardan herhangi biri tahkimin tek bir hakem tarafindan çözülmesine itiraz ederse tahkim üç hakemden oluşan bir hakem kurulu tarafından sonuçlandırılacaktır. Bu durumda, taraflardan her biri bir taraf hakem atayacak ve taraf hakemleri, ICC Uluslararası Tahkim Mahkemesi (“Mahkeme”) tarafından onaylandıktan sonra, üçüncü hakemi atayacaktır. Kurallar’da belirlenen süre içerisinde taraflardan herhangi birisi bir hakem atayamazsa veya atanan hakemler üçüncü hakemi atayamazsa, bu durumda Mahkeme, Kurallar uyarınca Hakemlerin atanmasına yönelik hükümlere uygun olarak bu hakemi atayacaktır. Üçüncü hakem atanırken, üçüncü bir kişinin araya girmesine gerek olmadan, iki hakem birbirleriyle veya kendilerini atayan taraflarla doğrudan iletişime geçebilir. Eğer Talep yalnızca Otel Anlaşmaları (Hotel Agreements) uyarınca ödenmesi gereken ücret, harcama veya borçlara yönelik ise ve Talep edilen miktar Kurallar uyarınca ivedi usul için getirilen sınırlamaya eşit veya bunlardan fazla ise, şu halde uyuşmazlık ivedi usul hükümleri uyarınca sonuca bağlanacaktır.*

D. *Consolidation & Joinder*. Licensee, MIDCS or any of MIDCS’ Affiliates will consent: (i) to be joined to any arbitration started under this Agreement or any other Hotel Agreement; (ii) to consolidating into a single arbitration any two or more arbitrations started under this Agreement or any other Hotel Agreement; and (iii) to bringing a single arbitration for Claims arising under this Agreement and any other Hotel Agreement.

*D. Konsolidasyon & Katılma. Licensing Alan (Licensee), MIDCS veya MIDCS’in İştiraklerinden herhangi biri (Affiliates); (i) işbu Sözleşme veya herhangi bir Otel Sözleşmesi (Hotel Agreement) kapsamında başlatılan tahkimlere katılmayı; (ii) işbu Sözleşme veya herhangi bir Otel Sözleşmesi (Hotel Agreement) kapsamında başlatılan iki veya daha fazla tahkimi tek bir tahkim şeklinde konsolide etmeyi; ve (iii) işbu Sözleşme’den ve herhangi bir Otel Sözleşmesi’nden (Hotel Agreement) doğan haklarını tek tahkim ile öne sürmeyi kabul eder.*

E. *Costs and Confidentiality*. Licensee and MIDCS will strive to manage the arbitration efficiently to limit the fees and costs of the proceedings. The fees and costs of the proceedings and any Damages will be allocated and paid by the parties as determined by the arbitrators, subject to Section 19. All awards, orders, materials and documents related to the arbitration are confidential and Licensee and MIDCS will each use reasonable endeavors to prevent disclosure to any Person not related to the arbitration without approval of the other party, except: (i) if they are in the public domain; (ii) as required by Legal Requirements; (iii) to protect a legal right; or (iv) to enforce or challenge an award in litigation. This obligation applies to the arbitrators, the secretary of the arbitral tribunal and any experts appointed in the arbitration and the Court.

*E. Masraflar & Gizlilik. Licensing Alan (Licensee) ve MIDCS, işlemlerin ücretlerini ve maliyetlerini sınırlamak için tahkimi verimli bir şekilde yönetmeye çabalayacaklardır. Duruşma ücretleri ve masrafları ve herhangi bir Zarar hakemler tarafından belirlenen şekilde taraflara tahsis edilecek ve bunlar tarafından Bölüm 19’da uygun olarak ödenecektir. Tahkim ile ilgili tüm hüküm, karar, materyal ve belgeler gizlidir ve Licensing Alan (Licensee) ve MIDCS bu bilgilerin (i) kamuya açık olması (ii) Yasal Koşullar’ın gerektirmesi (iii) yasal bir hakkın korunması; veya (iv) bir hükmün icrası veya bir hükme itiraz gibi haller dışında diğer tarafın onayı olmadan tahkimle bağlantısı olmayan herhangi bir Kişi’ye açıklanmasını önlemek için makul çabayı göstereceklerdir. İşbu yükümlülük hakemler, tahkim heyeti sekreterliği ve tahkimde ve Mahkeme’de atanan tüm bilirkişiler için geçerlidir.*

F. *Exclusive Remedy and* *Binding Decision.* Except as provided in Section 21, arbitration is the exclusive remedy and neither Licensee nor MIDCS will attempt to adjudicate the matter in any other manner or forum. The decision of the arbitrators will be final and binding on the parties, and the decision will be enforceable through any court of competent jurisdiction.

