

**HOTEL MANAGEMENT AGREEMENT
HYATT REGENCY ORLANDO INTERNATIONAL AIRPORT**

between

GREATER ORLANDO AVIATION AUTHORITY

and

**HYATT CORPORATION,
a Delaware corporation**

DATED: AS OF January 1, 2015 (the "Effective Date")

CONFIDENTIAL AND PROPRIETARY INFORMATION OF HYATT CORPORATION

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**HOTEL MANAGEMENT AGREEMENT
HYATT REGENCY ORLANDO INTERNATIONAL AIRPORT**

THIS AGREEMENT is executed in counterparts as of the 1st day of January, 2015, by and between **GREATER ORLANDO AVIATION AUTHORITY** (hereinafter called "**Owner**"), and **HYATT CORPORATION**, a Delaware corporation (hereinafter called "**Operator**").

RECITALS

Owner operates, pursuant to the terms of an Operation and Use Agreement with the City of Orlando ("**City**"), dated September 27, 1976, as amended (the "**Operation and Use Agreement**"), that certain real property (the "**Site**") located at Orlando International Airport (the "**Airport**"), in the City, State of Florida, more particularly described in **Exhibit A** attached hereto and hereby made a part hereof.

Owner has built, furnished and equipped a first-class hotel, consisting of 445 guest rooms and with approximately 33,000 square feet of public meeting space and food and beverage facilities, located in the North Landside Terminal complex upon the Site (the "Hotel Premises"), which has heretofore been operated by Operator pursuant to that certain Management Agreement dated June 6, 1991, as thereafter amended (the "Prior Management Agreement") and desires to have the same continue to be managed by Operator for the account of Owner.

Owner and Operator desire to enter into this Agreement respecting the management of a first-class hotel on the Hotel Premises and the management thereof by Hyatt upon the terms and conditions hereinafter set forth and to be operated as the "Hyatt Regency Orlando International Airport Hotel."

NOW, THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I

CONSTRUCTION, FURNISHING AND EQUIPPING OF HOTEL.

1.1 **Hotel Improvements.**

Owner and Operator acknowledge and agree that hotel improvements (the "**Improvements**") constructed on the Hotel Premises meet the Hotel Standard (as hereafter defined) as of the Effective Date. No material changes in the Improvements shall be made by Owner without Operator's approval, which shall not be unreasonably withheld; provided, however, that Owner shall not need Operator's approval to make changes in the Improvements necessary to allow the Improvements to be operated effectively as part of the Airport, if such changes do not substantially affect Hotel operations, or as may be required for security purposes or by Legal Requirements.

1.2 Furnishings and Equipment and Operating Equipment.

Operator agrees that Owner has purchased and installed in or about the Improvements all of the following to the extent necessary or desirable to meet the first-class hotel standard: (1) furniture and furnishings; (2) hotel equipment (including office equipment and property management equipment as necessary); (3) uniforms, tools and utensils, and (4) china, glassware, linens, silverware and the like (the items referred to under (1) and (2) above being hereinafter collectively referred to as "**Furnishings and Equipment**," and the items referred to under (3) and (4) above being hereinafter collectively referred to as "**Operating Equipment**").

1.3 "**Hotel Defined.** The Hotel Premises, the Improvements and the FFE are herein collectively referred to as the "**Hotel**."

ARTICLE II
DEFINITIONS; TERM; PERFORMANCE TEST

2.1 Definitions.

Unless the context otherwise specifies or requires, all capitalized terms used in this Agreement shall have the meanings assigned to such terms in **Exhibit B** attached hereto and by this reference incorporated herein.

2.2 Term of Agreement.

This Agreement shall be effective on and commence as of the Effective Date; and the operating term of this Agreement (the "**Term**") shall continue until 11:59 p.m. (local time at the Hotel) on September 30, 2035, unless this Agreement shall be sooner terminated as herein provided. The Prior Management Agreement shall remain in full force and effect in accordance with its terms for all Hotel operations through September 30, 2015; provided, however, that this Agreement shall govern the obligations of the parties relating to the operation of the Hotel on and after October 1, 2015, but to be performed prior to such date, such as FY2016 operating and capital budget approvals.

2.3 Performance Test.

(a) **Definitions.** For purposes of this Section 2.3 (or any other section of this Agreement which makes reference to the definitions contained in this Section 2.3) the following terms shall have the meanings indicated below:

"**Achieved RevPAR**" shall mean, for the Fiscal Year in question, the product of (i) the average daily occupancy rate for the Hotel or Comparable Hotels, as applicable, multiplied by (ii) the average daily room rate achieved by the Hotel or Comparable Hotels, as applicable, for such Fiscal Year. The Achieved RevPAR for the Hotel shall be calculated in the manner prescribed by the Information Source, regardless of how calculated by Operator for Hotel reporting purposes.

"**Comparable Hotels**" shall mean the following hotels: Marriott Orlando Airport, Renaissance Orlando Airport, The Florida Hotel & Conference Center,

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DoubleTree Orlando Airport, Embassy Suites Orlando Airport. If any one or more of the preceding hotels (or any one or more of the substitutes therefor which may have been made in accordance with the provisions hereof) shall no longer be comparable to the Hotel, either Owner or Operator shall so notify the other party and a substitute for the hotel identified as no longer comparable shall be made by agreement of the parties. For purposes hereof, a hotel shall no longer be comparable to the Hotel if (i) the hotel in question is no longer in operation, or its operations have been substantially curtailed from its operations as of the date hereof (or as of the date a substitute is added as a Comparable Hotel) whether by virtue of the occurrence of a Force Majeure Cause or for any other reason; or (ii) the quality of the hotel, either physically or operationally, shall have substantially diminished as generally recognized by the traveling public whether as a result of a change of brand or otherwise. If any hotel is determined no longer to be generally comparable to the Hotel, it shall be deleted from the list of Comparable Hotels, and a substitute shall be added to the list of Comparable Hotels, so long as the substitute meets the following criteria: (a) the proposed substitute hotel shall have been opened for business for a period of not less than three (3) full years and shall have, during such period, reported its Achieved RevPAR to the Information Source; and (b) is a hotel generally comparable in size, facilities and the level of quality, both physically and operationally, to the Hotel. All matters pertaining to whether any of the Comparable Hotels shall no longer be comparable, and the identification of any hotels to be substituted as herein provided, shall be determined by agreement of the parties. In the event the parties are unable to agree on one or more of the matters relevant for purposes hereof, either party shall have the right, by notice to the other party, to submit any of the matters to dispute resolution in accordance with Article XIV hereof, and pending the outcome of any such dispute resolution, no change shall be made to the then applicable list of Comparable Hotels.

"GOP Deficiency" shall mean, for the Fiscal Year in question, an amount equal to the amount, if any, by which the Hotel GOP is less than the amount of Hotel GOP required to meet the GOP Test.

"GOP Test" shall mean the Hotel GOP, expressed as a percentage of Gross Receipts, is not less than twenty-four and one-half percent (24.5%) of Gross Receipts for such Fiscal Year.

"Hotel GOP" shall mean the Gross Operating Profit for the Hotel for each Fiscal Year in question determined in accordance with the Uniform System.

"Information Source" shall be Smith Travel Research Inc. In the event Smith Travel Research Inc. shall no longer be in existence or is unable or unwilling to provide the required information, and thereafter Owner and Operator cannot agree upon an alternative Information Source within thirty (30) days from the date on which Owner shall request information regarding the Achieved RevPAR for the Comparable Hotels, then Owner shall select any two (2) of Price Waterhouse Coopers & Co., KPMG Peat Marwick & Co. or PKF Consulting, and deliver written notice to Operator of the two firms so selected within forty (40) days after the date on which Owner requested information on the Achieved RevPAR for the Comparable Hotels, and the Information

Source shall then be either of the firms so selected by Owner as shall be designated by Operator in writing to Owner (or, if Operator shall fail to designate one of said firms within ten (10) days after receipt of the aforesaid written notice from Owner, the firm so selected by Owner). If Owner shall fail to deliver written notice to Operator of the two (2) firms so selected within said forty (40) day period, then Operator may select any one of the firms listed above as the Information Source and designate such firm by written notice to Owner.

“Performance Deficiency” shall mean (i) in the case of a failure to meet the RevPAR Test in a Performance Period, the largest annual RevPAR Deficiency for the two consecutive Fiscal Years in question; (ii) in the case of a failure to meet the GOP Test in a Performance Period, the largest annual GOP Deficiency for the two consecutive Fiscal Years; and, (iii) in the case of a failure to meet both the RevPAR Test and the GOP Test in the second of two consecutive Fiscal Years in which the Performance Test has not been met, the greater of (i) and (ii). **“Performance Period”** has the meaning set forth in Section 2.3(b) below.

“Performance Test” shall be deemed to have been met for any Fiscal Year if, for such Fiscal Year, both the GOP Test and RevPAR Test are satisfied.

“RevPAR Deficiency” shall mean (x) the difference between the Yield Index Performance Standard and the Hotel’s Achieved RevPAR in a Fiscal Year, (y) multiplied by the product of (i) days in the Fiscal Year period and (ii) rooms available for sale in the Hotel during the Fiscal Year, (z) multiplied by the greater of the Hotel GOP (expressed as a percentage of Gross Receipts) or 24.5%. As an example, assuming Achieved RevPAR of the Comparable Hotels in a year was \$100, the Yield Performance Index Standard was \$120, the Hotel’s Achieved RevPAR was \$110 (and the Hotel GOP was 35%), then, in a non-leap year, the cure payment in regard to such RevPAR Deficiency would be \$568,487.50, or $(\$120 - \$110) = \$10 \times (365 \times 445) \times 35\% = \$568,487.50$.

“RevPAR Test” shall mean the Achieved RevPAR for the Hotel is equal to or greater than the Yield Index Performance Standard.

“Termination Effective Date” shall mean the date upon which any termination of this Agreement occurs pursuant to this Section 1.3.

“Yield Index Performance Standard” shall be **one hundred and twenty percent (120%)** of the numerical average (weighted by number of rooms) of the Achieved RevPAR for the Comparable Hotels; provided, however, that in the event that, during the Term, Owner decides to develop, or authorizes any other person to develop, another hotel within the Orlando International Airport, as it may be enlarged from time to time, Owner and Operator shall negotiate in good faith to reduce the Yield Index Performance Standard percentage threshold, but to no less than one hundred percent (100%), to reflect the competitive impact of such additional hotel. If Owner and Operator are unable to agree to such reduction, the matter shall be submitted for determination pursuant to Section 14.3(h) hereof.

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(b) Owner shall have the right to terminate this Agreement if for any two (2) consecutive Fiscal Years (such consecutive Fiscal Years being herein referred to as the "**Performance Period**") the Performance Test has not been satisfied, and is not cured by Operator pursuant to this Section 1.3. Notwithstanding the preceding sentence, any Fiscal Year in which the operation of the Hotel is materially and adversely affected by one or more of the following: (i) Force Majeure Causes or damage to or destruction of the Hotel, (ii) a taking of all or a part of the Hotel by eminent domain, condemnation or similar proceeding, (iii) failure by Owner to provide sufficient working capital funds as required hereunder; (v) a Refurbishing Program or Major Project, or (vi) with respect to the RevPAR Test only, if there are fewer than four (4) hotels in the Comparable Hotels pursuant to this Section 1.3 (subsections (i) through (vi) hereinafter referred to as an "**Intervening Event**" or collectively as the "**Intervening Events**"), shall be disregarded for all purposes hereof and shall not be included for consecutive year purposes. For avoidance of doubt, the exception contemplated by the preceding sentence is illustrated by the following example: assume that the Hotel failed the Performance Test in the sixth (6th) full Fiscal Year, a Refurbishing Program was undertaken in the seventh (7th) full Fiscal Year, and the Hotel failed the Performance Test in the eighth (8th) full Fiscal Year; since the seventh (7th) full Fiscal Year is disregarded for all purposes, the Performance Test has been failed for the Performance Period.

(c) Owner shall have sixty (60) days after the later to occur of (i) receipt of the Annual Financial Statements for the second of the consecutive Fiscal Years in which Owner believes there has been a failure of the Performance Test, and (ii) receipt from Operator of both a certificate as to the GOP Test for such Fiscal Years and reports required under Section 1.3(d) below of the Information Source as to the Achieved RevPAR for the Comparable Hotels for such Fiscal Years, in which to give written notice (a "**Performance Termination Notice**") to Operator of Owner's irrevocable intention to terminate this Agreement. If such Performance Termination Notice is not received by Operator within the aforesaid sixty (60) days, Owner's right to terminate this Agreement pursuant to this Section 2.3 shall lapse until such time as Operator fails to satisfy the Performance Test again.

(d) After the same is available following the end of each Fiscal Year, Operator shall furnish Owner a report from the Information Source setting forth the Achieved RevPAR for the Comparable Hotels and the Hotel for the preceding Fiscal Year and, concurrently therewith, a certificate setting forth the GOP Test for the preceding Fiscal Year.

(e) If Owner, having a right to do so, delivers a timely Performance Termination Notice in accordance with the foregoing, Operator shall thereafter have the one time right to "cure" the Performance Test failure and extinguish Owner's right to terminate this Agreement by paying to Owner (on or before the ninetieth (90th) day following receipt of the Performance Termination Notice) in cash an amount equal to the Performance Deficiency for the two (2) Fiscal Years of the Performance Period. Nothing herein contained shall be deemed to obligate Operator to "cure" any Performance Test failure and the failure to "cure" the same shall not be deemed an Event of Default by Operator under this Agreement. If Operator has "cured" such Performance Test failure,

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both of the consecutive Fiscal Years in which the Performance Test has not been met shall, for all purposes, be deemed Fiscal Years in which the Performance Test was met and neither of the two (2) years used in such Performance Test shall be used in any other Performance Period. The payment of Performance Deficiency shall be final and non-refundable, except in the event of an objection by either party to the Annual Financial Statements for the applicable Fiscal Years, in which case the provisions of subsection (g) below, regarding an objection to the Annual Financial Statements, shall apply. In no event shall Operator be entitled to "cure" a Performance Test failure on more than three (3) occasions during the Term, without the written consent of Owner, which may be withheld or conditioned at Owner's exclusive discretion.

(f) If Owner properly and timely exercises its right to terminate in accordance with the provisions of this Section 2.3, and Operator does not "cure" as above provided, then, subject to the provisions of Section 16.13, all of the rights and obligations of the parties hereto shall terminate, without further act or notice of either of the parties, on the Termination Effective Date specified in a written notice from Owner to Operator, which date shall in no event be sooner than ninety (90) days following Owner's delivery of the Performance Termination Notice, nor later than six (6) months thereafter.

On or prior to the Termination Effective Date as herein provided, Owner shall pay to Operator (i) all Basic Fees earned up to and including the date of termination; (ii) an estimate, as reasonably determined by Operator and Owner, of the amount of Incentive Fees accrued for the Fiscal Year in which such termination occurs up to and including the Termination Effective Date;; and (iii) an estimate, as reasonably determined by Operator and Owner of all other amounts due to Operator up to and including the Termination Effective Date.

(g) Subsequent to any termination pursuant to this Section 2.3, but in no event later than ninety (90) days after the end of the Fiscal Year in which the Termination Effective Date shall occur, Operator shall deliver to Owner Annual Financial Statements for such Fiscal Year up to the Termination Effective Date together with the calculation of the amount of Incentive Fee, if any, earned for such Fiscal Year through the Termination Effective Date. The Annual Financial Statements shall be final and binding on the parties unless either party, within twenty (20) days after the delivery thereof, objects by written notice to the other party. Thereafter, the parties shall seek to resolve any differences between them relating to amounts paid, or to be paid, to Operator as of the Termination Effective Date (any unresolved disputes to be resolved as herein provided). Once resolved, there shall be a settlement between the parties of any such amounts in relation to amounts previously paid, or owed, to Operator.

ARTICLE III

APPOINTMENT OF OPERATOR

3.1 Grant of Authority.

(a) Owner hereby appoints Operator as its sole and exclusive agent to supervise, direct, control, manage and operate the Hotel (including all of its facilities and amenities) for the Term, subject to, and in accordance with, the Hotel Standard and the terms of this Agreement. Operator hereby accepts said appointment and agrees that it shall supervise, direct, control, manage and operate the Hotel during the Term, subject to, and in accordance with the Hotel Standard and the terms of this Agreement.

(b) In furtherance of the foregoing grant of authority, Owner agrees that it will not unduly or unreasonably interfere with the exercise by Operator of its managerial rights and authority hereunder, and agrees specifically that it will not seek to direct or control any Hotel Employees, appoint others to solicit or accept Hotel reservations or itself accept Hotel reservations, appoint other parties to conduct any portion of Hotel operations (other than maintenance and repairs required to be performed by Owner), or otherwise seek to exert direct supervision, control or management of Hotel operations, all subject, however, to Owner's rights as expressly set forth in this Agreement.

(c) To enable Operator to respond efficiently to requests it may receive from third parties to provide evidence of its authority to operate the Hotel, without unnecessarily disclosing the terms and provisions of this Agreement, Owner shall, concurrently with the execution and delivery of this Agreement, execute and deliver a certificate of authority ("**Certificate of Authority**"), substantially in the form of the attached **Exhibit C**, confirming Operator's authority to operate the Hotel. Notwithstanding the execution by Owner of the Certificate of Authority, Owner and Operator acknowledge and agree that (i) nothing in the Certificate of Authority shall be deemed to modify this Agreement or to expand or limit the rights or obligations of either party as set forth herein; (ii) the provisions of this Agreement shall prevail over any other contrary provisions of the Certificate of Authority; and (iii) upon the expiration or termination of this Agreement, the Certificate of Authority shall expire and be of no further force or effect, and Operator shall no longer make use of the Certificate of Authority for any purpose whatsoever.

3.2 Standard of Operation. In the performance of its duties and responsibilities hereunder, Operator, subject in all respects to the terms of this Agreement, (a) will use that degree of skill, care and diligence as is customary and usual of operators of first-class hotels in the United States, subject in all cases to the Hotel Standard, (b) will comply with all provisions of this Agreement and all material Legal Requirements, and (c) will at all times manage and operate the Hotel for the account and benefit of Owner in a business-like and efficient manner, and in accordance with all terms of this Agreement, offering an appropriate level of quality of guest amenities and services consistent with the Hotel Standard and consistent with the purpose and intention of maximizing the long-term profitability of the Hotel, subject in all respects to the terms of this Agreement. Owner will at all times permit the Hotel to be operated in accordance

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with the Hotel Standard, free from interference or disturbance from Owner or its agents, subject in all cases to the express provisions of this Agreement. In the event Operator breaches its requirements in this Section 3.2 and fails to cure such breach in accordance with Sections 11.1(b) and 11.2, Owner shall have the right to terminate this Agreement under Section 11.3(a) herein.

3.3 **Nature of Relationship; Limitation of Fiduciary Duty.** The relationship between Owner and Operator shall be that of principal and agent. Nothing in this Agreement shall be deemed or construed to render Owner and Operator as partners, joint venturers, landlord/tenant or any other relationship, and shall not be deemed or construed as creating any interest in real property in favor of Operator. The scope of Operator's authority and duty as Owner's agent with respect to the operation of the Hotel are as set forth in this Agreement, and Owner and Operator both acknowledge and agree that the terms of this Agreement and the duties and responsibilities of each party as set forth herein are intended to satisfy any fiduciary or other common law duties that may exist as a result of the relationship between the parties, including, without limitation, all duties of loyalty, good faith, fair dealing or full disclosure that may be deemed to exist under common law principles of agency or otherwise. Accordingly, to the extent there is any inconsistency between the common law duties and responsibilities of principals and agents and the provisions of this Agreement, the provisions of this Agreement shall prevail, it being the intention of the parties that (a) this Agreement shall be interpreted in accordance with general principles of contract interpretation without regard to the common law principles of agency (except as expressly provided for in this Agreement), (b) any liability between the parties shall be based solely on principles of contract law and the express provisions of this Agreement, and (c) this Section 3.3 constitutes a knowing and intentional waiver by Owner of any duties or responsibilities (including common law fiduciary duties) owed by an agent to its principal, and a waiver by Operator of any obligations of a principal to its agent, to the extent the same are inconsistent with, or would have the effect of modifying, limiting or restricting, the express provisions of this Agreement.

3.4 **Scope of Authority.** Owner's grant of authority to Operator in Section 3.1 is intended to afford to Operator the sole and exclusive right and full authority to direct, manage and control all aspects of the promotion, marketing, management and operation of the Hotel (and its constituent facilities and amenities) in a manner consistent with the Hotel Standard, as Operator in its reasonable discretion deems advisable, subject only to the express provisions and limitations set forth in this Agreement (including Section 3.5 below). Without limiting the generality of the foregoing, Operator shall have the power and authority, on behalf of Owner, to:

(a) establish rates for hotel usage including room rates for individuals and groups, charges for room service, food and beverage and for use of recreational, entertainment or other guest facilities or amenities at the Hotel; it being understood and agreed that the Hotel's general manager shall have the right, in his/her discretion, to grant discounted or complimentary rooms, food, beverage or other hotel services when he/she reasonably deems the same to be in the best business interests of the Hotel, consistent with Operator's standard policies and procedures in effect from time to time, and generally in accordance with industry standards regarding the same;

(b) establish labor policies and terms of employment (including wage rates and fringe benefits and other items comprising Employee Costs) and arrange for and

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oversee the hiring, promotion, discharge, supervision and training of all Hotel Employees;

(c) negotiate, enter into and enforce the rights of Owner under, leases, licenses or concession agreements with respect to the Hotel, and provide for the benefit of all tenants, licensees or concessionaires those Hotel services required to be provided by Owner as landlord thereunder;

(d) negotiate, enter into and enforce the rights of Owner under, such other reasonable contracts (including, without limitation, maintenance and service contracts, utility agreements, collective bargaining agreements and other labor or employment contracts) as may be reasonably necessary or advisable in connection with the operation of the Hotel;

(e) establish and maintain a system of accounting and record keeping, in accordance with Section 4.8;

(f) develop and implement an appropriate records management and retention system, and retention policies, providing for the maintenance, storage and destruction of Hotel records;

(g) use reasonable efforts to maintain the Hotel in good condition and repair throughout the Term including all portions of the Building, Building Systems, FFE and Operating Equipment, all in accordance with maintenance programs established by Operator from time to time;

(h) pay all bills and invoices for the Hotel's operations other than Debt Service and real estate and personal property taxes (which shall be Owner's sole responsibility to timely pay); provided, however, that both Operator and Owner shall have the right, but not the obligation, upon prior notice to the other, to contest any real estate taxes or other impositions relating to the Hotel by appropriate proceedings conducted in good faith and with due diligence, the cost of which shall be an Owner expense;

(i) adopt and implement appropriate credit policies and procedures, including, without limitation, policies regarding the acceptance of credit cards, but Operator shall in no event be deemed a guarantor of the credit of any guest, group, patron, travel agent or credit card company;

(j) collect (to the extent reasonably collectible), account for and remit promptly to proper governmental authorities all applicable excise, sales and use taxes or similar governmental charges collected by the Hotel directly from patrons or guests such as gross receipts, admission, cabaret, use or occupancy taxes, or similar or equivalent taxes (except that portion thereof, if any, which is required to be collected, or whose collection has been assumed, by a third party electronic distribution intermediary such as, for example, Expedia.com);

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(k) procure all necessary inventories of food, beverages and other consumables, and Operating Equipment for the Hotel;

(l) plan, prepare and supervise all aspects of promotion and publicity relating to the Hotel (alone and as part of the Operator Hotel Group), including such marketing, advertising, sales, public relations and promotional programs or campaigns for the benefit of the Hotel as Operator reasonably determines to be necessary or appropriate, and including (to the extent Operator deems advisable) participation in airline frequent traveler programs;

(m) from time to time as deemed necessary by Operator, consult with legal counsel regarding matters pertaining to the operation of the Hotel;

(n) institute, prosecute, defend, or settle (in Operator's name or in the name of the Hotel or Owner, as appropriate), legal actions and proceedings relating to the operation (as distinct from the ownership) of the Hotel, including actions or proceedings required to collect charges, rent or other income for the Hotel, to dispossess guests, tenants or other persons in possession therefrom, or to cancel or terminate any lease, license or concession agreement, and Owner shall cooperate with Operator in connection therewith, it being acknowledged and agreed that (i) Operator shall promptly notify Owner of legal disputes for which a summons, complaint, or other correspondence from an attorney has been received, and shall promptly forward notice of any such claims to the appropriate insurer, (ii) Owner shall be notified promptly and have the right to participate in any proceedings, and (iii) notwithstanding anything to the contrary contained in this Agreement, Operator shall have the right to appoint counsel, defend, and control any and all legal actions or proceedings which involve more than one hotel in the Operator Hotel Group, or which relate to policies, procedures or business practices of Operator or its Affiliates (it being further acknowledged and agreed that costs relating to actions or proceedings against Operator relating to the Hotel together with one or more other hotels in the Operator Hotel Group, shall be allocated on a fair and reasonable basis among the Hotel and such other hotels to which such proceedings may relate);

(o) take such actions as Operator shall reasonably determine to be necessary to comply with applicable Legal Requirements (to the extent within Operator's reasonable control to do so); and

(p) take such other actions as Operator reasonably determines to be appropriate to operate the Hotel to the Hotel Standard.

3.5 **Limitations on Operator's Authority.** Notwithstanding any contrary provision of this Agreement, Operator shall not have the authority to take any of the following actions without the prior consent of Owner not to be unreasonably withheld, conditioned or delayed (such consent shall be deemed to have been given if the matter in question is specifically contemplated in an approved Annual Plan):

(a) enter into any lease, contract or other arrangement (or series of related contracts or arrangements) if (A) the expenditures thereunder would, or are reasonably

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anticipated to, exceed Fifty Thousand and 00/100 US Dollars (US\$50,000.00) (subject to CPI adjustment) in the aggregate; (B) if the non-cancelable term of such lease, contract or other arrangement is in excess of one (1) year; (C) the expenditures are in excess of amounts previously allocated and approved in the Operating Budget or Capital Budget; (D) such contract(s) are covered by Owner's Policy (as the same may be amended from time to time) for Awarding Concession and Consumer Service Privileges in the Terminal Complex of the Airport; (E) any permanent change in use of a significant amount of the Hotel would be effected; or (F) such lease or concession relates to restaurant or food service operators or ground transportation; and, provided, that Owner's consent shall not be required with respect to (i) collective bargaining agreements; (ii) individual employment or compensation arrangements, so long as the same (other than fringe benefit programs) do not involve a non-cancelable term in excess of one (1) year; (iii) contracts in respect of Centralized Services or other mandatory contracts; (iv) expenditures incident to the booking of rooms, food and beverage and other Hotel business entered into in the ordinary course of business and performing Hotel obligations under any such booking arrangements; or (v) contracts or expenditures reasonably required in order to protect life, health, safety or property in cases of emergency or casualty;

(b) settle (i) any property insurance claims that involve, or that are reasonably estimated to involve, a Total Casualty, and (ii) any condemnation awards regardless of amount;

(c) institute, defend or settle any legal or equitable proceeding with respect to the Hotel, including the selection of counsel, where such proceeding relates specifically to the Site, Hotel Premises, Building, or Building Systems, as opposed to the operation of the Hotel (such as, for example, but without limitation, claims under Title III of the Americans With Disabilities Act, environmental claims not arising from Hotel operations, and Building compliance with zoning and building laws), it being acknowledged and agreed that any such legal or equitable proceeding shall be conducted by Owner, with counsel of its choice, and shall be an Owner expense and not an expense of the Hotel;

(d) enter into any transaction with an Affiliate of Operator wherein any portion of the cost thereof will be paid or reimbursed by the Hotel, except as permitted under Sections 3.4, 3.5, 3.8, 4.5 or Section 4.6 and then, only if such transaction is applied to the Hotel and allocated on the same basis as all other participating Brand Hotel; provided, however, that Owner acknowledges that, (i) in light of the varied nature and scope of investments by or on behalf of the Pritzker Family, there may be situations where a company in which the Pritzker Family holds an interest does business, directly or indirectly, with Operator or the Hotel without the knowledge of such interest by Operator's management, and (ii) any such transactions entered into in the ordinary course of business will not be deemed a violation of the provisions of this Section;

(e) acquire on behalf of Owner any land or interest therein;

(f) finance, refinance, mortgage, place any liens upon or otherwise encumber the Hotel or any portion thereof or interest therein; or

(g) sell, transfer or otherwise dispose of all or any portion of the Hotel except for dispositions of food, beverages and merchandise, and dispositions of FFE, to the extent the same are in the ordinary course of Hotel business.

3.6 Limitations on Operator's Duties.

(a) In no event shall Operator be deemed in breach of its duties under this Agreement, or otherwise at law or in equity, solely by reason of (i) the failure of the financial performance of the Hotel to meet Owner expectations or income projections or other matters included in the Annual Plan, (ii) the institution of litigation or the entry of judgments against Owner or the Hotel with respect to the Hotel operations, or (iii) any other acts or omissions not otherwise constituting a breach of this Agreement, it being the intention and agreement of the parties that Operator's sole obligation hereunder shall be to act in conformity with the standard of skill, care and diligence referred to in Section 3.2, in conformity with the Hotel Standard, and otherwise in conformity with the express terms of this Agreement.

(b) Owner and Operator agree that in each instance in this Agreement where Operator is required or entitled to review or approve plans, specifications, budgets and/or financings, no such review or approval shall imply or be deemed to constitute an opinion by Operator, nor impose upon Operator any responsibility for the design or construction of Building elements including, but not limited to, structural integrity, life/safety requirements, adequacy of budgets and/or financing or the compliance with environmental laws, it being acknowledged that any such reviews and approvals by Operator are for the sole and exclusive benefit of Operator (and may be waived by Operator if it so chooses) and may not be relied upon by any other Person.

(c) Notwithstanding any contrary provision of this Agreement, Operator shall be excused from its obligations to operate the Hotel in conformity with the Hotel Standard and from its other obligations under this Agreement, to the extent and whenever Operator's compliance with such obligations is prevented or restricted by (i) the occurrence of a Force Majeure Cause, (ii) any limitation or restriction in this Agreement on Operator's authority or ability to expend funds, (iii) an insufficiency of funds available to Operator in the Operating Accounts or Capital Fund, or (iv) any breach by Owner of its obligations under this Agreement.

3.7 Other Properties of Operator and its Affiliates. Owner acknowledges that Operator and its Affiliates own, operate and license (and will continue to own, operate and license) other hotels, including other Brand Hotels, some of which may compete with the Hotel. Owner further acknowledges that: (a) it has selected Operator to operate the Hotel in substantial part because of Operator's and its Affiliates' operation of a chain of first-class hotels, resorts and other lodging facilities, and the benefits that derive from including the Hotel as part of the Brand Hotels, specifically, and the Operator Hotel Group, generally; (b) it has determined, on an overall basis, that the benefits of operation as part of the Operator Hotel Group are substantial

notwithstanding that not all hotels within the Operator Hotel Group will benefit equally by inclusion therein; and (c) in certain respects all hotels compete with all other hotels and conflicts may, from time to time, arise between the Hotel and other hotels (including other Brand Hotels) within the Operator Hotel Group. Operator agrees that it shall use commercially reasonable efforts to minimize conflicts among the hotels within the Operator Hotel Group, and will in all events proceed, both in its ownership, operation and licensing of the Hotel and in the ownership, operation and licensing of other hotels within the Operator Hotel Group, in a good faith manner reasonably intended to serve the overall best interests, on a long term basis, of all hotels (including the Hotel) within the Operator Hotel Group.

3.8 **Use of Affiliates.** In fulfilling its obligations under this Agreement, Operator may from time to time use the services of one or more of its Affiliates. If an Affiliate of Operator performs services that Operator is required to provide under this Agreement, Operator shall be ultimately responsible to Owner for the Affiliate's performance, and Owner shall not pay more for the Affiliate's services and expenses than Operator would have been entitled to receive under this Agreement had Operator performed the said services.

3.9 **Irrevocability of Contract.** Owner and Operator each acknowledge (a) that they are entering into this Agreement in reliance on the long term nature of this Agreement, and (b) that the rights, duties, powers and authority of each of the parties hereto, are intended to be non-terminable throughout the Term, except in accordance with the express provisions of this Agreement or, where appropriate, as a remedy for the occurrence of an Event of Default. It is agreed that neither party will achieve the benefits intended to be achieved if either party has any continuing right or power to terminate for convenience, this Agreement, or the agency hereby created, except in accordance with the express provisions of this Agreement. Accordingly, both Owner and Operator, as a substantial inducement to the other to enter into this Agreement, as an inducement to Operator to invest the skill, time, expertise and customer relationships necessary to achieve the long term benefits herein contemplated, and as an inducement to Owner to ensure the full and unrestrained best efforts of Operator in the management and operation of the Hotel in accordance with the provisions of this Agreement, hereby irrevocably waive and relinquish any right, power or authority existing at law or in equity, to terminate this Agreement or Operator's authority hereunder (including, without limitation, any right, power or authority to exercise a common law right to terminate an agency relationship as referred to in Robert E. Woolley v. Embassy Suites, Inc., 227 Cal. App. 3d 1520 (1990), Pacific Landmark Hotel, Ltd. v. Marriott Hotels, Inc. et al., 19 Cal. App. 4th 615 (1993)), except in accordance with the express provisions of this Agreement. The parties further hereby acknowledge that any breach of the provisions of this Section 2.9, by either party will cause irreparable and permanent damage to the other party, not fully or substantially compensable by money damages and, therefore, that the continuation of the Term may be enforced by specific performance or other appropriate equitable remedies.

3.10 **Key Money.** In further consideration for the execution and delivery of this Agreement by Owner, Operator agrees to contribute toward Hotel capital improvements, as agreed to by Owner, **Two Million** and 00/100 US Dollars (**US\$2,000,000**) in the form of key money ("**Key Money**") to be applied by Operator toward the next due capital expenditures for the Hotel, but which shall not constitute part of Owner's Invested Capital.

ARTICLE IV

OPERATION OF HOTEL

4.1 Annual Plan.

(a) **Preparation and Submission.** No later than May 1 of each Fiscal Year during the Term, beginning May 1, 2015 for the Fiscal Year beginning October 1, 2015, Operator will prepare and submit to Owner for the following Fiscal Year, and with respect to (iii) below the two Fiscal Years after the following Fiscal Year (i) a forecasted budget of the Hotel's operations, including forecasts of revenues and Operating Expenses and the assumptions underlying the same; (ii) a proposed marketing plan; and (iii) a proposed budget of Capital Expenditures (for this purpose, inclusive of additions to and replacements of FFE). The materials described in clauses (i) and (ii) above are herein collectively referred to as the "**Operating Budget**," the budget referred to in clause (iii) above, as such relates solely to the following Fiscal Year, is herein referred to as the "**Capital Budget**," and the Operating Budget and Capital Budget are collectively referred to as the "**Annual Plan**." The Annual Plan shall be prepared in accordance with Operator's standard internal planning and budgeting procedures on Operator's standard formats.

(b) **Operating Budget.**

(1) All items of expenditure contained in the Operating Budget shall be subject to the reasonable approval of Owner, with the exception of the following: (i) **costs** associated with contracts or arrangements Operator has made on a chain-wide, regional or business-segment basis in accordance with Operator's authority under the terms of this Agreement including, without limitation, mandatory contracts; (ii) individual compensation levels for Hotel employees or for Operator chain-wide or regional fringe benefit programs; or (iii) other expenditures permitted to be made under the express provisions of this Agreement including, without limitation, expenditures for Management Fees and Centralized Services (except to the extent Owner has opted out of non-mandatory Centralized Services). Owner shall not withhold its approval for any expenditures which are reasonably necessary, in nature or amount, to enable the Hotel to continue operating in accordance with the Hotel Standard.

(2) Subject to the foregoing, Operator shall take into consideration the views and suggestions of Owner regarding all aspects of the Operating Budget and both Owner and Operator shall attempt, in good faith, to reach a mutually satisfactory agreement, and thereupon to incorporate any such agreements into the Operating Budget. In this connection, Owner shall have the right to suggest changes in operating policies and in the proposed Operating Budget which it considers reasonably necessary to achieve the objectives of near-term and long-term maximization of Hotel profits, subject in all respects to the Hotel Standard. Operator shall consider all such comments and suggestions by Owner in a professional manner and on a commercially reasonable basis, and, to the extent

that Owner's opinions and recommendations are reasonable and are in accordance with the then current market conditions in this greater Orlando area and with the Hotel Standard, shall make appropriate adjustments to the Operating Budget to reflect such opinions and recommendations, and to the extent Operator disagrees with Owner's suggestions and comments, Operator shall provide written explanations for its disagreements. Promptly following the foregoing discussions and explanations, Operator shall submit a revised Operating Budget for further comment and discussion in the manner set forth above. Thereafter, the parties shall continue to discuss the Operating Budget until such time as both Operator and Owner shall have reached agreement on all items, comprising the Operating Budget for which Owner has approval rights hereunder.

(3) If the parties cannot agree on an Operating Budget within ninety (90) days after the commencement of the Fiscal Year to which such Operating Budget is intended to relate, each of Owner and Operator shall thereafter have the right to submit the issue of the disputed items in the Operating Budget to determination as provided in Section 14.3(h). The determination pursuant to Section 14.3(h) as to the disputed items of the Operating Budget shall be final and binding on both Owner and Operator.

(4) Until such time as the parties have agreed on, or the arbitrator acting pursuant to Section 14.3(h) has resolved, all line items of the proposed Operating Budget for which Owner has approval rights hereunder, Operator shall have the right to operate the Hotel in accordance with an Operating Budget comprised of those line items that do not require Owner approval hereunder, those line items that have theretofore been agreed upon by Owner and Operator and, only with respect to those line items not yet approved by Owner (and for which Owner has approval rights hereunder), the amounts actually expended for such items during the preceding Fiscal Year, with an allowance of a three percent (3%) increase in the amount of such items pending such resolution. Once the Operating Budget has been approved by Owner and Operator or resolved by determination pursuant to Section 14.3(h) hereunder, Operator agrees that it shall use commercially reasonable efforts to operate the Hotel in a manner consistent with the Operating Budget, both as it relates to estimates of dollar amounts of expenditures and the operating assumptions underlying the same.

(5) If at any time during the year Operator anticipates that revenues shall be materially less or expenditures shall be materially more than those forecasted in the Operating Budget, Operator shall provide to Owner its opinion regarding the reason for such deviation in writing, and upon Owner's request shall meet in person with Owner and its designees to confer on the subject. Operator shall further submit, on a monthly basis, updated cash flow forecasts during the Fiscal Year for the remainder of the then current Fiscal Year; provided, however, in no event shall the need for any such re-forecasting of the Annual Plan, or any portion of it, be deemed standing alone to be a default by Operator hereunder. In addition to the foregoing, Operator and Owner shall confer on ways and means of addressing revenue shortfalls, or reducing expenditures, in response to reduced

levels of business, and on other appropriate business or marketing measures. Operator shall consider in good faith any suggestions made by Owner and shall implement the same if, in the judgment of Operator, such suggestions are responsive to business conditions and reasonably likely to have a favorable effect on business performance, can be implemented without adversely affecting contractual arrangements or business relationships, and are consistent with the Hotel Standard.

(c) **Capital Budget.**

(1) Subject to Subsection (c)(3) below, all items of expenditure contained in the Capital Budget shall be subject to Owner's approval (provided, however, Owner agrees that it shall approve all Capital Budgets or relevant portions thereof that are reasonably necessary in order to enable the Hotel to meet the Hotel Standard). If Owner does not approve a proposed Capital Budget, or any line items or specific Capital Expenditure projects within a proposed Capital Budget, within sixty (60) days after delivery of the same to Owner, then such Capital Budget, or such line item(s) or Capital Expenditure projects not specifically approved by Owner, as the case may be, shall be deemed disapproved. In such event, Owner and Operator shall meet and confer in good faith in an effort to reconcile differences and reach consensus during the thirty (30) day period thereafter.

(2) If, by the end of the ninety (90) day period following Operator's submission of the Capital Budget to Owner, Owner has yet to approve a Capital Budget or a specific Capital Expenditure project, or any portion thereof, Operator shall notify Owner in writing of any Capital Expenditure(s) Operator deems necessary for the Hotel to meet the Hotel Standard (collectively, the "**Disputed Capital Expenditures**"). If Owner does not agree to include the Disputed Capital Expenditures in the approved Capital Budget, or as an approved Capital Expenditure project, within thirty (30) days after delivery of Operator's notice, Operator shall have the right to submit the issue of whether the Disputed Capital Expenditures are necessary to enable the Hotel to meet the Hotel Standard to determination by the arbitrator as provided in Section 14.3(h) hereof. The arbitrator shall be required to consider the Hotel Standard in making its decision. The arbitrator's decision shall be final and binding on both Owner and Operator.

(3) Operator may not incur Capital Expenditures that are in excess of those required or permitted under the approved Capital Budget except for the following: (i) expenditures, including Capital Expenditures, which Operator reasonably deems necessary to minimize personal injury and property damage in cases of casualty or other emergency, or which Operator deems reasonably necessary in order to comply with applicable Legal Requirements, or (ii) expenditures from funds on deposit in the Capital Fund which are reasonably necessary to enable the Hotel to meet the Hotel Standard.

(4) Each Capital Budget shall be applicable only for the Fiscal Year to which it relates. Authorization for Capital Expenditures that have not been made by the end of the Fiscal Year for which approval is given shall lapse at the end of such year; provided, however, any Capital Expenditure that has been authorized and committed to prior to the end of any Fiscal Year may be paid in a subsequent Fiscal Year when payment thereof becomes due or may otherwise be agreed by Owner and Operator. A Capital Expenditure shall be deemed to have been committed to in a particular Fiscal Year if purchase orders have been placed, or goods have been received, but not yet invoiced, or, if invoiced, have not been paid, prior to the end of such Fiscal Year.

(5) Once a Capital Budget is approved, Operator shall have authority to make Capital Expenditures to the extent contemplated by the Capital Budget, and Owner shall be obligated to provide sufficient funds (inclusive of funds in the Capital Fund) to make all Capital Expenditures contemplated by the approved Capital Budget.