*F. Münhasır Çözüm Yolu ve Bağlayıcı Karar. Bölüm 21’de belirtilenler hariç olmak üzere, tahkim münhasır çözüm yoludur ve ne Licensing Alan (Licensee) ne de MIDCS konuyu başka bir şekilde veya yerde karara bağlamaya çalışmayacaktır. Hakemlerin kararı taraflar üzerinde nihai ve bağlayıcı olacaktır ve karar herhangi bir yetkili mahkeme kanalıyla uygulanabilir olacaktır.*

G. *No Class-Wide Arbitration.* Except as set forth under Section 22.D, any arbitration proceeding will be conducted on an individual (not a class-wide) basis and will not be consolidated with any other arbitration proceedings to which MIDCS is a party.

*G. Genel-Sınıf Tahkimi Olmaması. Bölüm 22.D’deki düzenleme hariç olmak üzere, tüm tahkim duruşmaları tekil olarak (genel-sınıf olmadan) yürütülecek ve MIDCS’in taraf olduğu başka herhangi bir tahkim duruşması ile konsolide edilmeyecektir.*

**23. No Transfer.** This Agreement may not be assigned or transferred by Licensee without the written consent of Licensor and MIDCS. MIDCS may transfer this Agreement to any Person without prior notice to, or consent of, Licensee, provided the transferee assumes MIDCS’ obligations under this Agreement. Licensee agrees that any such transfer will constitute a release and novation of MIDCS for this Agreement.

**24. Entire Agreement.**

This Agreement and the other Hotel Agreements are fully integrated and contain the entire agreement between the parties as it relates to the Hotel and supersede all previous oral or written understandings between MIDCS and its Affiliates and Licensee and its Affiliates relating to their subject matter. Neither party will have any remedy for any untrue statement made by the other on which that party relied in entering this Agreement (unless such untrue statement was made fraudulently). The only remedy available to a party for a breach of any representation, assurance or warranty that is incorporated into this Agreement will be for breach of contract.

**25. Construction and Interpretation.**

A.*Partial Invalidity.*If any term of this Agreement, or its application to any Person or circumstance, is invalid or unenforceable at any time or to any extent, then: (i) the remainder of this Agreement, or the application of such term to Persons or circumstances except those as to which it is held invalid or unenforceable, will not be affected and each term of this Agreement will be valid and enforced to the fullest extent permitted by Legal Requirements; and (ii) MIDCS and Licensee will negotiate in good faith to modify this Agreement to implement their original intent as closely as possible in a mutually acceptable manner.

B. *Non-Exclusive Rights and Remedies.* No right or remedy of MIDCS or Licensee under this Agreement is intended to be exclusive of any other right or remedy under this Agreement, at law, or in equity.

C. *No* *Third*-party *Beneficiary.* This Agreement does not give any rights or benefits to any Person that is not a party to this Agreement, except as provided in this Agreement. To the extent that any Affiliate of MIDCS or other Person is expressly identified as having particular rights and benefits under this Agreement, such Person may enforce those rights and enjoy those benefits in accordance with this Agreement and the Contracts (Rights of Third Parties) Act 1999. The parties may terminate or amend this Agreement (including this Section) without the consent of or notice to any other Person.

D. *Actions from Time to Time.* When this Agreement permits MIDCS to take any action, exercise discretion or modify the Design Criteria, MIDCS may do so from time to time.

E. *Interpretation of Agreement.* This Agreement excludes all implied terms to the maximum extent permitted by Legal Requirements. Headings of Sections are for convenience and are not to be used to interpret the Sections to which they refer. Any Recitals, Sections, and Exhibits 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 all calendar references, unless otherwise specifically provided. References that a Person “will” or “shall” do something or that something “will” or “shall” be done by that Person mean that the Person has an obligation to do that thing. References that a Person “may” do something or that something “may” be done by that Person mean that the Person has the right, but not the obligation, to do that thing. References that a Person “will not”, “shall not” or “may not” do something or that something “will not”, “shall not” or “may not” be done by that Person 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.