(d) **Operation in Accordance with Annual Plan.**

(1) Operator agrees that it shall use commercially reasonable efforts to operate the Hotel in a manner consistent with the Annual Plan; however, Owner and Operator both acknowledge that the forecasts of revenues and estimated expenses contained in any Annual Plan represent Operator's good faith estimate of the same for the relevant Fiscal Year and are not in any way a guarantee of actual results. Actual revenues and expenses can vary from forecasts and estimates for reasons beyond the reasonable control of Operator including, without limitation, the following: (i) the volume of business and the levels of hotel occupancy; (ii) the mix of business (that is, the relationship of food and beverage revenues to other hotel related revenues and the relationship of group business to individual travel business); (iii) prevailing wage rates and the effects of collective bargaining agreements; (iv) inflation; (v) utility rates, insurance premiums and tax increases; (vi) unanticipated and extraordinary repair and maintenance expenses; (vii) the need to meet competitive market conditions; (viii) major market downturns; and (ix) other similar causes.

(2) Operator may not incur Operating Expenses in excess of the approved Operating Budget except with the written approval of Owner, unless either: (i) such excess does not exceed the greater of ten percent (10%) of the budgeted amount per line item or \$50,000 and is taken from one or more other line items so that total approved Operating Expenses are not exceeded, (ii) such excess can be demonstrated to lead directly to an equal or greater amount of incremental revenue, provided that such incremental revenue can occur in a Fiscal Year other than the Fiscal Year of the applicable Operating Budget; (iii) such excess results from increases in third party charges beyond what Operator can reasonably estimate or anticipate or which are outside of Operator's control (e.g. utilities), or (iv) such excess results from unanticipated or extraordinary repair and maintenance expenses and Operator notifies Owner of such expenses prior to

incurring them and uses commercially reasonable efforts to minimize such expenses to the greatest extent possible.

(3) Operating Expenses shall not include any costs or payments to or for the benefit of Operator or an Affiliate of Operator that are Operator's costs of doing business, including but not limited to: (i) compensation and benefits payable to national, regional or any other "off-site" employees of Operator or an Affiliate of Operator to supervise or assist with Operator's performance under this Agreement, (ii) Operator's internal central administration functions, or (iii) fees, reimbursements or any other type of compensation payable to consultants, specialists or other third parties for services reasonably within Operator's services and duties as set forth in this Agreement (all of which shall be borne exclusively by Operator); provided that Operating Expenses may include (i)-(iii) above to the extent such expenses are included in Operator's Centralized Services Expenses.

~~(4) Costs and expenses relating to the operation of the Hotel and resulting from Operator's Grossly Negligent Acts or Willful Misconduct, a violation by Operator of Legal Requirements or a breach by Operator of the Agreement, even if funded by Owner, shall be excluded from "Operating Expenses" and shall be and remain the exclusive cost and expense of Operator.~~

4.2 **Legal Requirements.** Following the Effective Date, Operator shall maintain in Owner's name or in Operator's name, as determined and agreed by Owner and Operator, or both, as may be required by Legal Requirements, all licenses or permits required for the ongoing operation of the Hotel and its related facilities, and Operator shall operate the Hotel in compliance with all material Legal Requirements including the rules, regulations or orders of any agency or instrumentality establishing life safety or fire safety standards applicable to the Hotel. Owner and Operator shall cooperate with each other in all reasonable respects as may be necessary or advisable to permit the Hotel to be operated in compliance with Legal Requirements, including, without limitation, preparation and execution of required applications for operational licenses and permits, execution of necessary consents, providing necessary information regarding Owner, Operator or the Hotel, as applicable, and submitting to requirements of local police and governmental officials regarding specialized licenses such as liquor licenses.

4.3 **Maintenance, Repairs, Alterations and Reserves.**

(a) Subject to the provisions of Section 4.1 relating to the Annual Plan, Operator shall from time to time conduct such ordinary course repair and maintenance work and replacements of FFE within the shell of the Hotel Premises, as may be required to maintain the Hotel in accordance with the Hotel Standard. Particular maintenance and repair responsibilities to be conducted by Operator (as part of the Operating Expenses of the Hotel) and Owner (directly, and not as part of the Operating Expenses of the Hotel) are set forth on attached Exhibit E.

(b) Neither Owner nor Operator shall, without the prior written consent of the other party, (x) modify or alter the Hotel if such modifications or alterations have the

effect of (i) compromising the Hotel Standard, (ii) changing the Hotel room count, or (iii) reducing or eliminating restaurants, banquet or meeting space, health or exercise facilities, or other Hotel facilities, or (y) undertake any Refurbishing Program at the Hotel. Each of Owner and Operator shall have the right to condition its approval of any of the foregoing on its review and approval of plans and specifications and project schedules for the foregoing. Once any of the foregoing projects are mutually approved by Owner and Operator, Owner shall be responsible for arranging for the performance of such alterations and improvements, in conformity with the approved plans and specifications and in accordance with a schedule and in a manner approved by Operator, so as to minimize, to the extent feasible, the interference of such work with the operation of the Hotel. Notwithstanding the foregoing, to the extent Owner determines that it is required to undertake renovations or modifications at the Hotel as set forth in (x) and (y) above solely as a result of Legal Requirements, and Owner and Operator are unable to agree to the scope of the renovations or modifications, Operator shall have the right to terminate this Agreement upon at least one hundred eighty (180) days advance written notice given within sixty (60) days after such change is complete, and Operator shall be entitled to receipt of a termination fee by Owner in an amount equal to a prorated portion of the Key Money allocated over a twenty (20) year period.

(c) During the Term, in the event the Hotel undergoes any Refurbishing Program, expansion or similar major renovation ("**Major Project**"), Owner shall enter into a separate agreement with Operator or its Affiliates pursuant to which (1) Operator or its Affiliates shall be retained to provide technical consultative services for the planning, design and construction associated with the Major Project, subject to reimbursement of all reasonably incurred out of pocket expenses, but otherwise, for no additional fee, (2) such Major Project shall be required to meet the then applicable Hotel Standard (as specifically set forth in such separate agreement), and (3) subject to Legal Requirements, Owner shall be required to retain and hire the project consultants, including, without limitation, the design consultants (interior designers, design architects, and landscape architects) recommended by Operator and its Affiliates and approved by mutual agreement of the parties. To minimize disruption to the Hotel and its operations, any Major Project to be undertaken shall require the approval of Operator in terms of timing, scope, planning, and any other matters affecting Hotel operations. Any and all costs associated with the Major Project (including any fees payable to Operator and its Affiliates) shall be paid for by Owner, at its expense, and not be a charge against Hotel operations.

(d) Owner shall establish and maintain an account (the "**Capital Fund**") to cover the cost of (i) additions to and replacements of FFE; (ii) payments under Capital Leases for FFE replacements or additions after the Effective Date pursuant to Capital Leases approved by Operator and Owner; (iii) routine maintenance, routine repairs and minor alterations that are reasonably necessary in Operator's opinion and are normally classified as "capital expenditures" under the Uniform System or generally accepted accounting principles; and (iv) other Capital Expenditures approved by Operator and Owner to be covered by the Capital Fund, either pursuant to a Capital Budget or otherwise, and for no other purpose. As of October 1, 2015, Owner shall deposit into the Capital Fund the balance of the "FF&E Fund," as described in the Prior Management

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Agreement and Operator shall deposit into the Capital Fund the Key Money. Such balance of the FF&E Fund and the Key Money (the "**Initial Capital Fund Deposit**") will be utilized in accordance with the provisions of this Section 4.3(d) and will not constitute part of Owner's Invested Capital.

(e) For each calendar month during the Term, the Owner shall deposit into the Capital Fund, an amount equal to one-twelfth (1/12) (or such greater fraction if the period is less than twelve (12) months, as may be appropriate) of the greater of (i) the amount provided in the Capital Budget for the Fiscal Year to which such Capital Budget relates, minus the amount of money on deposit in the Capital Fund at the beginning of such period and not already committed to Capital Expenditures incurred in a prior period and (ii) the amount described in section 4.3(f) below; provided, however, in no event shall Owner be obligated to deposit in any Fiscal Year an amount in excess of the amount required for such Fiscal Year in accordance with the provisions of this Section 4.3. Owner represents and warrants to Operator that prior to the date hereof Owner has obtained all necessary consents or approvals as are necessary to enable Owner to satisfy its obligations under this Section 4.3.

(f) In accordance with Section 4.3(e) above and subject to the cap in Section 4.3(g) below, an amount equal to five percent (5%) of Gross Receipts (as estimated by Operator and included in the Capital Budget) shall be required to be deposited to the Capital Fund during each Fiscal Year of the Term. Interest earned during any period from the amounts in such Capital Fund shall be excluded from the Gross Receipts for such period and in computing Gross Operating Profit for such period. Such interest shall be deposited into the Owner's Revenue Fund. All proceeds from the sale of FFE determined (after recommendation by Operator) in accordance with the Owner's policies to be no longer necessary, useful or profitable in the operation of the Airport shall be deposited into the Capital Fund.

(g) Items of Furnishings and Equipment replaced or added as provided above shall be and become, forthwith upon acquisition and installation and without further act or action, the property of Owner and part of the Hotel, free and clear of all liens and encumbrances and with full warranty of title from the vendor thereof. Any amounts remaining in the Capital Fund at the termination or expiration of the Term shall be the sole property of Owner. In the event that at any time during the Term the balance in the Capital Fund, less the amounts projected to be expended for Furnishings and Equipment during such Fiscal Year as provided in the approved Capital Budget (or if the Capital Budget has not been approved by Owner, the amount which Operator is permitted to expend from the Capital Fund without Owner's approval as provided in Section 4.3(b) hereof), is equal to or greater than seven and one-half of one percent (7.5%) of the Gross Receipts for the prior Fiscal Year, then deposits into the Capital Fund may be suspended at Owner's direction until the balance in the Capital Fund less amounts projected to be expended for Furnishings and Equipment during such Fiscal Year is less than seven and one-half of one percent (7.5%) of the Gross Receipts for the prior Fiscal Year. It is agreed, however, that Owner may continue to make deposits into the Capital Fund if the Owner determines that such deposits may be appropriate in view of a reasonably

foreseeable (based on the schedule required by Subsection (e) above) program of expenditures on Furnishings and Equipment.

(h) Anything in this Agreement to the contrary notwithstanding, except for the last sentence of the Section 4.3(g), Owner shall be obligated to make sufficient funds available to Operator so that the Hotel can be maintained at all times during the Term in accordance with the Hotel Standard; provided, however,– in no event shall Owner be obligated to make Capital Expenditures or expend monies for replacement of, or additions to FFE during any Fiscal Year (whether pursuant to a Capital Budget or otherwise) in an amount which exceeds the sum of (i) \$7,500,000 (subject to increase based on increases in CPI from October 1, 2015 to the month preceding the month which includes the date of determination), and (ii) the balance in the Capital Fund which is not encumbered by previously incurred obligations and which is available for such purpose (assuming the nature of expenditure is for replacements of or additions to Furnishings and Equipment). The provisions of this subsection 4.3 shall not apply to any improvement to the Hotel required as a result of fire or other casualty or a Condemnation (as noted in Article VIII below).

4.4 **Hotel Employees.**

(a) Operator shall have the sole and exclusive right and authority to direct Hotel Employees, and to select, hire, supervise, promote, demote, transfer in or transfer out, discipline, suspend or terminate Hotel Employees. All Hotel Employees shall be employed by Operator or (at Operator's election) an Affiliate of Operator, as agent for Owner; however, all Employee Costs shall be the sole responsibility of Owner and may be paid by Operator from the Operating Accounts. If the Operating Accounts are insufficient to pay any Employee Costs as and when they are payable, Owner shall be obligated to fund such deficiency in accordance with the procedures set forth in Section 4.7. To the extent not otherwise prohibited by Legal Requirements, upon request of Owner from time to time, Operator shall make available, for inspection by Owner, copies of all employee policies and procedures, including copies of employee manuals and handbooks in effect at the Hotel. With respect to members of the executive staff and other Hotel supervisory and managerial employees, salary levels shall be established by Operator on a basis consistent with policies and procedures generally utilized by Operator in setting executive, supervisory and managerial salaries at other Hotels; provided, however, it is understood and agreed that with respect to any fringe benefit programs initiated by Operator Group for any class of employee at the Hotel and also applicable to the same class of employees at other Operator Group Hotels either on a chain-wide or regional basis, such programs may be implemented by the Operator Group at the Hotel on a basis consistent with the implementation thereof at such other Operator Group Hotels.

(b) In the event and whenever Operator shall be subject to any tax, irrespective of its designation (including a fee, charge or other imposition for the issuance of a license, permit or the privilege to conduct a business or occupation), imposed, levied or assessed by the United States, the State of Florida, Orange County, the City, any subdivision or agency of the foregoing or any other government body, which tax is

measured, in whole or in part, by reference to reimbursements to Operator for compensation, employment taxes or any fringe benefits paid or payable to or in respect of employees of the Hotel, then, and in any such event, such taxes (excluding income, franchise, corporate or similar taxes imposed directly on Operator) shall be operating expenses of the Hotel and paid out of the Hotel's Operating Accounts. At Owner's request and with Owner's choice of counsel, Operator will resist, by appropriate proceedings, any liability for any tax which would be included in the operating expenses of the Hotel in accordance with the provisions of this paragraph, in which case all costs and expenses (including, without limitation, attorneys' fees) incurred by Operator in resisting or defending itself against such liability shall be paid for out of the Hotel Operating Accounts and shall be charged against Gross Operating Profit, unless such contest was not recommended or approved by Operator, in which case such costs shall be charged against Gross Operating Profit only to the extent of any savings realized in such proceedings.

(c) Operator shall consult with Owner in advance of the hiring of the Hotel general manager, Hotel director of sales and Hotel director of finance and Operator's selection of such persons shall be subject to Owner's reasonable approval; provided that (a) Owner shall be deemed to have approved any candidate for such positions selected by Operator if Owner has not notified Operator in writing of Owner's disapproval of such candidate within ten (10) days following Operator's request for such approval (which shall be accompanied by a written summary of such candidate's professional experience and qualifications) and (b) Owner may not reject more than three (3) candidates for any such position. In the event that Owner rejects three (3) such qualified candidates proposed by Operator for any position, Operator may hire any such persons in its sole discretion, including, without limitation, those candidates that Owner has previously rejected.

(d) Operator shall not hire employees for any new positions created, and shall not increase any existing Employee Costs, within sixty (60) days prior to the expiration or noticed termination of this Agreement.

(e) In the event that any Hotel Employees are relocated from the Hotel and to another property managed, leased, or owned by Operator or its Affiliates, Operator shall assume and pay any and all such relocation costs associated with such relocation, which costs shall not constitute an "Operating Expense;" -provided that Owner acknowledges that the costs of relocating an employee to the Hotel will be an Operating Expense.

4.5 **Centralized Services.**

(a) Throughout the Term, Operator shall make available to and for the benefit of the Hotel the full range of Centralized Services made generally available by Operator to other Brand Hotels from time to time (as such Centralized Services are added, deleted or altered by Operator from time to time). The Hotel's participation in all such Centralized Services shall be mandatory (to the extent applied to all similarly situated Brand Hotels) except with respect to those Centralized Services (if any) that Operator, from time to time at its election, designates as "non-mandatory."

(b) The Hotel shall be charged for its equitably allocable share of the Centralized Services Costs attributable to the Centralized Services in which the Hotel participates (or is obligated to participate); the amounts so charged (the "**Centralized Services Charges**") shall be determined on the same basis as such amounts are determined for substantially all other Brand Hotels that participate in such Centralized Services without mark-up, except as may be required by law. The method of allocation of the Centralized Services Costs among participating Brand Hotels may change from time to time at the reasonable discretion of Operator, provided that such method of allocation shall at all times be determined on a reasonable, equitable and non-discriminatory basis.

(c) A current list of all Centralized Services (including their designation as "mandatory" and "non-mandatory") and of the applicable Centralized Services Charges payable by the Hotel with respect to such Centralized Services, shall be provided to Owner prior to each Fiscal Year as part of the Annual Plan for such Fiscal Year.

4.6 **Purchasing**

(a) During the Term, Operator shall arrange for the purchase of all Operating Equipment, consumables and inventories, services and replacements of and additions to FFE. At Operator's discretion, such purchases may be made either directly from vendors and suppliers or through the services of one or more Purchasing Companies. Moreover, Operator may, in its discretion (subject to the following provisions of this Section 4.6) elect to purchase the items described therein under Chain Contracts, provided that the prices and terms of the goods and services purchased under such Chain Contracts are competitive with the prices and terms of goods and services of equal quality available from others. In determining whether such prices and terms are competitive, they will be compared to the prices and terms that would be offered by reputable and qualified unrelated third parties on an arm's length basis for similar goods and/or services (and, for purposes of such comparison, the goods and/or services being purchased may be grouped in reasonable categories, rather than being compared item by item). Owner understands and acknowledges that Operator or its Affiliates may hold investments in one or more of the vendors, suppliers or Purchasing Companies from which goods or services are provided to the Hotel (under Chain Contracts or otherwise) and that Operator or its Affiliates may receive certain payments, fees, commissions or reimbursements from such vendors, suppliers or Purchasing Companies. Operator shall disclose any such investments, affiliations or payments to Owner from time to time, typically on an annual basis in connection with the delivery of the Annual Plan, subject to the proviso described in Section 3.5(d) above with respect to Pritzker Family investments.

(b) Notwithstanding the foregoing, upon at least thirty (30) days' prior written notice to Operator, Owner may request Operator's reasonable approval to opt out of participating in any one or more particular Chain Contracts or from purchasing goods or services through any one or more particular vendors, suppliers or Purchasing Companies, provided that (i) Owner can demonstrate to Operator that (x) the cost to the Hotel of purchasing from other sources the goods or services that would otherwise be purchased under the applicable Chain Contracts or through the applicable vendors, suppliers or

Purchasing Companies would be no greater than the cost of purchasing such goods or services under the Chain Contracts or through the applicable vendors, suppliers or Purchasing Companies, as the case may be, and (y) the purchase of such goods or services from other sources would not result in compromise to the Hotel Standard, to the quality or price of the goods or services to be provided, or to the availability or reliability of the goods or services in question, (ii) in the case of Brand Standard Items to be purchased for the Hotel, the goods to be purchased from other sources are identical (in manufacturer, specifications and brand) to those that would have been purchased under the Chain Contracts, and (iii) doing so does not cause Operator to violate the terms of any Chain Contracts. Operator shall maintain a current list of Brand Standard Items, which list shall be provided to Owner from time to time, typically on an annual basis in connection with the delivery of the Annual Plan.

(c) Notwithstanding anything in the foregoing to the contrary, Operator agrees to comply with all material Legal Requirements applicable to Owner's procurement of goods and services as interpreted in good faith, in the exclusive discretion of Owner, to the extent Owner notifies Operator of such requirements in writing.

4.7 Operating Accounts.

(a) Operator shall deposit, on a daily basis, in a bank or banks designated by Owner and in accounts established in the name of Owner and under the sole control of Owner ("**Hotel Revenue Fund**"), all monies received by Operator from the operation of the Hotel, which monies may be swept or transferred into other Owner accounts as often as Owner determines.

(b) Operator shall establish one or more bank accounts for the Hotel (the "**Operating Accounts**"), and shall also maintain sufficient sums on hand at the Hotel in house banks and petty cash funds to meet cash needs of Hotel operations. All monies received by Operator from Owner pursuant to Sections 4.7(c), 4.7(d), 4.7(e) and 4.7(f) (as well as all working capital provided by Owner pursuant to Section 4.7(c) or otherwise) shall be deposited in the Operating Accounts. All Operating Accounts shall be maintained in the name of Owner or the Hotel, in a bank or banks designated by Owner, and all funds deposited therein shall be the sole property of Owner but shall be under the control of Operator, as Owner's agent, subject to the provisions of this Agreement. Unless due to Operator's Grossly Negligent Acts or Willful Misconduct, any loss suffered in an Operating Account, or in any investment of funds into any such account, shall be borne by Owner, and Operator shall have no liability or responsibility therefor.

(c) On or before the third business day of every month, Owner will deposit into the Operating Accounts an amount equal to one-twelfth (1/12) (or such greater fraction if the period is less than twelve (12) months, as may be appropriate) of the aggregate amount provided in the Operating Budget for the Operating Expenses of the Hotel for such Fiscal Year, in each case including one-twelfth (1/12) (or such greater fraction if the period is less than twelve (12) months, as may be appropriate) of the aggregate amount of any contingencies or reserves included in said Operating Budget.

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(d) On a monthly basis, Operator will provide Owner with a list of third party payables which have been collected by Operator and which have been deposited into the Hotel Revenue Fund. These items include, but are not limited to, room service gratuity payables, banquet gratuity payables, other employee gratuity payables, business center payables, garage and valet parking payables, in-room movies payables, audio-visual payables, sales tax, room tax, resort tax, gross receipts tax, telephone tax, beverage surcharge and any other similar third party payables ("**Third Party Payables**"). Promptly upon receipt of the list of Third Party Payables, and to the extent that the balance in the Operating Accounts are insufficient to pay such Third Party Payables, Owner will deposit in the Operating Account the total amount of such Third Party Payables included on the list. Third Party Payables and payments collected by the Operator from the users of such third party services shall be excluded from Gross Receipts and the calculation of Gross Operating Profit and Adjusted Profit for the purpose of calculating Management Fees. Operator shall charge, and use reasonable commercial efforts to collect from, the users of third party services amounts equal to or greater than the corresponding Third Party Payables. Any excess collections shall be deposited by Operator into the Hotel Revenue Fund.

(e) Except as otherwise specifically provided in this Agreement (including, without limitation, the terms of this Agreement with respect to the designation of expenses as "Operating Expenses" and which Party is responsible for the payment of certain expenses), Owner shall, at all times during the Term, cause sufficient working capital funds to be on hand in the Operating Accounts to permit (i) the timely payment of all current liabilities of the Hotel (including, without limitation, Management Fees, and each installment thereof, insurance premiums, and all other amounts at any time payable to Operator hereunder), and all other items entering into the calculation of Adjusted Profit (other than property taxes and Debt Service), (ii) the uninterrupted and efficient operation of the Hotel at all times during the Term, and (iii) the performance by Operator of its other obligations hereunder. If at any time Operator determines that there are not sufficient working capital funds available in the Operating Accounts to satisfy the requirements described above, Operator shall notify Owner of the existence and amount of the shortfall (a "**Funds Request**") and, within fifteen (15) days following the delivery of the Funds Request, Owner shall deposit into the Operating Accounts the funds requested by Operator in the Funds Request. Notwithstanding Owner's obligation to fund working capital needs of the Hotel, if a working capital expenditure is in violation of Sections 4.1(c) or (d) above, as agreed to by the parties or determined by an arbitrator pursuant to Section 14.3~~(h)~~, Operator shall ultimately bear the responsibility for such expense and the amount thereof shall be deducted from the next due Management Fee payments payable to Operator.

(f) Operator shall pay out of the Operating Accounts, to the extent of funds available therein from time to time, all costs and expenses incurred in connection with the operation of the Hotel (other than property taxes and Debt Service, which shall be the responsibility of Owner), and all other amounts required or permitted to be paid by Operator in the performance of its duties and obligations hereunder. Checks or other documents of withdrawal drawn upon the Operating Accounts shall be signed exclusively

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by representatives of Operator or Hotel Employees designated by Operator, as agent for Owner. All persons drawing on such accounts shall be bonded or insured.

(g) Contemporaneously with furnishing the monthly statement for each calendar month pursuant to Section 4.8(b)(1) below (and after withdrawal of the Management Fee and other amounts due to Operator hereunder), Operator shall, at the request of Owner, remit to Owner out of the Operating Accounts the amount, if any, by which the total funds then in the Operating Accounts exceed the amount, as reasonably determined by Operator, of working capital to be maintained in the Operating Accounts in accordance with Section 4.7(b) ("**Excess Cash**"). Each remittance of Excess Cash shall be made to Owner at Owner's address then in effect for receipt of notices hereunder, or at such other place as Owner may, from time to time, designate in a written notice to Operator. In the event Owner does not request Excess Cash, if any, be delivered to Owner, such Excess Cash shall remain in the Operating Accounts and be available to make the payments set forth in this Section 4.7, until requested by Owner.

4.8 Books and Records; Reporting.

(a) **Financial Records.** Operator shall keep complete and accurate books of account and other records reflecting the financial results of the operating of the Hotel (the "**Financial Records**"). The Financial Records shall relate solely to Hotel operations and shall not include (i) records of ownership expenses (such as, for example, but without limitation, Debt Service and costs of preparation of Owner tax returns); (ii) fixed asset accounting; and (iii) other records pertaining solely to Owner and its operations separate from Hotel operations. Such Financial Records shall, at all times, be kept in all material respects in accordance with the Uniform System. Owner acknowledges that Operator does not maintain, as part of the Financial Records, any fixed assets (including, without limitation, FFE), or conduct interim inventory counts or perpetual inventory records with respect to other items of personal property. The Financial Records shall be deemed proprietary to both Operator and Owner, and each shall have the non-exclusive right to use the same both in connection with the ownership and operation of the Hotel, and otherwise. The Financial Records shall be made available in the place where they are kept for inspection and copying by Owner and by representatives of Owner at all reasonable times upon reasonable advance notice to Operator, provided such inspections shall be carried out in a manner that will minimize disruption to Hotel operations or Operator's shared services offices, as applicable. Financial Records shall be maintained by Operator pursuant to Operator's records retention programs and policies in effect from time to time, a copy of which shall be made available to Owner upon request.

(b) **Reports.** Throughout the Term (and also after expiration or earlier termination of the Term as to any period ending prior to the expiration or earlier termination thereof), Operator shall deliver to Owner the following financial statements and reports (all of which shall conform to the Financial Records):

(1) Monthly within thirty (30) days following the end of each calendar month, (i) a profit and loss statement showing the results of operations of the Hotel for such calendar month and for the cumulative fiscal period through such

calendar month, including showing in reasonable detail, Gross Receipts (by department), Adjusted Profit, and the amount of Basic Fee and Incentive Fee earned and accrued for the fiscal period then ended (ii) an accounting with respect to the Capital Fund showing the amount deposited therein during the fiscal period then ended, the amounts expended therefrom during such period, and a statement, in reasonable detail, showing the purpose or purposes for which such withdrawals were made (iii) a comparison of the results of operations for the Hotel for the fiscal period then ended with the Operating Budget and with the comparable period in the prior Fiscal Year, and (iv) an aging of accounts receivable.

(2) Annually, within ninety (90) days following the end of the Fiscal Year, (i) financial statements (the “**Annual Financial Statements**”) of the Financial Records of the Hotel for the preceding Fiscal Year, (ii) disclosure, in the Annual Financial Statements, in reasonable detail of all Management Fees, Centralized Services Charges, and any other material amounts paid or payable to Operator or its Affiliates with respect to the preceding Fiscal Year, (iii) concurrently with the delivery of the Annual Financial Statements, a statement of Capital Expenditures made for such Fiscal Year and a comparison thereof with the approved Capital Budget, and (iv) a calculation reflecting the RevPAR Test and GOP Test.

(c) **Meetings.** Operator agrees that it shall meet with Owner, and representatives of Owner, from time to time at the request of Owner to discuss any of the matters set forth in any of the financial or other reports delivered pursuant to this Section 4.8, or otherwise to discuss matters pertaining to the operation of the Hotel. Such meetings shall be conducted between Owner and the Hotel’s general manager, or other relevant members of the executive staff of the Hotel; provided, however, at the request of Owner, Operator’s senior vice president of field operations having jurisdiction over the Hotel shall be available (not more frequently, however, than quarterly) to attend any such meetings.

(d) **Audits.**

(1) Owner may cause an audit of the Financial Records of the Hotel to be performed by a firm of independent certified public accountants of recognized national standing in the hotel industry (“**Accountants**”) selected by Owner; provided, however, that Owner shall notify Operator of its intent to require such an audit for the subject Fiscal Year and the identity of the Accountants to be retained. The auditor so selected shall conduct the audit, prepare the audited Annual Financial Statements for the subject Fiscal Year, and issue the report thereon as soon as possible. The cost of the audit shall be an Operating Expense for the current Fiscal Year, unless the audit overstates Gross Operating Profit by 5% or more, in which case the cost of such audit shall be borne by Operator. Any Incentive Fee paid to Operator on account of any overstatement shall be repaid to Owner. In connection with such audit, Operator shall make available to the Accountants all financial books and records of the Hotel that may be requested by the Accountants and shall otherwise cooperate in all reasonable respects in

connection with the performance of the audit. The audit shall be conducted in accordance with generally accepted auditing standards. Any information regarding management of the Hotel obtained by Owner as a result of the audit shall be maintained as confidential information.

(2) In the event that Owner elects to have an audit performed in accordance with (1) above, such audit issued in accordance herewith and all information contained therein, shall be binding and conclusive on the parties hereto, without further right to review, protest, object or appeal, unless within six (6) months following the delivery of such audited Annual Financial Statements, either party shall deliver to the other party notice of its objection thereto setting forth in reasonable detail the nature of such objection (“**Objection Notice**”).

(3) If the parties are unable to resolve any timely noticed objections within thirty (30) days after receipt by either party of the Objection Notice, either party shall have the right to cause such objection to be resolved by dispute resolution, conducted in accordance with the provisions of Article XIV below. In the event that neither party submits such objection to dispute resolution as provided herein within sixty (60) days of the Objection Notice, then the Annual Financial Statements or the audited Annual Financial Statements, as the case may be, and all information contained therein, shall be binding and conclusive on the parties hereto, without further right to review, protest, object or appeal.

(e) Unless Owner has provided Operator notice, within six (6) months after Owner's receipt of Annual Financial Statements from Operator, of its intent to cause an audit of such Annual Financial Statements of the Hotel to be performed (“**Audit Notice**”), the Annual Financial Statements delivered pursuant to subsection (b)(ii) above, and all information contained therein, shall be binding and conclusive on the parties hereto, without further right to review, protest, object or appeal.

4.9 Airport Concession Disadvantaged Business Enterprise Participation Requirements.

(a) **Definition.** “Airport Concession Disadvantaged Business Enterprise” (ACDBE) means a concessionaire that is a for-profit small business concern that is (a) at least 51% owned by one or more individuals who are socially and economically disadvantaged or, in the case of a corporation, in which 51% of the stock is owned by one or more such individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. In any event, the socially and economically disadvantaged individual(s) cannot exceed the personal net worth limitation.

(b) **Airport Concession Disadvantaged Business Enterprise Program.** Pursuant to regulations promulgated by the U.S. Department of Transportation (“DOT”), under 49 C.F.R. art 23 (“Part 23”), the Owner has established its Airport Concession Disadvantaged Business Enterprise (“ACDBE”) Program. Owner has received, and expects to receive, Federal financial assistance from the DOT, and as a condition

precedent to receiving this assistance, Owner has signed assurances that it will comply with Part 23 of the Federal Regulations. It is the policy of Owner that ACDBEs shall have an optimal opportunity to participate in all concession agreements. Owner has established the ACDBE Program to implement this policy.

(c) **ACDBE Program Compliance.** Operator shall comply with all requirements of Part 23, in reference to its ACDBE participation obligations. Operator shall take all necessary and reasonable steps to ensure that at least three percent (3%) of Operator's annual gross receipts are generated through relationships with Airport Concessions Disadvantaged Business Enterprises ("ACDBEs"), through a joint venture or subcontracting arrangement, or through the procurement of goods and services, or be able to demonstrate a good faith effort to meet the established ACDBE goal.

Operator shall not breach any of its obligations with the ACDBEs. In the event Operator desires to terminate or replace an ACDBE, Operator shall promptly notify Owner of the impending termination, in writing, and the reason for such. In accordance with Part 23, Owner must approve the proposed termination, and if approved, provide written notification to Operator of such termination approval. Operator shall replace the terminated ACDBE with another ACDBE. If Operator is unable to utilize another ACDBE for performance of that part of the contract for which such ACDBE was utilized, Operator shall provide Owner with documentation in a form satisfactory to Owner, substantiating that it was not possible to replace the terminated ACDBE with another ACDBE.

(d) **Reporting.** Operator shall provide and submit, true and accurate monthly ACDBE Revenue Reports utilizing the attached Exhibit "F", reports to Owner, setting forth the items and the amounts paid to each ACDBE for the preceding month under this Agreement. Each report must include documentation of the revenues generated by ACDBE through its own efforts. The ADBE Revenue Report must be signed, dated and faxed to the Office of Small Business Development at (407) 825-3004, and received by Owner no later than the tenth (10th) day of each month during the Term of this Agreement.

(e) **ACDBE Certification Update.** Operator shall be required to update the ACDBE certification of the participating ACDBE(s) with Owner as required, the Airport Concession ACDBE policy, and the applicable regulations, and resubmit the forms requested by Owner.

ARTICLE V

TRADE NAMES AND OTHER INTELLECTUAL PROPERTY

5.1 **Name of Hotel.** During the Term, the Hotel shall at all times be identified by the name "Hyatt Regency Orlando International Airport." The name of the Hotel may be changed from time to time with the mutual approval of both Operator and Owner, but only to a name that conforms to Operator's then-applicable naming protocol and includes the Brand name.

5.2 **Ownership of Intellectual Property.** Operator shall employ for the benefit of the Hotel the Protected Names and Protected Marks, to the extent reasonably applicable to the Hotel, as determined by Operator in its sole discretion, without payment of additional compensation or fee to Operator. Owner acknowledges that each of the Protected Names and Protected Marks, when used either alone or in conjunction with any other word or words, or any other marks, are the exclusive property of Operator, and Owner acknowledges that Operator alone has the exclusive right to determine the form of presentation of the Protected Names and the Protected Marks in conjunction with the operation of the Hotel, including the marketing, promotion, advertising and management thereof, for the sales or marketing of any goods or services, or on any Hotel signage. Owner hereby covenants and agrees on its own behalf and on behalf of any transferee, assignee or successor, not to use any of the Protected Names or Protected Marks, either alone or in conjunction with any other word or words, or in conjunction with any other logos, trademarks, trade names or other marks, other than in connection with the use or marketing or operation of the Hotel. Furthermore, Owner agrees that no right or remedy of Owner for any Default of Operator hereunder nor the delivery of possession of the Hotel to Owner upon expiration or earlier termination of the Term, nor any other provision of this Agreement, shall confer upon Owner, or any transferee, assignee or successor of Owner, or any Person claiming by or through Owner, the right to use any of the Protected Names or Protected Marks, either alone or in conjunction with any other word or words or in conjunction with any other logos, trademarks, trade names or other marks, in connection with the use or operation of the Hotel or otherwise. In the event of any breach of this covenant by Owner, Operator shall be entitled to damages, to relief by injunction, and to all other available legal rights or remedies. The provisions of this Section 5.2 shall survive the expiration or earlier termination of this Agreement.

ARTICLE VI

PAYMENTS TO OPERATOR

6.1 **Management Fees.**

(a) **Amount of Fees.** For the services to be rendered by Operator under this Agreement, Owner shall pay Management Fees to Operator consisting of the Basic Fee and the Incentive Fee as follows:

(1) A basic fee (the "**Basic Fee**") equal to two and three-quarters percent (2.75%) of the Gross Receipts for each Fiscal Year; plus

(2) An incentive fee (the "**Incentive Fee**") equal to ten percent (10%) of the Adjusted Profit, if any, for each Fiscal Year in excess of the "**Hurdle Amount.**".

(b) **Monthly Installments.** With respect to any Fiscal Year and each calendar month included therein, the Basic Fee and the Incentive Fee shall each be payable in monthly installments equal to the amount of the Basic Fee or Incentive Fee, as applicable, calculated (in the manner described in Section 6.1(a) above) for the Cumulative Period in respect of such calendar month, less the aggregate amount of the tentative monthly

installments having theretofore been paid for such Fiscal Year on account of the Basic Fee or Incentive Fee, as applicable, at which time all Incentive Fees previously accrued but not yet paid shall be paid out of the Operating Account. Operator may pay each such monthly installment to itself by withdrawing the same from the Operating Accounts at any time after Operator shall furnish to Owner the unaudited financial statement for such calendar month pursuant to Section 4.8(b)(1) hereof. The tentative monthly payment of any Incentive Fee shall, in all instances, be withheld until Adjusted Profit shall have equaled or exceeded the Hurdle Amount, at which time all Incentive Fees shall be thereafter payable.

(c) **Year-End Reconciliation.** If for any Fiscal Year, the aggregate amount of the tentative monthly installments paid to Operator on account of the Basic Fee and Incentive Fee shall be more or less than the Management Fee payable for such Fiscal Year based upon the final determination of Gross Receipts and Adjusted Profit for such Fiscal Year as reflected in the Annual Financial Statement for such Fiscal Year prepared in accordance with Section 4.8, then, by way of year end adjustment, within fifteen (15) days after the delivery of such Annual Financial Statement to Owner, Operator shall pay into the Operating Accounts the amount of such overpayment or withdraw from the Operating Accounts the amount of any such underpayment.

6.2 **Centralized Services Charges.** In addition to the Management Fees and all other amounts required to be paid to Operator under this Agreement, Owner shall pay to Operator the Centralized Services Charges. The Centralized Services Charges shall be paid to Operator on a monthly basis, by Operator's withdrawing the same from the Operating Accounts on scheduled dates during such month when such amounts are generally payable to Operator by other Brand Hotels. If any final accounting of the Centralized Services Charges results in additional amounts due to Operator, Operator may reimburse itself, at any time after delivery to Owner of any frequent traveler program, allocable chain advertising, promotion, sales and reservation expenses, audit report or any other final accounting of Centralized Services issued by Operator in its discretion, for the additional amount due Operator, and if Owner has overpaid, as disclosed by any such frequent traveler program, allocable chain advertising, promotion, sales and reservation expenses, audit report or any other final accounting of Centralized Services issued by Operator in its discretion, Owner shall be entitled, at Operator's option, either to a credit against the next installment of Centralized Services Charges due hereunder or a payment from Operator, to be deposited in the Operating Accounts, in the amount of the overpayment (or, if this Agreement shall have previously terminated or the Term expired, Operator shall refund the difference to Owner in cash).

6.3 **Reimbursements.** In addition to the Management Fees, Centralized Services Charges and any other amounts required to be paid to Operator in accordance with the express provisions of this Agreement, Owner shall, to the extent not otherwise paid, reimburse Operator as follows: (i) for any Employee Costs paid directly by Operator or its Affiliates with respect to Hotel Employees; (ii) out-of-pocket expenses incurred by Operator on behalf of Owner while providing technical assistance services to Owner in connection with any Refurbishing Program; (iii) travel and other reasonable out-of-pocket expenses of Operator personnel when assigned to temporary full-time duty at the Hotel (for the period of such assignment); (iv) relocation costs for employees transferred to the Hotel; (v) insurance premiums for coverage maintained by Operator

with respect to the Hotel pursuant to Sections 7.1 and 7.2; (vi) any amounts incurred by Operator or its Affiliates (in their sole discretion, without obligation to do so) to fund necessary working capital funds on behalf of Owner in order to operate the Hotel in accordance with this Agreement and the Hotel Standard; and (vii) all other funds advanced by Operator to third parties or to Affiliates with respect to Owner obligations in accordance with this Agreement, or any other agreements between Owner and Operator, including, without limitation, reasonable attorneys' fees in connection with any cooperation or assistance from Operator requested by Owner (such as, for example, but without limitation, execution of consents, agreements or other documents) relating to any sale, transfer, leasing or financing of the Hotel by Owner provided, however, that the foregoing shall not require Owner to reimburse any monies already spent by Operator on working capital expenditures that are the responsibility of Operator pursuant to the last sentence of Section 4.7(e). Reimbursements for any such costs shall be made on a periodic basis as costs are incurred and may be paid by withdrawal by Operator of the required amounts from the Operating Accounts or, at Operator's election, by set off against amounts otherwise payable to Owner hereunder. The reimbursements provided for in this Section 6.3 shall include only direct out-of-pocket expenses and not any general overhead, and shall be allocated to the Hotel on a direct pass through basis, without mark up or profit, and after deduction for any portions thereof properly allocated to any other hotel within the Operator Hotel Group.

6.4 **Interest on Overdue Sums.** Any sums not paid to Operator within sixty (60) days after written notice of such payment not being made as and when due under this Agreement shall bear interest at the rate of (a) ["**Prime Rate**" plus 3%] per annum or (b) the maximum rate of interest allowed by law, whichever shall be less, from the date when such sum shall become due to the date of actual payment. For the purposes hereof, "**Prime Rate**" shall mean the rate per annum published from time to time in the Wall Street Journal as the prevailing prime rate of interest.

6.5 **Tax on Reimbursements.** Whenever any reimbursement due Operator under Section 6.3 or any other provision of this Agreement shall be subject to a gross receipts or similar tax under applicable law, Owner shall remit reimbursement to Operator, together with such tax payable thereon, so that Operator shall receive such reimbursement net of any taxes or similar charges.

ARTICLE VII

INSURANCE

7.1 **Property Insurance.** Owner shall procure and maintain the following "Property Insurance" coverages with respect to the Hotel with financially responsible insurance companies having an A.M. Best rating of A- or better, the cost of which shall be Owner's expense:

(a) All Risk Property insurance in an amount equal to the full replacement cost of the Hotel, to include the perils of flood, named windstorm, and earthquake (if the Hotel is in a zone warranting such coverages). If flood, earthquake and windstorm are not obtainable for replacement cost, a reasonable amount must be carried relative to other hotels of similar value and type located in the Hotel's market area.

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(b) Boiler and machinery coverage, in amounts reasonably acceptable to Operator.

(c) Business interruption insurance for all risk perils (including flood, named windstorm, and earthquake to the extent applicable as reasonably determined by Operator) covering at least one (1) year's loss of profits and necessary continuing expenses for interruption of the Hotel. If business interruption insurance is not obtainable, a reasonable amount must be carried relative to other hotels of similar value and type located in the Hotel's market area. Such coverage may be maintained by Owner either in separate policies of insurance or as part of Owner's property and boiler and machinery coverage.

7.2 **Operational Insurance.** Operator shall procure and maintain the following "Operational Insurance" coverages with respect to the Hotel with financially responsible insurance companies selected by Operator having an A.M. Best rating of A- or better and licensed and authorized to do business in the jurisdiction in which the Hotel is located the cost of which shall be a Hotel expense which shall be paid or reimbursed to Operator out of the Operating Accounts:

(a) Comprehensive public liability insurance, to include excess liability coverage, against claims for bodily injury, death or property damage occurring on, in or about the Hotel or in conjunction with the operations of the Hotel, and automobile liability insurance on vehicles operated in conjunction with the operation of the Hotel (whether owned, rented or leased in Owner's name or Operator's name).

(b) Workers' compensation insurance covering the Hotel Employees, to include employer's liability, in compliance with or at a minimum not less than the statutory amount as required under applicable provisions of law.