F. *Definitions*. All capitalized terms used but not defined in this Agreement will be interpreted according to the respective definition given to them in the License Agreement.

G. *Liability.* Nothing in this Agreement limits or excludes any party’s liability for fraud or fraudulent misrepresentation.

**26. Reasonable Business Judgment.**

A. *Use of Reasonable Business Judgment*. Except when MIDCS has reserved sole discretion, MIDCS will use Reasonable Business Judgment when performing its obligations or exercising its rights under this Agreement, including for any consents and approvals, determinations whether something is acceptable to MIDCS, and the administration of MIDCS’ relationship with Licensee, including with respect to any decision to withhold, delay or condition consent. The fact that MIDCS or any of its Affiliates benefited from any action or decision, or that another reasonable alternative was available, does not mean that MIDCS failed to exercise Reasonable Business Judgment.

B. *Implied Covenants.* If this Agreement is subject to any implied covenant or duty of good faith and MIDCS exercises Reasonable Business Judgment, Licensee agrees that MIDCS will not have violated such covenant or duty.

**27. Notices and Electronic Delivery.**

A. *Written* *Notices*. Subject to Section 27.B, all notices, requests, statements, and other communications under this Agreement will be: (i) in writing and in English; (ii) delivered by hand with receipt, or by courier service with tracking capability; and (iii) addressed as provided in Exhibit C or at any other address designated in writing by the party receiving the notice. Any notice will be deemed received when delivery is received or first refused at the address identified in subsection (iii).

B. *Electronic Delivery*. MIDCS may provide Licensee with electronic delivery of routine information, invoices, the Standards and other Systems requirements and programs. MIDCS may request Licensee to provide its Submittals by electronic delivery, to a designated MIDCS representative. MIDCS and Licensee will cooperate with each other to adapt to new technologies that may be available for the transmission of such information.

**28. Confidentiality.** The terms of this Agreement are confidential and Licensee will comply with Section 12.1 of the License Agreement for purposes of this Agreement.

**29. Counterparts.** This Agreement may be signed in any number of counterparts, each of which will be deemed an original and all of which constitute one and the same instrument. Delivery of an electronic signature or a signed version of this Agreement by electronic transmission is as effective as delivery of a manually signed counterpart. The submission of an unsigned copy of this Agreement to either party is not an offer or acceptance. Each party to this Agreement waives any defenses to the enforceability of the terms of this Agreement based on the preceding forms of transmission.

**30**. **Approvals and Waivers.** No waiver, delay, omission, or forbearance on the part of MIDCS, Licensee or Licensor to exercise any right, option or power arising from any default or breach by the other party will affect or impair the rights of MIDCS, Licensee or Licensor, respectively, with respect to any such default or breach or subsequent default or breach of the same or of a different kind. Any delay or omission of either party to exercise any right arising from any such default or breach will not affect or impair such party’s rights with respect to such default or breach or any future default or breach. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. Neither MIDCS nor Licensor shall be liable to Licensee for providing (or denying) any waiver, approval, consent, or suggestion to Licensee in connection with this Agreement or by reason of any delay or denial of any request.

**31. Waiver of Exemplary and Indirect Damages.** Each of Licensee and MIDCS absolutely, irrevocably and unconditionally waives the right to claim or receive exemplary,punitive and indirect damages in any dispute arising out of or in connection with the Hotel, the Hotel Agreements, the relationship of the parties, or any actions or omissions in connection with any of the above, other than Licensor’s rights and remedies relating to Licensor’s Intellectual Property. To the fullest extent permitted under Legal Requirements, the total liability of MIDCS and its Affiliates in connection with the Review and any other services provided under this Agreement, whether arising from contract, negligence or otherwise, will be limited to the amount of the Design Review Payment paid to MIDCS.

**32. Waiver of Jury Trial.** Each of Licensee and MIDCS absolutely, irrevocably and unconditionally waives trial by jury for any Claims related to this Agreement and the Hotel Agreements.

**33. Amendments.** This Agreement may only be amended by a document that has been duly signed by the parties meeting the requirements of Section 29.