(c) Crime insurance including (i) employee dishonesty coverage, covering Operator's employees in job classifications normally bonded or insured in other hotels in the Operator Hotel Group or as otherwise required by law, (ii) loss inside the premises coverage, (iii) loss outside the premises coverage, (iv) money orders and counterfeit paper currency coverage, (v) depositor's forgery coverage, and (vi) computer fraud.

(d) Employment practices liability insurance, relative to the Hotel Employees, covering employment discrimination, harassment and wrongful discharge actions.

(e) Such other insurance in amounts as Operator considers advisable for protection against claims, liabilities and losses arising out of or in connection with the operation of the Hotel.

7.3 **Payment of Fees and Expenses.** If the Hotel suffers damage or loss that results in an interruption in the operations of the Hotel, Owner shall nevertheless be obligated to pay to Operator all amounts that would be due to Operator under this Agreement had such damage or loss not occurred, including the Management Fees, the Centralized Services Charges and all reimbursable expenses, and shall deposit to the Capital Fund the amounts which would have been deposited therein, for the period of the business interruption. In the event of such a

business interruption, the Management Fees and deposits to the Capital Fund shall be calculated based on projections of the Gross Receipts and Adjusted Profit that would have been generated had the loss or damage not occurred; provided, however, that if Owner has business interruption insurance as described in Section 7.4, the amount of proceeds from such insurance deposited into the Operating Accounts in accordance with Section 7.4 shall be used to calculate Gross Receipts and Adjusted Profit, rather than estimates of such amounts. The projections regarding Gross Receipts and Adjusted Profit shall be derived from then-accepted practices in the hotel and insurance industries for such matters, with due consideration given to the Annual Plan for the Fiscal Year in which the loss occurred and any financial projections for the Hotel most recently prepared by Owner or Operator prior to the loss or damage.

7.4 Application of Business Interruption Insurance Proceeds. If the business of the Hotel is interrupted by any event or peril covered by business interruption insurance, the proceeds of any such insurance, less any portion thereof that may be payable to a Lender to cover payments of regularly scheduled Debt Service, shall be deposited in the Operating Account(s) and utilized by Operator in the same manner as funds generated from the operation of the Hotel are utilized by Operator in accordance with the terms of this Agreement, including payment of the Management Fees, the Centralized Services Charges, reimbursables due to Operator, other Operating Expenses, and deposits to the Capital Fund.

7.5 Payment of Other Operating Expenses. If the Hotel suffers damage or loss that results in an interruption in the operation of the Hotel, Owner shall nevertheless be obligated to pay all expenses of operating and maintaining the Hotel (at the level that is reasonably determined by Operator to be practicable given the damage or loss that has occurred) regardless of whether there are available to Owner any business interruption insurance proceeds to cover such amounts, and Owner shall be responsible for depositing all amounts necessary for the operation and maintenance of the Hotel in the Operating Account(s) in accordance with Section 4.7(b) during the period of the business interruption.

7.6 Cost and Expense. Premiums on policies covering more than one (1) policy year shall be charged pro rata over the applicable period of the policies and allocated to the appropriate policy year. Any reasonable reserves, losses, costs, damages or expenses which are not fully insured, or which fall within deductible limits, shall be treated as a cost of insurance and shall be deducted in computing Adjusted Profit except for Capital Expenditures incurred for repair or reconstruction of the Hotel, or any part thereof, following a casualty occurrence. Where legally permitted to do so, Operator may elect to self-insure its worker's compensation coverage and to charge to the Hotel (and reimburse itself) for a reasonable reserve for such coverage.

All operational insurance coverage is a mandatory Centralized Service and the premiums therefore shall be included in the Centralized Services Charges. Although premiums allocated to the Hotel for inclusion in Operator coverage shall be determined on an equitable allocation basis, there is no assurance, representation or warranty that there may not be an element of profit to Operator.

7.7 Policies and Endorsements. Where permitted, all insurance provided under this Article VII shall name Operator, any Affiliate that Operator may designate, and Owner, as additional insureds on all liability policies and as loss payee on all property and crime policies,

as their interests may appear. Specifically, without limitation, any policies providing for business interruption insurance shall name Operator as loss payee with respect to the Management Fees, Centralized Services Charges and reimbursable expenses. If either Operator or Owner retains contractors to perform work at or with respect to the Hotel under contracts requiring the contractor to provide insurance coverage for the benefit of the contracting party, all such insurance shall name both Operator and Owner as additional insureds, and any contractor indemnification provisions in any such contracts shall be provided for the benefit of both Operator and Owner. The party procuring such insurance shall deliver to the other party certificates of insurance. To the extent reasonably obtainable, all policies of insurance required to be obtained under this Article VII shall have attached thereto an endorsement that such policy shall not be cancelled or materially changed without at least thirty (30) days prior notice to Owner, Operator, the Lenders or any additional insureds.

7.8 **Insurance Claims.** Operator shall, on behalf of Owner, promptly investigate all accidents on or about the Hotel made known to Operator, and report the same promptly to the appropriate insurance carrier. Upon request from time to time by Owner, Operator shall make a full report to Owner as to all material claims for damages relating to the ownership, operation and maintenance of the Hotel, and as to any damage or destruction to the Hotel and the estimated cost thereof, as such matters become known to Operator, and shall prepare any and all reports and furnish any and all information required by any insurance company in connection therewith to the extent such information is within the knowledge or possession of Operator.

7.9 **Waiver of Subrogation.** Neither Operator nor Owner shall assert against the other, and both Operator and Owner hereby waive with respect to each other, or against any related Person, and on behalf of their insurers, any claims for any losses, damages, liability or expenses (including attorneys' fees) incurred or sustained by either of them on account of injury to persons or damage to property arising out of the ownership, development, construction, completion, operation or maintenance of the Hotel, to the extent that the same are covered by the insurance required pursuant to this Article VII. Each policy of insurance shall contain a waiver of subrogation reflecting the provisions of this Section 7.9.

7.10 **Intentionally Omitted.**

ARTICLE VIII

DAMAGE AND CONDEMNATION

8.1 **Damage to or Destruction of the Hotel.**

(a) If the Hotel is damaged by a Minor Casualty, Operator shall process the loss claim with the applicable insurance carriers, including settling such claim, and, subject to Legal Requirements, to arrange to have the damaged portion of the Hotel replaced or repaired. In fulfilling these obligations, Operator shall perform in accordance with Operator's reasonable business judgment and Owner's consent shall not be required.

Owner shall promptly execute any documents that are reasonably necessary to process the claim with the insurance carriers, as well as any contract with contractors or suppliers.

(b) If the Hotel is damaged or destroyed by a Total Casualty, or if the Hotel is damaged or destroyed to such an extent that the estimated time for repair or restoration thereof, in the reasonable opinion of Owner, shall exceed eighteen (18) months from the commencement of such repair or restoration, or the damage or destruction shall occur at any time within the last three (3) years of the Term and if, in connection with any of the foregoing, Owner elects not to rebuild or restore the Hotel, then either party shall be entitled to elect to terminate this Agreement by notice to the other party given at any time within ninety (90) days after the occurrence of such damage or destruction. If there shall be any dispute between Owner and Operator as to whether Owner's estimate of the cost of restoration, the full replacement cost of the Hotel, or the estimated time for repair or restoration is reasonable under the circumstances, such dispute shall be submitted to arbitration conducted in accordance with the provisions of Article XIV.

(c) If the Hotel or any material portion thereof shall be damaged to a greater extent than a Minor Casualty, but less than a Total Casualty, or if the Hotel is damaged by a Total Casualty and the parties have elected not to terminate the Agreement pursuant to Section 8.1(b) above, Owner shall, with due diligence, repair, rebuild or replace the same substantially to its condition prior to such damage or destruction. If Owner fails to undertake such work within one hundred eighty (180) days after the fire or other casualty (or such later date on which such insurance proceeds shall have been received), or shall fail to complete such work diligently, within eighteen (18) months following the fire or other casualty (or such longer time period as may be agreed between Owner and Operator), Operator may, at its option, terminate this Agreement immediately upon notice to Owner.

(d) If one of the parties terminates this Agreement pursuant to subsection (b) above and, at any time within three (3) years following any such termination, Owner nevertheless commences repair or restoration or rebuilding of a first-class hotel on the Hotel Premises utilizing the proceeds of insurance from such damage or destruction, Operator shall have the right (but not the obligation), exercisable at any time within ninety (90) days after Operator has actual knowledge of the commencement of such repair, restoration or rebuilding, to elect to manage and operate the rebuilt, repaired or restored hotel in accordance with the provisions of this Agreement from the opening date of the rebuilt, repaired or restored hotel and for the unexpired Term remaining as of the date of the damage or destruction event which resulted in Owner's termination of this Agreement.

8.2 **Condemnation.**

(a) If the whole of the Hotel, or such portion thereof as shall render the remaining portion of the Hotel unsuitable for use as a hotel conforming to the Hotel Standard, shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition, expropriation or like proceeding (including conveyances or transfers in lieu thereof) by any competent authority for any public or quasi-public use or

purpose, Owner or Operator may terminate this Agreement upon ninety (90) days' notice to the other party. Operator shall have the right to institute or intervene in any available legal or similar proceedings to determine fair compensation for such taking or condemnation for the purpose of representing Operator's compensable interest in any award for such taking or condemnation arising from this Agreement and Operator's right of quiet enjoyment hereunder. Any award made to Owner that does not recognize the separate compensable interest of Operator shall be apportioned between the parties in consideration of all relevant factors. If the Parties cannot agree upon such apportionment within ninety (90) days after the amount of the award payable to Owner has been determined by settlement or a final judicial determination, either Party may submit the dispute for resolution in accordance with Article XIV.

(b) If the portion of the Hotel remaining after any taking or condemnation described above is suitable for use as a hotel meeting the Hotel Standard, this Agreement shall not terminate, but Owner shall, at its expense, repair any damage to the Hotel, or any part thereof, so as to render the Hotel a complete and satisfactory architectural and operational unit meeting the Hotel Standard, and in such event, Owner shall retain the balance (if any) of the award received for such taking or condemnation, after deduction of the cost of repair or restoration.

(c) If there is a taking or condemnation of all or part of the Hotel for temporary use not in excess of two (2) years, this Agreement shall remain in full force and effect. Owner shall commence restoration, repairs and alterations promptly after the termination or the taking or condemnation for temporary use and shall complete the same with diligence. All awards or other proceeds on account of the taking shall be treated as Gross Receipts of the Hotel, except to the extent used to restore, repair and complete alterations of the Hotel. This Agreement shall then continue in effect for the balance of the Term remaining after the initial date of such taking.

ARTICLE IX

ASSIGNMENT

9.1 Assignment by Operator.

(a) Except as expressly provided below, Operator shall not sell, assign, hypothecate, transfer or otherwise dispose of, in whole or in part, any of its rights or interests hereunder (but may, without Owner's consent, assign or grant security interests in or to its right to receive Management Fees hereunder as security for any monetary obligations of Operator). Notwithstanding the foregoing, Operator may, without the consent of Owner, transfer or assign its rights under this Agreement in whole, but not in part, to any Affiliate of Operator, or to any Person that may become an Affiliate as a result of a related and substantially concurrent transaction, or to any successor or assign of Operator which may result from any merger, consolidation or reorganization, or to a Person which shall acquire all or substantially all of the business and assets of Operator relating to the Brand Hotels, subject, in each such case, to compliance by Operator with each of the following terms and conditions:

(1) The transferee, whether an Affiliate or a third party, shall, as of the effective date of the proposed transfer, have the full right, power and authority to enter into this Agreement and to fulfill the obligations of Operator hereunder.

(2) Not later than the effective date of any such transfer, the transferee (whether or not an Affiliate of Operator) shall be entitled to use in connection with the operation of the Hotel the Brand and such other Protected Names and Protected Marks as are in use at the Hotel immediately prior to such transfer, and shall have available to it the operating systems and other resources needed for the continued management and operation of the Hotel as a Brand Hotel, including, without limitation, the benefit of services that are designed to approximate the Centralized Services available to the Hotel immediately prior to such transfer.

(3) The transferee shall have executed a written instrument, a certified copy of which shall be delivered to Owner not later than twenty (20) days following the effective date of any such transfer, expressly assuming and agreeing to pay, perform and discharge all of the liabilities and obligations of Operator hereunder, including, without limitation, any such liabilities or obligations arising or accruing prior to, on or after the effective date of any such transfer.

(b) No delegation by Operator of any part of its operating duties and responsibilities hereunder to an Affiliate of Operator, and no change in the party or parties directly or indirectly in control of Operator or Affiliates of Operator, shall be deemed an assignment of this Agreement.

(c) Upon satisfaction and discharge of the conditions described above in connection with any transfer or assignment of this Agreement by Operator, Operator shall be relieved of any liability or obligation hereunder arising after the date of such assignment, except in the case of an assignment to an Affiliate in which case Operator shall remain liable hereunder for so long as such assignee shall remain an Affiliate of Operator.

9.2 **Assignment by Owner.**

(a) In addition to any permitted collateral assignments to Lenders pursuant to Article X, Owner shall have the right to assign all of its rights and interests in this Agreement to any Person in connection with a sale or transfer of the Hotel (including, without limitation, any lease of the Hotel substantially in its entirety), and to issue or permit the transfer of any Ownership Interest to any Person, without the prior written consent of Operator; provided, however, Owner shall not sell, assign or transfer the Hotel, or interest therein or issue or permit the transfer of any Ownership Interest to any Person (i) engaged, directly or indirectly, as a substantial part of its business, in the management, licensing or operation (as opposed to the mere ownership) of hotels; (ii) who does not have the financial capacity to perform the obligations of Owner under this Agreement; (iii) who would be considered by regulators in the gaming industry to be unsuitable business associates of Operator or its Affiliates or would in any way jeopardize the Hotel's liquor licenses; (iv) who fails or refuses to execute the assumption

document referred to in the next succeeding sentence, if so required; (v) who fails or refuses to provide disclosure information requested by Operator sufficient to assess the business reputation of such Person; (vi) who is in violation of any laws relating to terrorism, money laundering or the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Action of 2001, Public Law 107-56 and Executive Order No. 13224 (Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism) (the "**Executive Order**"); or (vii) who is acting, directly or indirectly, on behalf of terrorists, terrorist organizations or narcotics traffickers, including those persons or entities that appear on the Annex to the Executive Order, or are included on any relevant lists maintained by the Office of Foreign Assets Control of U.S. Department of Treasury, U.S. Department of State, or other U.S. government agencies, all as may be amended from time to time. A transfer of operational control of the Airport and the Hotel Premises to the City of Orlando shall not be deemed an assignment hereunder.

(b) Upon any assignment hereof in connection with a sale or other transfer of the Hotel, Owner shall be relieved of its duties, obligations and liabilities hereunder arising after such assignment so long as the assignee shall expressly assume in writing all such duties, obligations and liabilities (including, without limitation, those arising or relating to events occurring prior to any such assignment) and shall agree to be bound by this Agreement as evidenced by a written instrument executed by such assignee in favor of Operator in form and substance reasonably satisfactory to Operator. Owner and/or any Ownership Participant desiring to effect an assignment of all or any part of its Ownership Interest shall give Operator not less than forty-five (45) days advance notice of its intention to do so, which notice shall identify in reasonable detail the direct and indirect owners of the proposed purchaser and shall be accompanied by the latest available audited and unaudited financial statements of the proposed purchaser and its direct or indirect beneficial owners.

(c) In the case of any Ground Lease relating to the Hotel, whether to or from an Affiliate of the then Owner or Ownership Participant or otherwise, (i) the lessee shall become the "Owner" hereunder and shall assume all of the liabilities and obligations of Owner herein set forth; and (ii) if the lessee is an Affiliate of Owner, the lessor shall not be relieved of any of the liabilities or obligations of Owner hereunder.

ARTICLE X

[INTENTIONALLY OMITTED]

ARTICLE XI

DEFAULT

11.1 **Defaults.** The occurrence of any one or more of the following events which continues for more than the period of grace (if any) provided below shall constitute an "**Event of Default**" by the party in respect of which such event occurs, and such party shall be deemed a "**Defaulting Party**" with respect thereto and in "**Default**" under this Agreement:

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(a) If Owner shall fail to provide funds to be deposited in the Operating Accounts in response to a Funds Request in accordance with, and within the time required under, Section 4.7(b) hereof.

(b) If Owner or Operator shall fail to keep, observe or perform any other material covenant, agreement, term or provision of this Agreement to be kept, observed or performed by Owner or Operator, as applicable, and such default shall continue for a period of thirty (30) days after notice thereof by the non-defaulting party to the defaulting party.

(c) If Owner or Operator shall apply for or consent to the appointment of a receiver, trustee or liquidator for Owner or Operator, as applicable, or for all or a substantial part of its assets, or shall file a voluntary petition in bankruptcy, admit in writing its inability to pay its debts as they come due, make a general assignment for the benefit of creditors, file a petition or answer seeking reorganization or arrangement with creditors or liquidators or to take advantage of any insolvency proceeding, or if any order, judgment or decree shall be entered by any court of competent jurisdiction on the application of a creditor adjudicating Owner or Operator, as applicable, a bankrupt or insolvent or approving a petition seeking reorganization or liquidation of Owner or Operator, as applicable, or appointing a receiver, trustee or liquidator for Owner or Operator, as applicable, or for all or a substantial portion of its assets, and such judgment, order or decree shall continue unstayed and in effect for any period of ninety (90) consecutive days.

(d) If any required licenses for the sale of alcoholic beverages are at any time suspended, terminated or revoked by reason of the unlicensability of Owner or Operator (as opposed to the effect of any general legislation or governmental act prohibiting the sale of alcoholic beverages in general or by the class of businesses of which the Hotel is a part) and such suspension, termination or revocation shall continue for a period of sixty (60) consecutive days.

11.2 **Curing Defaults.** No event which is curable but which, by the nature of such event, is not susceptible, with the exercise of diligence, of being cured within the applicable grace period, shall constitute an Event of Default so long as the Defaulting Party has commenced to cure such default within such grace period and proceeds thereafter with due diligence and in good faith to cure the same and does cure the same within ninety (90) days. In no event shall additional time to cure apply in cases where the Event of Default in question may be cured on a timely basis by the payment of money in the amount due.

11.3 **Remedies.**

(a) Upon the occurrence of an Event of Default by either party, the "Non-Defaulting Party" (that is, the party not in Default hereunder with respect to the event in question) shall have, and may exercise against the Defaulting Party, such rights and remedies as may be available to the Non-Defaulting Party at law or in equity, including, but not limited to, actions for specific performance or damages; provided, however, neither party shall have the right to terminate this Agreement by reason of the

occurrence of an Event of Default of the other party hereunder unless (w) in the case of a failure to provide working capital as required by Section 4.7(b) of this Agreement, Owner has failed to provide the requested working capital within the time period provided therein, (x) the Event of Default in question represents intentional misconduct, reckless behavior or repeated Events of Default of a similar nature by the Defaulting Party; or (y) remedies at law are inadequate to redress such Event of Default; or (z) termination is provided for under any of the express provisions of this Agreement. Whenever termination is an available remedy, the same may be exercised by irrevocable and unconditional notice to the Defaulting Party and this Agreement shall terminate on the date set forth in such notice, which date shall in no event be sooner than ten (10) days nor later than one hundred eighty (180) days, after the delivery thereof. The right of termination set forth in the preceding sentence, if available, shall be in addition to, and not in lieu of, any other rights or remedies provided hereunder or at law or in equity by reason of the occurrence of any such Event of Default, it being understood and agreed that the exercise of the remedy of termination shall not constitute an election of remedies and shall be without prejudice to any such other rights or remedies otherwise available to the Non-Defaulting Party.

(b) In addition to the rights set forth in Section 11.3(a) above, upon the occurrence of a monetary Default by either party, the non-defaulting party shall be entitled to be paid interest on the amount due, which interest shall accrue at an annual rate equal to the Prime Rate plus three (3) percentage points from and after the date on which the Default occurred through the date on which the amount owing is paid in full. Upon the occurrence of a monetary default by Owner, Operator shall have the right (without affecting Operator's other remedies under this Agreement) to withdraw the amount due, plus interest pursuant to this Section 11.3(b) owed to Operator or any other Operator Affiliate by Owner from distributions otherwise payable to Owner pursuant to this Agreement.

(c) The rights granted in this Section 11.3 shall not be in lieu of, but shall be in addition to, any and all rights and remedies available to the Non-Defaulting Party (including, without limitation, injunctive relief and damages) by reason of the applicable provisions of law or equity.

(d) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR AT LAW, IN ANY ACTION OR PROCEEDING BETWEEN THE PARTIES (INCLUDING, WITHOUT LIMITATION, ANY ARBITRATION PROCEEDING) ARISING UNDER OR WITH RESPECT TO THIS AGREEMENT OR IN ANY MANNER PERTAINING TO THE HOTEL OR TO THE RELATIONSHIP OF THE PARTIES HEREUNDER, EACH PARTY HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES AND RELEASES ANY RIGHT, POWER OR PRIVILEGE EITHER MAY HAVE TO CLAIM OR RECEIVE FROM THE OTHER PARTY HERETO ANY PUNITIVE OR EXEMPLARY DAMAGES, EACH PARTY ACKNOWLEDGING AND AGREEING THAT THE REMEDIES HEREIN PROVIDED, AND OTHER REMEDIES AT LAW AND IN EQUITY, WILL IN ALL CIRCUMSTANCES BE ADEQUATE. THE FOREGOING WAIVER AND RELEASE SHALL APPLY IN ALL ACTIONS OR PROCEEDINGS BETWEEN THE PARTIES

AND FOR ALL CAUSES OF ACTION OR THEORIES OF LIABILITY, WHETHER FOR BREACH OF THIS AGREEMENT OR FOR VIOLATION OF ANY OTHER DUTY OWING BY EITHER PARTY TO THE OTHER WHICH MAY IN ANY WAY RELATE TO OPERATOR'S MANAGEMENT OR OPERATION OF THE HOTEL. BOTH PARTIES FURTHER ACKNOWLEDGE THAT THEY ARE EXPERIENCED IN NEGOTIATING AGREEMENTS OF THIS SORT, HAVE HAD THE ADVICE OF COUNSEL IN CONNECTION HEREWITH, AND HAVE BEEN ADVISED AS TO, AND FULLY UNDERSTAND, THE NATURE OF THE WAIVERS HEREIN CONTAINED.

ARTICLE XII

TERMINATION AND TRANSITION

12.1 **Inability to Operate in Accordance with Hotel Standard.** Without limiting Operator's right to enforce Owner's obligation to permit the Hotel to be operated in accordance with the Hotel Standard (and without limiting any other remedy available to Operator for Owner's non-compliance with such obligation), if the funds actually made available by Owner to Operator from time to time are insufficient to permit Operator to operate and maintain the Hotel in accordance with the Hotel Standard, then Operator shall have the right to terminate this Agreement by providing written notice of such termination to Owner within ninety (90) days following Operator's determination that the Hotel is not, or cannot be, operated and maintained in accordance with the Hotel Standard as provided herein. Any such termination shall be effective one hundred twenty (120) days following delivery of such written notice.

12.2 **Transition of Management.** Upon expiration or earlier termination of this Agreement (whether pursuant to this Article XII, or based upon an Event of Default by a party or otherwise), Operator and Owner will cooperate with each other to effect an orderly transition of management functions from Operator to Owner, or to any Successor Manager designated by Owner. The provisions of this Section 12.2 shall govern with respect to specific matters relating to the transition of management of the Hotel.

(a) **Employment Matters.**

(1) Because the Hotel Employees will be employees of Operator (or an Affiliate of Operator), the termination of this Agreement will result in a termination of their employment with Operator (or such Affiliate), although Owner acknowledges that Operator shall have the right (but shall not be obligated) to make offers of employment to any Hotel Employees for employment at other hotels within the Operator Hotel Group.

(2) Owner shall be responsible for, shall reimburse Operator for, and shall indemnify, defend and hold Operator, and each of Operator's shareholders, officers, directors, employees and agents, completely free and harmless of and from any and all costs, expenses, claims, liabilities, loss or damages of any kind or nature that result or could result from the termination of the employment of the Hotel Employees by Operator or its Affiliate (notwithstanding any continuation of

their employment at the Hotel as employees of Owner or a Successor Manager) arising out of a termination of this Agreement. The foregoing reimbursement and indemnity obligation includes, without limitation, all accrued payroll, accrued benefits such as vacation pay and sick days and all other Employee Costs or other employment liabilities (including severance obligations)— accruing up to and including the date of termination or incurred as a result of such termination, any multi-employer withdrawal liability, obligations under then existing or subsequently negotiated collective bargaining agreements, and any liabilities or obligations under WARN and other requirements applicable to severance or termination of employment (collectively, “Employment Termination Costs”). Operator agrees that Employment Termination Costs shall not exceed, and Owner's obligation hereunder shall be limited to, costs that are consistent with the then employment termination practices of Operator, which shall be comparable to Operator’s employment termination practices in the region in which the Hotel is located. Further, Owner shall have no responsibility for any Employment Termination Cost arising out of or attributed to Operator's Grossly Negligent Acts or Willful Misconduct or a breach of this Agreement by Operator, as determined pursuant to the dispute resolution procedures set forth in Section 14.3 of this Agreement.

(3) Upon the request of Owner, but not more frequently than once per Fiscal Year, Operator will provide Owner with an estimate of Employment Termination Costs based on a hypothetical date of termination of this Agreement. The estimate of Employment Termination Costs will reflect the then employment termination practices of Operator, which shall be comparable to Operator’s employment termination practices in the region in which the Hotel is located.

(b) **Insurance.** The Hotel’s inclusion in Operator's chain-wide policies of insurance and, if applicable, Operator's self-insurance program will be terminated as of the effective date of termination of this Agreement, and Operator shall have the right to reimburse itself for any unpaid premiums which may have accrued to the date of termination by withdrawing the appropriate amount thereof from the Operating Accounts. If Owner's pro rata share of premiums under the chain-wide policies of insurance shall have been paid in advance, Operator shall reimburse Owner for the unused portion of such insurance premiums. Owner consents to the termination of the insurance program with respect to the Hotel as of the effective date of termination of this Agreement and agrees that Operator shall have no further obligation, after the effective date of such termination, to provide or obtain any insurance coverage for the benefit of Owner or the Hotel thereafter. If the Hotel has participated in Operator's self-insured workers' compensation, or other self-insured programs, Owner shall remain liable for the payment of deductible amounts under such programs for claims attributable to events occurring on or prior to the expiration or earlier termination hereof. Nothing herein shall terminate the obligations of the insurance provider to defend, indemnify and insure against claims in accordance with the terms of each policy.

(c) **Receivables.** Operator will reasonably cooperate with Owner, at Owner's sole cost and expense, in the collection of any receivables outstanding as of the expiration

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or earlier termination of this Agreement, and will remit to Owner any amounts collected directly by Operator after the effective date of termination which relate to such receivables.

(d) **Proprietary Interests.** After termination of this Agreement, neither Owner, nor any Person acting on behalf of Owner, shall directly or indirectly hold itself or the Hotel out to the public as being or remaining (or otherwise associated with) a Brand Hotel or a member of the Operator Hotel Group or in any way affiliated with Operator. Accordingly, the following provisions shall apply as of the termination of this Agreement:

(1) Owner shall cease using all Proprietary Materials, all such Proprietary Materials being the sole property of Operator which may be removed by Operator (without any payment or other reimbursement) as of the effective date of termination of this Agreement, and Owner shall no longer be entitled to use any thereof.

(2) Owner shall cease the use and display of the Protected Names and the Protected Marks, except that Owner shall have the right to continue to use any consumable inventory, Operating Equipment and supplies bearing the Protected Names or any of the Protected Marks for a period not in excess of thirty (30) days following the date of termination or until supplies thereof on hand as of the termination date shall be exhausted, whichever shall first occur, but shall have no right to reorder any quantities of such items. All signs, displays and other materials in or on the Hotel bearing any of the Protected Names or Protected Marks will be removed, or covered over, by Owner at its expense. Notwithstanding the foregoing, and subject to Legal Requirements, Operator shall have the right (but not the obligation), as of the date of termination of this Agreement, to purchase (x) any items of Operating Equipment, consumables or supplies bearing the Protected Names or any of the Protected Marks (other than those also bearing the name of the Hotel) which are in reserve storage or are contained in unopened containers, at a price equal to the acquisition cost thereof to Owner, and (y) any other items bearing the Protected Names or any Protected Mark at a reasonable price to be agreed upon between Owner and Operator. Without in any way limiting the generality of the foregoing, on the termination date, Owner shall remove at its expense, or otherwise cover or obliterate, all interior and exterior signs and graphics bearing the Protected Names or any Protected Mark so as not to be visible to the public.

(3) Although the removal of any software programs shall be coordinated with the installation of replacement systems, Operator shall have no obligation to allow its proprietary software to remain in the Hotel beyond the termination of this Agreement. Upon request, Operator will provide Owner with a written list of operating and accounting systems software installed in the Hotel by or for Operator, and if requested by Owner, Operator will request and use commercially reasonable efforts without cost to Operator to obtain extensions of any such operating or accounting software systems licensing agreements (to the

extent non-proprietary to Operator) for up to ninety (90) days following termination of this Agreement, with any costs related thereto being Owner's expense. To the extent necessary for an orderly transition of management functions, both a hard copy and, if feasible, an electronic copy of guest information relating to their patronage of the Hotel for the period through the termination of this Agreement shall be given to Owner (except for such information which may have previously been discarded in accordance with applicable records retention policies). Non-proprietary information on guests, patrons or groups relating to the Hotel may be used by Operator and Owner, and their Affiliates, on a non-exclusive basis in the conduct of their respective businesses (both during and after the Term), including, but not limited to, use by Operator in connection with guest loyalty programs.

(e) **Service Contracts and Leases.** Owner acknowledges that Operator may not have the ability to transfer to Owner the continuing benefits of Chain Contracts, or any contract with a Purchasing Company, upon termination of this Agreement. Owner agrees that such contracts, leases and service agreements will not be assigned, transferred or continued after such date, and Operator may, therefore, remove the Hotel from any such contracts applicable to the Hotel, as of the effective date of termination of this Agreement. Any leases or contracts entered into by Operator as agent for Owner shall remain the liability and obligation of Owner, and Owner shall indemnify Operator for any liabilities arising thereunder. To the extent Operator has leased any computer equipment or communications equipment for use at the Hotel in accordance with the provisions of this Agreement pursuant to chain-wide programs for the acquisition or leasing thereof, Owner shall have the right, at its option, either to request that any such lease be transferred to Owner (to the extent the same is transferable without the consent of third parties) or that Operator seek to buy out the equipment covered by any such lease, the cost of which shall be borne solely by Owner. Any such lease transfer or buy-out shall be subject to the approval of the third party owners of such equipment. If not assignable or if the same cannot be bought out, Operator shall remove all such equipment from the Hotel at any time on or after the effective date of termination of this Agreement but in no event later than fourteen (14) days thereafter.

(f) **Bookings.** Following the termination of this Agreement, Owner agrees that it shall, and shall cause any Successor Manager to, honor all bookings for future reservations or use of Hotel rooms or facilities which may have been accepted or entered into by Operator on or at any time prior to the termination of this Agreement, in accordance with the terms of such bookings as accepted by Operator (including, without limitation, bookings made in good faith by Operator for employee complimentary rooms, Gold Passport reservations and bookings pursuant to outstanding gift certificates or Operator promotional programs). Operator shall, on the effective date of termination, provide Owner with a complete list of all such bookings, the terms applicable thereto, and the amount of advance deposits (if any) received with respect to each such booking. Owner will assume and fully indemnify Operator with respect to any advance deposits theretofore received by Operator, on behalf of the Hotel, and delivered to Owner.

(g) **Notification of Customers.** With respect to any guests or patrons having or seeking to make reservations at the Hotel for a date after the expected date of termination or expiration, Operator may inform such guests or parties that the Hotel will not be an Operator hotel during all or part of their expected stay, or on their expected event date, that Operator may still accept such reservation and that such reservation will be honored by any Successor Manager, and that Operator operates other hotels in the area, naming such other hotels.

(h) **Licenses and Permits.** All transferable licenses or permits relating to the Hotel which have been obtained in the name of Operator shall be transferred and assigned to Owner or the Successor Manager and Operator shall provide Owner with a complete listing of all permits and licenses (whether or not transferable and whether in Operator's name or in the name of Owner) as soon as reasonably practicable prior to the effective date of termination so as to permit Owner or Successor Manager sufficient time to apply for new licenses or permits or to effect transfer to Owner's name or the name of Successor Manager. With respect to any non-transferable licenses or permits, Operator agrees that it shall cooperate reasonably with Owner and Successor Manager in obtaining new licenses or permits, and, in connection therewith, shall surrender or agree to surrender corresponding licenses or permits to the extent applicable solely to the Hotel which are then carried in Operator's name.

(i) **Operating Accounts.** All funds in the Operating Accounts which are in excess of minimum amounts necessary to keep such accounts open, plus the amount of then outstanding checks, drafts, or orders of withdrawal or other items drawn against the Operating Accounts, and net of any amounts payable or reimbursable to Operator hereunder, shall be remitted to Owner as of the effective date of expiration or termination. Operating Accounts shall remain open for a period of one (1) year after expiration or termination in order to enable clearance of outstanding items. After such one (1) year period, Operator will cooperate with Owner to close all such Operating Accounts and transfer any remaining funds to Owner.

(j) **Accounts Payable.** Accounts payable of the Hotel remaining unpaid as of the effective date of expiration or termination shall be assumed by Owner and paid as and when due; provided, however, the Owner reserves the right to recover from Operator the amount of any payables not qualifying as Operating Expenses pursuant to the last sentence of Section 4.7(e). For this purpose, the term "**accounts payable**" shall include, without limitation, liabilities accrued as of such date, but not yet billed, together with any amounts required to be paid to Operator hereunder. In addition, if any items of FFE have been ordered prior to expiration or termination hereof in accordance with the provisions of this Agreement, Owner shall pay all required charges therefor, whether or not shipped or received at the Hotel prior to such date. Owner shall indemnify and hold Operator harmless from any cost or liability relating to the foregoing. After the effective date of expiration or termination, Operator will consult with Owner at Owner's request (without fee but with no obligation to incur costs unless Owner reimburses such costs) regarding any accounts payable, including with respect to any disputes which may arise between Owner and the account creditor. Upon early termination, Operator shall use

commercially reasonable efforts to cancel any orders for FFE that Owner determines is not desirable or needed.

(k) **Telephone Number.** Owner may continue to use the telephone number of the Hotel as in effect prior to the expiration or earlier termination of this Agreement as the telephone number of the Hotel for a period of three (3) months after expiration or earlier termination hereof, after which Owner shall cease to use the same.

ARTICLE XIII

INDEMNIFICATION

13.1 **Indemnification of Operator.** Owner shall indemnify, defend and hold Operator (and its officers, directors, shareholders, agents, employees and Affiliates) free and harmless of and from any and all damages, liability, cost, claim or expense, including, without limitation, reasonable attorneys' fees and expenses, arising out of or in any way related to the Hotel or to the performance by Operator of its duties hereunder; except to the extent such damages, liabilities, costs, claims or expenses arise out of or are attributable to Operator's Grossly Negligent Acts or Willful Misconduct or a breach of this Agreement by Operator; provided, however, Owner shall have no liability hereunder to the extent Operator is reimbursed for its loss from the proceeds of insurance maintained in accordance with the provisions of Article VII, and, with respect to such coverage, Operator agrees that it will, in good faith, pursue its available insurance recoveries prior to making demand on Owner for indemnity.

13.2 **Indemnification of Owner.** To the extent that Owner shall not be fully insured against the risk of loss described in this Article 13, Operator will indemnify Owner and hold it harmless from any damages, liability, cost, claim or expense, including attorney's fees, arising out of or in connection with the operation of the Hotel. The costs of such indemnity shall be borne as follows:

(a) If the damage, liability, cost, claim or expense is attributable to Operator's gross negligence, willful misconduct, breach of this Agreement, prohibited transactions or negligence or willful misconduct, the cost of such indemnification shall be borne solely by Operator and shall not be an Operating Expense or charged against Gross Operating Profit;

(b) If the damage, liability, cost, claim or expense is attributable to any other reason or cause, the cost of such indemnification shall be paid out of the operating accounts and may be charged against Gross Operating Profit.

Operator's obligations under this Section 13.2 shall not include any losses, expenses or damages arising from any matters relating to (i) the structural integrity of the Hotel or other matters relating to defects in design, materials or workmanship in the construction of the Hotel (other than alterations or additions made by Operator pursuant to Section 7.10) ("**Structural Defects**"), (ii) any failures of the Hotel to meet code requirements applicable to the physical condition of the Hotel, or (iii) the existence of "hazardous substances" or "hazardous wastes" as defined in Comprehensive

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Environmental Response, Compensation and Liability Act, as amended, 42USC §6901 et seq., or similar state environmental laws or subsequent federal or state legislation of a similar nature which may be enacted from time to time ("**Environmental Laws**") (other than "hazardous substances" or "hazardous wastes" brought to the Site or any other area of the Airport as a result of the acts or omissions of Operator or its employees, agents, contractors or representatives which constitute gross negligence or willful misconduct, as to which Operator shall indemnify Owner as described in (a) above, and otherwise as to which Operator shall indemnify Owner as described in (b) above), all of the foregoing being Owner's sole responsibility. Owner hereby represents and warrants to Operator that it has no knowledge that the Hotel Premises contains amounts of any such "hazardous substances" or "hazardous wastes" in violation of applicable law; provided, however, that Owner has not undertaken (and is under no duty to undertake) any investigation with respect to such representation and warranty. To the maximum extent permitted by law, Owner shall fully indemnify Operator from and against any loss, cost, expense or liability, including attorney's fees arising from any of the matters described in this grammatical paragraph which are not Operator's responsibility hereunder, which expense of indemnification shall be deducted in computing Gross Operating Profit unless the result of (i) hazardous substances or hazardous wastes existing on the Site prior to the commencement of the Term, (ii) Structural Defects in the Hotel, or (iii) a breach of Owner's representation or warranty in the immediately preceding sentence. The provisions of this Section 13.2 shall survive the expiration or earlier termination of this Management Agreement.

13.3 If, under the terms of Section 13.1 or 13.2, either party is required to indemnify the other party and the amount of such indemnification is to be treated as an Operating Expense of the Hotel, then the amount of such indemnification shall be treated as an Operating Expense of the Hotel for the year to which the acts or events giving rise to the liability relate; and, if such payment or reimbursement is made after Adjusted Profit has been calculated for such year, then Adjusted Profit shall be recalculated by deducting the amount of such payment or reimbursement and, if Operator shall have received an Incentive Fee under this Agreement for that year in excess of the amount which would be payable on the basis of such recalculated Adjusted Profit, the amount of such excess shall be promptly remitted to Owner by Operator with interest at the rate set forth in Section 6.4 from and after the date of determination and notice to Operator that such payment is required.

13.4 **Survival.** The provisions of this Article XIII shall survive the expiration or earlier termination of this Agreement.

ARTICLE XIV

DISPUTE RESOLUTION

14.1 **Alternative Dispute Resolution.** Subject to Sections 14.4 and 14.6, the Parties agree for themselves and their respective Affiliates, and each of their respective shareholders, trustees, beneficiaries, directors, officers, employees or agents, that all controversies, disputes, or claims between the Parties arising from or relating to this Agreement (collectively, "**Disputes**")

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shall be subject to, and resolved in accordance with, this Article XIV. (For the purposes of this Article XIV, the term "**Party**" shall refer to each of the Persons referenced in this Section 14.1).

14.2 Negotiation.

(a) If either Party gives notice to the other Party of the existence of a Dispute, then, commencing within five (5) days after the date of such notice, the Parties shall, through their senior business representatives and (if they so desire) counsel, negotiate in good faith for a period of at least twenty (20) days in an effort to resolve the Dispute.

(b) If the Dispute remains unresolved at the conclusion of such negotiation, either Party may then submit the Dispute to arbitration in accordance with Section 14.3.

14.3 Arbitration.

(a) Subject to Section 14.4 and 14.6, all Disputes that have not been resolved through negotiation pursuant to Section 14.2 shall be submitted to final and binding arbitration administered by the AAA. If the AAA no longer exists or is unable to administer the arbitration of the Dispute in accordance with this Article XIV, and the Parties cannot agree on the identity of a substitute arbitration service provider within ten (10) days after notice by the complaining Party, then such Party shall petition a Florida court of competent jurisdiction to identify a substitute arbitration service provider, who will administer the dispute resolution process in accordance with this Article XIV. The arbitration proceedings shall be held in Orlando, Florida.

The arbitration shall be governed exclusively by the United States Arbitration Act or any successor law, without reference to any state arbitration statutes. In any such arbitration proceeding, each Party shall submit or file any claim that would constitute a compulsory counterclaim (as defined by Rule 13 of the Federal Rules of Civil Procedure) within the same proceeding as the claim to which it relates. Any such claim that is not submitted or filed in such proceeding shall be barred. The arbitrator may not consider any settlement discussions or offers that might have been made by either Owner or Operator.

(b) The arbitration proceedings will be conducted by one (1) arbitrator and, except as this Section otherwise provides, according to the AAA's then current commercial arbitration rules. The arbitrator must be chosen from a proposed list of at least thirty (30) arbitrators who are licensed attorneys and retired civil law judges each with no less than ten (10) years of judicial experience, and who are listed on the AAA's National Roster of Neutrals (or such other equivalent replacement roster of experienced arbitrators that the AAA designates). All proceedings will be conducted at a suitable location chosen by the arbitrator that is within ten (10) miles of the Hotel. All matters relating to arbitration will be governed by the Federal Arbitration Act (9 U.S.C. Sections 1 et seq.) and not by any state arbitration law.

The arbitrator has the right to award any relief that he or she deems proper, including money damages (with interest on unpaid amounts from the date due), specific performance, injunctive relief, and attorneys' fees and costs, provided that the arbitrator

may not declare any Proprietary Mark generic or otherwise invalid or award any punitive, exemplary, or treble or other forms of multiple damages against either party. The award of the arbitrator shall be conclusive and binding upon all parties hereto and judgment upon the award may be entered in any court of competent jurisdiction.