**34. Survival.** The duties and obligations of the parties that by their nature or express language survive expiration or termination of this Agreement will survive expiration or termination of this Agreement, including the terms of this Section 34 and Section 10, Section 12, Section 13, Section 14, Section 15, Section 17, Section 19, Section 20, Section 21, Section 22, Section 24, Section 25, Section 26, Section 27, Section 28, Section 30, Section 31 and Section 33.

{*Signature page to follow*}

**IN WITNESS WHEREOF**, MIDCS and Licensee have caused this Agreement to be signed as of the Effective Date.

**MARRIOTT INTERNATIONAL DESIGN & CONSTRUCTION SERVICES, INC.**

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

Name: Paul Rosenberg

Title: Attorney-in-Fact

**Licensee:**

**DYC TURİZM İŞLETMECİLİK TİC A.Ş.**

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

Name: Çetin Ceylan

Title: Chairman

**EXHIBIT A**

**SCHEDULE OF OBSERVATIONS**

[to be provided by Global Design]

MIDCS may visit the Approved Location in person (or do so virtually) to inspect the Hotel’s compliance with the System and the Design Criteria.The Schedulemay include the following meetings, which may be combined for review of multiple items and include multiple persons conducting the review activity (in person or virtually). A “Meeting” is a meeting per person. For example, “Two Meetings” could either mean two separate meetings with one person or one meeting with two persons.

|  |  |  |
| --- | --- | --- |
| **Discipline** | **Activity** | **Number of Meetings** |
| **Design Management** | * Kick-off/Design Criteria
* Observation and Progress
* Final Acceptance Prior to the Opening Date
 |  |
| **Interior Design** | * Kick-off/ Design Criteria
* Sample Room
* Final Acceptance Prior to the Opening Date
 |  |
| **Engineering** | * Kick-off/ Design Criteria
* Final Acceptance Prior to the Opening Date
 |  |
| **Fire and Life Safety** | * Kick-off/ Design Criteria
* Final Acceptance Prior to the Opening Date
 |  |

Note: The Hotel Project Kick-off meeting will be held in [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] **[(or** **conducted virtually) to be determined by MIDCS)]** with MIDCS, Licensee and their Representatives and consultants in attendance.

**EXHIBIT B**

**PAYMENT SCHEDULE**

[to be provided by Global Design]

|  |  |  |  |
| --- | --- | --- | --- |
| **Payment Number** | **Date to be Invoiced** | **Date Payment Due**  | **Amount due for Design Review Payment (US$)** |
| 1 | Effective Date | 30 Days from Invoice Date | [ ] |
| 2 | [ADD DATE] | 30 Days from Invoice Date | [ ] |
| 3 | [ADD DATE] | 30 Days from Invoice Date | [ ] |
|  | The earlier of (i) the Opening Deadline or (ii) 30 days before the expected Opening Date | 30 Days from Invoice Date | [ ] |
| **Total**  |  |  | **140,000** |

**EXHIBIT C

NOTICE ADDRESSES**

*Communication of* *Design* *Criteria, Submittals, Invoices, Communication with Representatives.* All communications regarding Design Criteria, Submittals, invoices and other communications must be sent to the following addresses:

Licensee:

 DYC TURİZM İŞLETMECİLİK TİC A.Ş.

 c/o Ardeniz Holding

 Cumhuriyet Mahallesi, Nilüfer Hatun Caddesi No: 114, Nilüfer, Bursa

 Turkey

Attn: Chairman

Tel:

Email:

with a copy to:

 DYC TURİZM İŞLETMECİLİK TİC A.Ş.

Görükle Mahallesi, Atatürk Caddesi, Trio Eğlence Merkezi No:101 A/G Nilüfer, Bursa

 Turkey

Attn: Chairman
Tel:
Email:

MIDCS:

Marriott International Design & Construction Services, Inc.
c/o International Hotel Licensing Company S.à r.l.

Bahnhofplatz 14

8001 Zurich

Switzerland

Attn: Law Department

Tel:  +41 44 723 5100

Email: Nazim.Kahraman@marriott.com

with copies to:

Marriott International Design & Construction Services, Inc.
c/o Marriott Holdings International Limited

Barnard’s Inn, 86 Fetter Lane
London, EC4A 1EN
United Kingdom

Tel: +44 7879 393 669

Attn: Global Design

and

Marriott International Design & Construction Services, Inc.

7750 Wisconsin Avenue
Bethesda, Maryland 20814 United States of America

Attn:   Senior Vice President, International Department 70/101.01

Tel: +1 301 380 3000