(c) Operator and Owner agree that arbitration will be conducted on an individual, not a class wide, basis; that only Operator (and/or its Affiliates and its and their respective owners, officers, directors, agents, and/or employees, as applicable) and Owner (and/or its Affiliates and its and their respective owners, officers, directors, agents and/or employees, as applicable) may be the parties to any arbitration proceedings described in this Section 14.3; and that an arbitration proceeding between Operator (and/or its Affiliates and its and their respective owners, officers, directors, agents, and/or employees) and Owner (and/or its Affiliates and its and their respective owners, officers, directors, agents and/or employees) may not be consolidated with any other arbitration proceeding between Operator and any other person. Notwithstanding the foregoing or anything to the contrary in this Section 14.3, if any court or arbitrator determines that all or any part of the preceding sentence is unenforceable with respect to a dispute that otherwise would be subject to arbitration under this Section, then all parties agree that this arbitration clause shall not apply to that dispute and that such dispute shall be resolved in a judicial proceeding in accordance with this Article XIV.

(d) Despite Operator's and Owner's agreement to arbitrate, Operator and Owner each have the right in a proper case to seek temporary restraining orders and temporary or preliminary injunctive relief from a court of competent jurisdiction; provided, however, that Operator and Owner must contemporaneously submit the dispute for arbitration on the merits as provided in this Article XIV.

(e) The Parties agree that the award of the arbitrator shall be binding upon Operator and Owner, and that judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

(f) No arbitrator shall (i) then be in the employ of any Person which, at the time of such arbitration, shall be a hotel operator or hotel management company, or (ii) have ever been in the employ of Owner or Operator.

(g) The arbitrator shall have no authority to award any punitive or exemplary damages or to vary or ignore the terms of this agreement, and shall be bound by controlling law. The arbitrator's failure to apply controlling law or entry of a decision that is not based on substantial evidence in the record or the terms of this Agreement shall be grounds for modifying or vacating an arbitration decision.

(h) **Disputes Less than \$500,000 and Certain Other Matters.** For (i) any arbitration pursuant to which either party seeks an award for money damages in an amount less than Five Hundred Thousand and 00/100 US Dollars (US\$500,000.00), and (ii) any unresolved matter arising pursuant to Sections 2.3 or 4.1, the following provisions shall apply:

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(1) Except as otherwise directed by the arbitrator, who, for purposes of matters arising under Section 2.3 or 4.1, shall be a nationally recognized hospitality consultant mutually selected by Owner and Operator, the Parties shall (i) produce relevant documents and information to each other as if Rule 34 of the Federal Rules of Civil Procedure applied to the arbitration proceeding. On a date set by the arbitrator, but in no event more than thirty (30) days after the arbitrator is selected, the Parties shall exchange document requests. The Parties may schedule up to three (3) depositions, which shall be noticed and taken in a manner consistent with the Federal Rules of Civil Procedure as if those Rules applied to the arbitration proceeding. Any such discovery shall be completed within sixty (60) days following the selection of the arbitrator.

(2) On a date set by the arbitrator, but in no event more than thirty (30) days after the depositions are complete, the Parties shall deliver to the arbitrator and each other a written statement of their respective positions with respect to the Dispute(s) at issue and their reasons in support thereof. Within fourteen (14) days thereafter, the Parties may submit to the arbitrator and, if so, deliver to each other, a written response to the other Party's statement.

(3) Unless requested by the arbitrator, no hearing shall be required in connection with any arbitration, and the arbitrator may elect to base his or her award or determination on the written material submitted by the Parties; provided, however, that the Parties shall submit to hearings, and be prepared to present testimony, if so requested by the arbitrator.

(4) Following receipt of the written materials from each Party provided for in subparagraph (2) above, and following any hearing held in connection with such arbitration, the arbitrator shall render his or her award or determination; provided, however, that if more than one Dispute is submitted to the same arbitrator for resolution, each such Dispute shall be deemed a separate arbitration for purposes of this subparagraph and shall be subject to a separate award by the arbitrator.

(i) **Disputes of \$500,000 or More.** Any arbitration pursuant to which either Party is seeking an award for money damages equal to or in excess of Five Hundred Thousand and 00/100 US Dollars (US\$500,000.00), shall be conducted pursuant to the Commercial Dispute Procedures of the AAA; provided, however, that, in all events, the parties shall (i) produce relevant documents and information to each other as if Rule 34 of the Federal Rules of Civil Procedure applied to the arbitration proceeding, and (ii) be entitled to take at least three (3) depositions, which shall be noticed and taken in a manner consistent with the Federal Rules of Civil Procedure as if those Rules applied to the arbitration proceeding. The arbitrator shall follow the Federal Rules of Evidence in making any evidentiary rulings.

14.4 **Litigation.** Notwithstanding anything to the contrary in this Article XIV, the Parties shall have the right to immediately commence litigation or other legal proceedings without seeking alternative dispute resolution with respect to any claims (a) by Operator relating

to the Protected Names or Protected Marks, (b) relating to emergency or injunctive relief, or (c) relating to enforcement of the dispute resolution provisions of this Agreement. In furtherance of the foregoing, each Party acknowledges and agrees that (x) a Party shall have the right to seek to obtain injunctive relief without bond, but upon notice required under applicable Legal Requirements (an "**Enjoining Party**"); and (y) such injunctive relief shall be in addition to such further and other relief as may be available to an Enjoining Party or its Affiliates at law or in equity. Any action by either Party described in this Section 14.4 shall be brought in a court for the State of Florida or a court of the United States located in the State of Florida. The Parties consent to the jurisdiction of such courts and waive any right to have such action transferred from such courts on the grounds of improper venue or inconvenient forum. The Parties also waive trial by jury in the event of any such action, and the Parties agree that service of process for purposes of any such action need not be personally served or served within the State of Florida, but may be served with the same effect as if the Party were served within the State of Florida, by notice in the manner prescribed for notices under this Agreement pursuant to Section 16.5 below.

14.5 **Prevailing Party's Expenses.** The prevailing Party in any arbitration, litigation or other legal action or proceeding arising out of or related to this Agreement shall be entitled to recover from the losing Party all reasonable fees, costs and expenses incurred by the prevailing Party in connection with such arbitration, litigation or other legal action or proceeding (including any appeals and actions to enforce any arbitration awards and court judgments), including reasonable fees, expenses and disbursements for attorneys, experts and other third parties engaged in connection therewith and its share of arbitrator fees and costs. If a Party prevails on some, but not all, of its claims, such Party shall be entitled to recover an equitable amount of such fees, expenses and disbursements, as determined by the applicable arbitrator or court. All amounts recovered by the prevailing Party under this Section 14.5 shall be separate from, and in addition to, any other amount included in any arbitration award or judgment rendered in favor of such Party.

14.6 **Third-Party Litigation.** This Article XIV shall not apply in the event that a third party has commenced litigation against one or more Parties outside of Florida ("**Third Party Action**") and a defendant Party in the Third Party Action files a cross-complaint or third-party complaint against another Party that arises out of the same facts or transactions at issue in the Third Party Action.

ARTICLE XV

REPRESENTATIONS, WARRANTIES AND COVENANTS

15.1 **Representations of Owner.** Owner represents and warrants to Operator as of the Effective Date as follows:

- (a) Owner is an entity duly organized and in good standing in its jurisdiction of organization as set forth on the first page hereof, and authorized to do business in the state in which the Hotel is located, and has all necessary authority and approvals to enter into this Agreement and perform its obligations hereunder.

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(b) This Agreement constitutes a valid and binding obligation of Owner and does not and will not violate or conflict with any of the organizational or governing documents of Owner or any Legal Requirements to which Owner is subject, or the Hotel or any substantial portion of Owner's assets is bound or affected.

(c) There are no legal proceedings pending, or, to Owner's actual knowledge, threatened, against Owner that might result in any inability of Owner to perform its obligations pursuant to this Agreement.

(d) Owner has engaged no broker, agency or finder in connection with this transaction.

(e) Either the City of Orlando or the Owner is the sole owner of the fee title to the Site and the Hotel, free and clear of any encumbrances that would have a material adverse effect on Operator's ability to operate the Hotel in accordance with this Agreement.

(f) To Owner's knowledge, (i) no hazardous or toxic materials, substances or wastes are or have been manufactured, generated, processed, used, handled, stored, disposed, released or discharged at, on, in, over, under or from the Hotel Premises, (ii) there are no soil, water, air, mineral, chemical or environmental conditions or contamination at, on, in, over, under or from the Hotel, that does, or with the passage of time will, require any remediation, abatement, removal, clean up, monitoring or other corrective action, or notice or reporting to any governmental authority or employees or patrons of the Hotel, pose any threat to the health and safety of the employees or patrons of the Hotel or the environmental or natural resources in general, or otherwise require, based on Legal Requirements or standards of prudent ownership, any remediation, abatement, removal, clean up, monitoring or other corrective action, and (iii) there exists no identifiable threat of the contamination of the Hotel Premises by release of hazardous or toxic materials, substances or wastes or otherwise from existing sources adjacent to the Hotel Premises, and (iv) there are no underground storage tanks at the Hotel Premises.

15.2 **Representations of Operator.** Operator represents and warrants to Owner as of the Effective Date as follows:

(a) Operator is an entity duly organized and in good standing in its jurisdiction of organization as set forth on the first page hereof, and authorized to do business in the state in which the Hotel is located, and has all necessary authority and approvals to enter into this Agreement and perform its obligations hereunder.

(b) This Agreement constitutes a valid and binding obligation of Operator and does not and will not violate or conflict with any of the organizational or governing documents of Operator or any Legal Requirements to which Operator is subject, or any substantial portion of Owner's assets is bound or affected.

(c) There are no legal proceedings pending, or, to Operator's actual knowledge, threatened, against Operator that might result in any inability of Operator to perform its obligations pursuant to this Agreement.

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(d) Operator has engaged no broker, agency or finder in connection with this transaction.

(e) No third party has made any claim of rights or interests in the Brand (or against the Protected Names and Protected Marks associated therewith) that would prevent the use of the Brand or such associated Protected Names and Protected Marks in connection with the operation of the Hotel as a Brand Hotel as contemplated by this Agreement.

15.3 No Representation Regarding Forecasts. In entering into this Agreement, Operator and Owner acknowledge that neither Owner nor Operator has made any representation to the other regarding forecasted earnings, the probability of future success or any other similar matter respecting the Hotel and that Operator and Owner understand that no representation or guarantee is made to the other as to any amount of income to be received by Operator or Owner or as to the future financial success of the Hotel.

15.4 Quiet Enjoyment. Owner covenants that throughout the Term either Owner, or the successor or successors in interest to Owner, shall own the Hotel or have a valid and subsisting leasehold interest therein sufficient at all times to enable Operator to perform its duties and obligations hereunder in accordance with the provisions of this Agreement. Without limiting the generality of the foregoing, Owner covenants and agrees, for the benefit of Operator, as follows:

(a) So long as Operator shall not be in Default hereunder or no other termination right provided herein has been exercised and completed, Operator shall be entitled to operate the Hotel for the Term, and Owner shall, at no expense to Operator, undertake and prosecute all appropriate actions, judicial or otherwise, to protect the title of Owner in the Hotel and Operator's rights with respect to the Operating Accounts so as to enable Operator to operate the Hotel in accordance with the provisions of this Agreement on an uninterrupted basis.

(b) Owner shall keep and maintain, or cause to be kept and maintained, any leases covering real or personal property or other agreements necessary to the ownership or control of the Hotel, or any part thereof, in full force and effect and free from default, and, in this connection, Owner shall pay and discharge, or cause to be paid and discharged, any ground rents or other rental payments or other charges payable by Owner in respect of the ownership of the Hotel. Operator acknowledges that the Operation and Use Agreement is scheduled to expire on September 26, 2026 and, if not extended, operational control over the Site, the Airport, the Hotel and all of Owner's rights and obligations under this Agreement will revert to the City of Orlando.

(c) Owner shall maintain, or cause to be maintained, in good standing and free from default any mortgages affecting the Hotel.

(d) Owner shall observe, or cause to be observed, and comply with, or cause to be complied with, any liens, encumbrances, covenants, charges, burdens or restrictions pertaining to the Hotel or any part thereof.

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(e) Without limiting the generality of the foregoing, Owner shall pay, prior to delinquency, all Debt Service and all real and personal property taxes assessed against the Hotel.

(f) Owner shall grant no rights or interests in the Hotel, or any part thereof or interest therein which could adversely affect the ability of Operator to operate and manage the Hotel as herein contemplated.

15.5 **Condo-Hotel; Fractional Ownership.** Owner shall not subdivide the Hotel; including, without limitation, creation of a so-called "condo-hotel," nor shall Owner subject the Hotel or any portion thereof or interest therein (or permit the same to be subjected) to a strata or condominium ownership or similar regime, or to any timeshare or fractional ownership regime, in each case without Operator's consent, which may be granted or withheld in Operator's sole discretion and which may be conditioned upon Owner and Operator having reached agreement on the terms pursuant to which Operator would (a) license the use of the Brand in connection with the sale of any interests in the Hotel and/or (b) provide management services to any such project.

15.6 **Financing and Sales.** Any financing, sale (whether of securities or otherwise) or issuance of indebtedness of any nature by Owner or any Person controlling Owner, shall be offered and sold only in compliance with all applicable Legal Requirements, including, without limitation, federal and state securities laws.

15.7 **Gaming Regulations.** Operator or its Affiliates (including certain Pritzker Family related companies) are, or may from time to time be, engaged, in the United States and foreign countries, in the ownership and operation of gaming facilities which require Operator and its Affiliates to comply with gaming regulations and to conduct periodic gaming compliance reviews. On request, Owner shall (a) provide Operator any information regarding Owner and its Affiliates and Ownership Participants as Operator reasonably believes is necessary to complete its compliance review, and (b) will use reasonable good faith efforts to obtain such information from actual or potential Lenders and Ground Lessors. In addition, if, at any time during the Term, either Operator or any of its Affiliates (including any Pritzker Family related companies) receives notice from any gaming regulatory authority requesting information regarding Owner or any Ownership Participant, Owner agrees that it shall, and shall cause said Ownership Participant to, provide such information to Operator promptly and with due diligence. If Owner has concerns regarding the request, Owner may advise Operator setting forth the nature of its concerns, and Operator shall use its diligent efforts to enable Owner, or any of its Ownership Participants, to meet with relevant regulatory authorities to discuss any concerns relating to Owner, or any Ownership Participant, which any regulatory authority may have, and to work with that authority towards a solution to any such concerns or issues; provided, however, that (i) Operator shall have no obligations under this sentence if its action may adversely affect the issuance, renewal or continuing effectiveness of any gaming license; (ii) any costs incurred by Owner, or its Ownership Participants, shall not constitute Hotel expenses; and (iii) in no event shall any proposed agreement between Owner or its Ownership Participants and any gaming authority (x) contain any obligations binding on Operator or its Affiliates (including any Pritzker Family related company), (y) condition or otherwise limit the granting, renewal or continuing effectiveness of any gaming license held by Operator or its Affiliates (including any Pritzker

Family related company), or (z) otherwise adversely affect or limit the rights and obligations of Operator hereunder, without, in each case, the written approval of Operator. In the event any gaming regulator shall determine that any gaming license applied for or held by Operator or its Affiliates (including any Pritzker Family related company) is subject to denial, revocation, non-renewal or the imposition of burdensome terms or conditions by reason of Operator's association with Owner or any Ownership Participant, or any Lender or Ground Lessor, Operator shall have the right, exercisable by written notice to Owner, to terminate this Agreement and all the rights and obligations of the parties hereunder such termination to be effective upon the date set forth in the notice from Operator to Owner, which date shall not be sooner than one hundred eighty (180) days nor later than three hundred sixty five (365) days after delivery of such notice.

ARTICLE XVI

GENERAL

16.1 Interpretation.

(a) All references in this Agreement to particular sections or articles shall, unless expressly otherwise provided or unless the context otherwise requires, be deemed to refer to the specific sections or articles in this Agreement. In addition, the words "hereof," "herein," "hereunder" and words of similar import refer to this Agreement as a whole and not to any particular section or article.

(b) The Article and Section headings contained herein are for convenience of reference only and are not intended to define, limit or describe the scope or intent of any provision of this Agreement.

(c) All pronouns and variations thereof used herein shall, regardless of the pronoun actually used, be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the Person may, in the context in which such pronoun is used, require.

16.2 **Approvals.** Unless otherwise expressly provided in this Agreement, whenever the approval or consent of either party to this Agreement is requested with respect to any matter, such approval or consent shall not be unreasonably withheld or delayed. If a party shall desire the approval or consent of the other party hereto to any matter, such party may give notice to such other party that it requests such approval, specifying in reasonable detail the matter as to which such approval is requested. If such other party shall not approve such matter in writing within twenty (20) days after receipt of such notice or such longer period as may be specifically provided for herein, such other party shall be deemed to have approved or consented to the matter referred to in such notice.

16.3 **Force Majeure.** The obligations of either party to perform under this Agreement within specified times (other than the payment of money) shall be extended for a period of time equivalent to the period of delay caused by Force Majeure. If, at any time during the Term, Operator is unable to perform its obligations under this Agreement due to Force Majeure, or if it becomes necessary, in Operator's reasonable opinion, to cease operation of the Hotel in order to

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protect the Hotel and/or the health, safety and welfare of the guests and/or employees of the Hotel due to the occurrence of a Force Majeure Cause, or to curtail or substantially modify Hotel operations to resulting changes in business conditions, Operator may close and cease or partially cease, or curtail or substantially modify, operation of all or any part of the Hotel as necessary based on the occurrence of the Force Majeure Cause, reopening and recommencing operation of the Hotel when Operator deems that the reopening and commencement of operations may be done pursuant to applicable Legal Requirements and without jeopardy to the Hotel, its guests or Hotel employees, or Operator's reputation as an operator of first-class hotels.

16.4 **Estoppel Certificates.** On request from time to time Operator shall execute and deliver to Owner or any Lender or Ground Lessor, within thirty (30) days following Operator's receipt of written request therefor, a certificate in a form reasonably satisfactory to Operator: (a) certifying that this Agreement has not been modified and is in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and specifying the modifications); and (b) stating whether, to the actual knowledge of the general manager and controller of the Hotel, any Default by Owner exists, and if so, specifying each Default of which the general manager or controller may have knowledge. The Parties acknowledge that the estoppel shall not constitute an amendment, modification or waiver of any term or condition of this Agreement, or any right or remedy of Operator hereunder with respect to any claims that are not known by Operator as of the date of such estoppel certificate. On similar notice or request from Operator, Owner, any Lender (with respect to any mortgage on the Hotel), or any Ground Lessor (with respect to any Ground Lease) shall execute and deliver to Operator a similar certificate. In the event of any conflict between the estoppel certificate and this Agreement, the terms of this Agreement shall prevail.

16.5 **Notices.** All notices or other communications hereunder shall be in writing and shall be deemed duly delivered (a) upon personal delivery thereof to, and actual receipt by, the other party; (b) upon electronic facsimile transmission to the other party, at its fax number as set forth below, provided such delivery is followed by an original of the notice delivered to the other party by overnight delivery or United States postal service delivery and provided the facsimile copy sent by the sender provides an automatic notation confirming the delivery thereof; (c) on the next business day following delivery by the sender to a recognized and reliable air freight delivery service; or (d) three (3) business days following deposit in the United States mails. All notices delivered hereunder shall be pre-paid by the sending party and shall be addressed to the parties as follows:

If to Owner:

Greater Orlando Aviation Authority
Orlando International Airport
One Jeff Fuqua Boulevard
Orlando, Florida 32827-4399
Attention: Executive Director
Fax No.: _____

With a copy to:

General Counsel

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If to Operator: Hyatt Center
71 South Wacker Drive
12th Floor
Chicago, Illinois 60606
Attention: General Counsel
Fax No.: 312.780.5282

Either party hereto shall have the right to change its address for notice or its fax number, or the identity of Persons (not more than two (2) in number) entitled to receive copies of any such notices, by delivery in the manner hereinabove provided of an appropriate notice to the other party setting forth the new address or the new fax number, or the identity of the additional or replacement Persons entitled to receive copies, or any one or more thereof.

16.6 **Third Party Beneficiaries.** None of the rights or obligations hereunder of either party shall run to, or be enforceable by, or be deemed to have been made for the benefit of, any party other than the parties to this Agreement, their respective successors and assigns in accordance with the provisions of this Agreement, and the City of Orlando.

16.7 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which when taken together shall constitute a single instrument.

16.8 **Entire Agreement.** This Agreement and the exhibits to this Agreement constitute the entire understanding and agreement of the parties hereto with respect to the subject matter hereof and supersede all prior understandings and writings between the parties.

16.9 **Severability.** If any term or provision of any Article or Section of this Agreement, or the application thereof to any persons or circumstances, shall to any extent or for any reason be invalid or unenforceable, the remainder of this Agreement and the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of any Article or Section of this Agreement shall be valid and enforced to the fullest extent permitted by law.

16.10 **Amendments.** This Agreement may be changed or modified only by an agreement in writing signed by the parties hereto, and no oral understandings shall be binding as between the parties.

16.11 **Successors and Assigns.** Subject to the express provisions of Article X above, this Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto, and their respective successors and assigns.

16.12 **Governing Law.** This Agreement is made pursuant to and shall be construed and interpreted in accordance with, the laws of Florida.

16.13 **Survival and Continuation.** Notwithstanding the termination of the Term or Operator's management of the Hotel in accordance with this Agreement, all terms, provisions and obligations of either party contained herein which, by the express terms of this Agreement, survive the expiration or termination hereof, or which, in order to give them effect and

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accomplish their intent and purpose, need to survive such termination (including, without limitation, the provisions of Article XIII hereof), shall survive and continue until they have been fully satisfied or performed.

16.14 Confidentiality.

(a) All information regarding the Hotel or Owner not otherwise in the public domain by publication or otherwise shall, except as otherwise herein expressly permitted or provided, be received and maintained by Operator in a confidential manner and shall not be disclosed to any third party without the prior written consent of Owner or otherwise in accordance with the express provisions of this Agreement. Owner agrees that it will hold strictly confidential and not disclose (i) any information relating to Operator and its operating procedures and policies including, without limitation, all Proprietary Materials, (ii) any of the terms or provisions of this Agreement, except with prior written consent of Operator and except pursuant to court order or to potential Lenders or equity investors with whom Owner is engaged in good faith negotiations relating to the Hotel, or to Owner's lawyers, accountants or other similar consultants or professionals on an "as needed" basis in connection with matters pertaining to the Hotel, and with a clear and conspicuous identification of such information as confidential, and (iii) all information regarding Hotel operations (including, without limitation, financial results of operations, statistical data, pricing information, occupancy data including room rate information, bookings pace, customer or group information, and other such data and information), except for disclosures permitted by the preceding clause (ii).

(b) Notwithstanding the foregoing (but subject in all respects to applicable Legal Requirements), nothing contained herein shall be deemed to prohibit Operator from disclosing any such information to (i) reputable statistical computation firms who agree not to disclose the identity of the Hotel with respect to such confidential information; or (ii) other Persons when such disclosure is deemed reasonably necessary by Operator in order to perform its obligations hereunder; (iii) other Persons in accordance with lawful standard industry information sharing arrangements; (iv) financing sources and prospective purchasers of Operator, or its assets, or of the Hotel, who have executed a confidentiality agreement; or (v) gaming regulators as may be required pursuant to Section 15.7.

(c) Operator acknowledges and agrees that the foregoing confidentiality obligations of the Parties are subject to, and superseded by, Owner's disclosure obligations under Florida's Public Records Law and obligations of Owner under Florida's Government-in-the-Sunshine Law.

(d) The provisions of this Section 16.14 shall survive the expiration or earlier termination of this Agreement for any reason.

16.15 Further Assurances. Each party hereto shall execute and deliver all such other appropriate supplemental agreements and other instruments and take such action as may be necessary to make this Agreement fully and legally effective, binding and enforceable as between the parties hereto and as against third parties.

16.16 **Trade Area Restriction and Competing Facilities.** Subject to the further provisions of this Section 16.16, during the Term, neither Operator nor any of its Affiliates shall open and operate, or authorize any other party to open and operate, any Hyatt Regency or Grand Hyatt (other than the Hotel), where the physical premises of such hotel are located within the Primary Area of Protection or any other hotel (other than the Hotel and the existing Hyatt Place Orlando Airport-Northwest), where the physical premises of such hotel are located within the Secondary Area of Protection. The foregoing restriction shall not apply to any timeshare or vacation ownership resort or any fractional ownership or whole-ownership residential property Owner hereby consents to the ownership, operation and licensing by Operator and its Affiliates of other hotels outside the Primary Area of Protection and Secondary Area of Protection even if they may be deemed competitive with the Hotel, and Owner agrees that Operator shall not be prohibited or restricted from doing so, except as expressly provided in this Section 16.16.

16.17 **[Intentionally Omitted]**

16.18 **Limited Obligations; Subordinate Position.** This Agreement shall not be deemed to constitute a general obligation of the City, or a pledge of the faith and credit of the City, or to directly or indirectly or contingently obligate the City to levy or to pledge any form of taxation whatever with respect to the Hotel. The Owner has no taxing power. Operator's rights and the Owner's obligations under this Agreement are subordinate in all respects to any pledge created by any trust agreements or bond resolution to which Owner may be party.

16.19 **Miscellaneous Provisions.**

(a) Operator covenants and agrees that this Agreement shall be subject and subordinate to the provisions of any existing or future agreement between Owner and the United States Government relative to the operation or maintenance of the Airport, the execution of which has been or will be required as a condition precedent to the granting of federal funds for the development of the Airport to the extent that the provisions of any such existing or future agreements are generally required by the United States at other civil airports receiving federal funds. In the event that the Federal Aviation Administration or its successors shall require any modifications to this Agreement as a condition precedent to the granting of such federal funds, Operator shall promptly consent in writing to any such modifications; provided, however, that no such modifications shall reduce the Basic Fee or Incentive Fee payable to Operator hereunder; and provided, further that Operator shall have the right to terminate this Agreement and receive payment of the Required Payments through the date of termination if Operator reasonably determines that any such modifications materially and adversely affect Operator's rights or obligations hereunder.

(b) Owner reserves the right to further develop, improve, repair and alter the Airport (including, without limitation, the Hotel) and all roadways, parking areas, terminal facilities, landing areas and taxiways as it may reasonably see fit, and Owner shall be free from any and all liability to Operator for damages with respect to lost profits or other similar claims occasioned during the making of such improvements, repairs, alterations and additions. In addition, Owner reserves the right to make any changes in the operation or configuration of, or the procedures governing the use of the terminal

complex or the Airport (including without limitation, the relocation of any airlines) without incurring any liability to Operator as a result of such changes; provided, however, Owner agrees to consult with Operator and to consider in good faith any proposals of Operator if such proposed changes could significantly affect Hotel operations.

(c) (1) Operator, on behalf of itself, its successors in interest and its assigns, as a part of the consideration hereof, does hereby covenant and agree that: (a) no person on the grounds of race, color or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the Hotel; and (b) that in the construction of any improvements at the Hotel and the furnishing of services in connection therewith, no person on the grounds of race, color or national origin shall be excluded by Operator, or as a result of any action of Operator, from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (c) that Operator shall operate at the Airport in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally assisted programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. Likewise, Operator shall comply with laws of the State of Florida, prohibiting discrimination because of race, color, religion, sex, national origin, age, handicap or marital status. Should Operator authorize another person or entity, with Owner's prior written consent (or without such consent (or without such consent, to the extent permitted by this Agreement), to provide services or benefits in or in connection with its rights or obligations under this Agreement, Operator shall obtain from such person or entity a written agreement pursuant to which such person or entity shall, with respect to the services or benefits which it is authorized to provide, undertake for itself the obligations contained in this paragraph. Operator shall furnish the original or a true copy of such agreement to Owner. For all purposes of this Agreement (including, without limitation, Section 9 and 19 hereof) the obligations and covenants contained in this subsection (C)(1) shall be deemed "**Regulations.**"

(2) Operator will provide all information and reports required by the Regulations, or by directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Owner or the Federal Aviation Administration to be pertinent to ascertain whether there has been compliance with said Regulations and directives. Where any information required of Operator is in the exclusive possession of another who fails or refuses to furnish this information, Operator shall so certify to Owner or the Federal Aviation Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

(3) In the event of a breach of any of the above nondiscrimination covenants, Owner shall have the right to impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate. Such

rights shall include the right to terminate this Agreement and to reenter and repossess the Site and the improvements thereto, and hold the same as if this Agreement had never been made; provided, however, in no event shall Operator have any monetary liability hereunder in excess of the liability (if any) it would otherwise have hereunder by reason of the breach of any Regulation. The rights granted to Authority by the foregoing sentence shall not be effective until the procedures of Title 49, Code of Federal Regulations, Part 21 are followed and completed, including exercise or expiration of appeal rights.

(4) Operator agrees that no person shall be excluded on the ground of race, creed, color, national origin or sex from participating in or receiving the services or benefits of any program or activity covered by Title 14, Code of Federal Regulations, Part 152, Subpart E, Federal Aviation Administration, Nondiscrimination in Airport Aid Program, and that it will be bound by and comply with all other applicable provisions of such Subpart E, as it may be amended from time to time. Operator also agrees that it will require its covered sub-organizations (as defined in said Subpart E) to provide assurances to the same effect and provide copies thereof to the Executive Director. For all purposes of this Agreement, the obligations and covenants contained in this subsection (C)(4) shall be deemed "**Regulations.**"

(5) Operator further agrees that it will comply with pertinent statutes, executive orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted at or in connection with its management of the Hotel. Operator also agrees that it will require its contractors and sublessees to provide assurances to the same effect and ensure that such assurances are included in contracts and subleases at all tiers which are entered into in connection with Operator's management of the Hotel. For all purposes of this Agreement, the obligations and covenants contained in this subsection (C)(5) shall be deemed "**Regulations.**"

(6) Owner may from time to time be required by the United States Government, or one or more of its agencies, to adopt additional or amended provisions including nondiscrimination provisions concerning the use and operation of the Airport, and Operator agrees that it will adopt such requirements as part of this Agreement, subject to the termination rights of Operator described in sub-section (A) above and subject to the provisions of this Agreement regarding compliance with "**Regulations.**"

(d) Operator represents and warrants to Owner that, except as may be disclosed in an Addendum hereto, no member, officer, employee or agent of Owner has any interest, direct or indirect, in the business of Operator to be conducted hereunder.

(e) The rights and privileges granted to Operator hereunder shall at all times be subject to the rules and regulations of Owner governing the use and operation of the Airport and/or the Hotel, as the same are now or may hereafter be prescribed through the

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lawful exercise of its power, including, but not limited to, rules and regulations with respect to health, safety and security; provided, however, that no such rule or regulation which violates the express terms of this Agreement shall apply to Operator's operation of the Hotel hereunder.

(f) In the event that any legal proceeding at law or in equity arises hereunder or in connection herewith (including, without limitation, any appellate proceedings or bankruptcy proceedings), the prevailing party shall be awarded costs, reasonable attorney's fees (including, without limitation, the fees and charges for the services of paralegal and other personnel who operate for and under the supervision of such attorneys and whose time is customarily charged to clients) and reasonable expert witness fees incurred in connection with such legal proceeding.

(g) No recourse under or upon any obligation, covenant or agreement contained in this Agreement, or any other agreement or document pertaining to the operations of Operator hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or under any judgment obtained against Owner, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Agreement, shall be had against any member (including, without limitation, members of Owner's Board and members of Owner's citizens advisory committees), officer, employee or agent, as such, past, present and future, of Owner, either directly or through Owner or otherwise, for any claim arising out of this Agreement or the operations conducted pursuant to it, or for any sum that may be due and unpaid by Owner. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any member, officer, employee or agent of Owner, as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of this Agreement, or the operations conducted pursuant to it, or for the payment for or to Owner, or any receiver therefor or otherwise, of any sum that may remain due and unpaid by Owner, is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement.

(h) Owner currently operates the Airport under the terms of the Operation and Use Agreement, which provides that on its termination for any reason, responsibility for operating the Airport would revert to the City. The Owner and Operator agree that on the termination for any reason of the Operation and Use Agreement between the City and Owner, all references herein contained to "**Owner**" shall be deemed to refer to the City, and the City shall automatically succeed to the rights and obligations of Owner hereunder.

(i) Owner and Operator acknowledge that, in light of the integrated nature of the Project, certain of the costs of management operation, and maintenance of the Project may properly be allocable to two or more of the components of the Project, including the Hotel (the "**Shared Expenses**"). Owner shall not, directly or indirectly, cause or consent to (by vote or otherwise) any allocation of Shared Expenses to the Hotel other than in accordance with the methodology prescribed by the governing documents for such Project approved by Operator (the "**Governing Documents**"), except to the extent

required to satisfy applicable Legal Requirements. Further, Owner acknowledges and agrees that, if at any time during the Term, Owner or any of its Affiliates owns any other component of the Project, the, to the extent any allocation of Shared Expenses between or among the components of the Project (including the Hotel) owned by Owner or its Affiliates is subject to Owner's approval (as opposed to an allocation that is effected pursuant to a formula specified in the Governing Documents), Owner shall not grant such approval without first obtaining Operator's consent to the allocation in question, except to the extent required to satisfy applicable Legal Requirements.

(j) Except as otherwise expressly provided herein, if certain action may be taken only with the consent or approval of the Owner, or if a determination or judgment is to be made by the Owner, such consent or approval may be granted or withheld, or such determination or judgment shall be made, in the sole discretion of the Owner.

(k) Except as otherwise expressly provided herein, if this Agreement provides that a party's consent or approval shall not be unreasonably withheld, such consent or approval shall also not be unreasonably delayed.

(l) The Section and paragraph headings herein are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of any provisions of this Agreement.

(m) Time is expressed to be of the essence of this Agreement.

(n) This Agreement will inure to the benefit of and shall be binding upon the parties hereto and their authorized successors and assigns.

(o) If any covenant, condition or provision of this Agreement is held to be invalid by any court of competent jurisdiction, such holding shall not affect the validity of any other covenant, condition or provision contained herein.

(p) This Agreement, together with the exhibits attached hereto, constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and any representations or statements heretofore made with respect to such subject matter, whether verbal or written, and any contemporaneous verbal representations or statements with respect to such subject matter, are merged herein. This Agreement may be altered or amended only by written instrument executed by both parties hereto.

(q) (1) Wherever in this Agreement it is provided that Owner consent or approval shall be required, except as otherwise may be specifically provided, approval or consent by Owner's Executive Director shall satisfy the requirement of Owner consent or approval.

(2) Operator agrees that the Owner is permitted to retain an asset manager to perform certain of Operator's duties and responsibilities relating to the Hotel. Operator hereby recognizes that the asset manager is an authorized representative of the Owner with respect to the Hotel and agrees to cooperate with

the Owner and the asset manager fully in order to permit the asset manager to effectively perform its duties and responsibilities.

[Signatures on following page]

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

OWNER:

Greater Orlando Aviation Authority, a

By: _____
Its: _____

OPERATOR:

HYATT CORPORATION, a Delaware
corporation

By: _____
Its: _____

EXHIBIT A

LEGAL DESCRIPTION OF SITE

EXHIBIT B

DEFINITIONS

Except as herein expressly provided, and in addition to any other definitions herein contained, the following terms shall have the respective meanings as indicated below:

"**Accountants**" shall have the meaning set forth in Section 4.8(b).

"**Adjusted Profit**" shall mean, for any relevant period, an amount, not less than zero, equal to the excess (if any) of (x) Gross Operating Profit for such period over (y) the sum of the following amounts (but only to the extent that such amounts are not otherwise deducted in computing Gross Operating Profit):

- (a) An amount equal to the aggregate deposits to the Capital Fund made under Section 4.3(c) for such period;
- (b) The cost of insurance maintained by Operator in accordance with the provisions of this Agreement and allocable to such period in accordance with generally accepted accounting principles, subject to the limitations set forth in Article VII;
- (c) All real and personal property taxes paid by Owner for such period (less refunds, offsets or credits thereof, and interest thereon, if any, received during the period in question) and allocable to such period in accordance with generally accepted accounting principles, including, without limitation, costs of contesting the same, but not in excess of the savings achieved by such contest, but not to exceed on an annual basis US\$1,000,000, plus an annual CPI increase;
- (d) The Basic Fee earned for such period (but not the Incentive Fee);
- (e) Such portion of the costs of operating the Terminal Complex (including the Hotel) which is fairly and equitably allocable to the Hotel (as reasonably determined by Owner, consistent with past practices);
- (f) Indemnity which is chargeable against Gross Operating Profit as described in Section 13.2 hereof and paid out of the Operating Accounts to either Operator or Owner;
- (g) Legal, accounting and consulting fees incurred by Operator in connection with the operation of the Hotel (but excluding any corporate level expenses of Operator);
- (h) Any amounts added for such period to the reserve or other provision for doubtful accounts established by the Hotel Accountant;
- (i) All other amounts deductible in the calculation of Adjusted Profit in respect of such period under the express terms of this Agreement; and

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- (j) Cost to Owner of maintaining the valet parking service at the Hotel.

Notwithstanding any of the foregoing, the actual cost of leasing or renting or other similar charges incurred after the Effective Date for the replacement of or addition to Furnishings and Equipment shall not be deductions in determining Adjusted Profit Flow. Such payments or costs incurred after the Effective Date shall be charged against the Capital Fund (the deposits to which are deducted under subparagraph (a) above) unless Owner agrees that they shall otherwise be paid by Owner.

In no event shall any Capital Lease payments, any Capital Expenditures, or any expenditures made from funds on deposit in the Capital Fund, or from the proceeds of insurance recoveries or condemnation awards, be deducted in computing Adjusted Profit.

"Affiliate" shall mean, with respect to any Person, any other person, firm, corporation, limited liability company, partnership, association, trust or other entity which, directly or indirectly, controls, is controlled by, or is under common control with, the subject entity. For purposes hereof, the term **"control"** shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, either alone or in combination with any one or more Persons. Accordingly (and without limiting the generality of the preceding provisions), a corporation shall be deemed under the **"control"** of another corporation, if a majority of the directors of said corporation also comprise a majority of the directors of the other corporation. Persons who are Affiliates of each other are sometimes herein referred to as being **"Affiliated."**

"Agreement" shall mean this Hotel Management Agreement and any amendments hereafter entered into between the parties.

"Annual Plan" shall have the meaning set forth in Section 4.1.

"Annual Financial Statements" shall have the meaning set forth in Section 4.8(b)(2).

"Basic Fee" shall have the meaning set forth in Section 6.1.

"Brand" shall mean Hyatt Regency.

"Brand Hotels" shall mean all hotels and resorts in the United States, Canada, and the islands of the Caribbean that are operated by Operator or its Affiliates under the Brand. No hotel shall be deemed a "Brand Hotel" solely by virtue of the fact that (i) it has the name "Hyatt" (or any other trade name of Operator) as part of its name or it refers to its affiliation with Operator or its Affiliates, such as "a Hyatt-affiliated hotel," "a member of the Hyatt group of hotels," "one of the family of Hyatt hotels," "by Hyatt," or similar such references, or (ii) it participates in the central reservations system or other Centralized Services offered by Operator or its Affiliates. Hotels operated by Hyatt International Corporation and its subsidiaries will not be considered Brand Hotels.

"Brand Standard Items" shall mean any specific (in terms of brand, specifications or otherwise) items of inventory, FFE, Operating Equipment or supplies, which are determined by

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Operator to be mandatory for all Brand Hotels or hotels within the Operator Hotel Group if deemed an appropriate point of comparison by Operator.

"Building(s)" shall mean all buildings and other permanent improvements constructed on the Hotel Premises which shall include, without limitation, all buildings and other improvements in which are located guest rooms and suites, parking, restaurants, lounges, and health and recreational facilities, and shall also include those hotel amenities and facilities which are permanent improvements to the Hotel Premises such as swimming pools, tennis courts, and the like.

"Building Systems" shall mean any structural, mechanical, electrical, plumbing, heating, ventilating, air conditioning and life safety equipment and systems; major architectural features or systems such as water features, curtain walls and roofs; major laundry appliances; major kitchen appliances; elevators and escalators; pumps, filters and other pool equipment; water features and other similar systems and items of equipment installed in or upon, and affixed to, the Building, whether or not the same may be movable and whether or not removal thereof would cause damage to the Building or the Site, excluding, however, any items of FFE.

"Capital Budget" shall have the meaning set forth in Section 4.1.

"Capital Expenditures" shall mean any costs or expenses actually incurred after the Effective Date with respect to the Hotel that are properly categorized as capital in nature under generally accepted accounting principles.

"Capital Fund" shall have the meaning set forth in Section 4.3(c).

"Capital Lease" shall mean any lease of FFE equipment or other items of personal property used or proposed to be used in connection with the operation of the Hotel and which, under generally accepted accounting principles, is classified as a "capital lease." Owner shall provide Operator with such information (including, without limitation, a copy of the lease in question) as shall be relevant for purposes of determining whether said lease is properly classified as a capital lease under generally accepted accounting principles.

"Centralized Services" shall mean those services generally made available by Operator, or Affiliates of Operator, from time to time during the Term on a central, regional or other shared or group basis in whole or in part to Brand Hotels and such other hotels operated or licensed by Operator or its Affiliates that Operator reasonably determines shall be provided such services. Centralized Services may include, by way of example, (i) convention, business and sales promotion services, (ii) chain-wide marketing, advertising and public relations services, (iii) centralized reservations services, (iv) the frequent guest program of Operator and its Affiliates, (iv) control services for, among others, food and beverage, rooms, accounting, engineering, risk and human resource departments, some or all of which may, from time to time, be provided from a shared services center; provided, however, such control services shall not include any amounts for Operator's overhead in providing headquarters supervision over the management of the Hotel or over the management of any regional or shared services offices. The scope of, and manner of providing, the Centralized Services is subject to modification (including addition and deletion of services) from time to time during the Term.

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"Centralized Services Charges" shall have the meaning set forth in Section 4.5(b).

"Centralized Services Costs" shall mean, with respect to any of the Centralized Services in which the Hotel participates (or is required to participate), all costs actually incurred or properly accrued by Operator or by any of its Affiliates during the period of determination in respect of the provision of such Centralized Services, including (v) any costs or expenses payable to third party vendors or employees of Operator or its Affiliates (including support personnel) directly engaged in the rendition of such Centralized Services, (w) occupancy costs, (x) costs of equipment leases and capital improvements, (y) administrative expenses allocable to such services, and (z) allocation of related carrying costs. In any case in which employees of Operator or any Operator Affiliate devote less than all of their time to the provision of the applicable Centralized Services, employee costs shall be allocated in a reasonable manner determined in good faith by Operator to reflect the portion of time devoted by such employees to such Centralized Services. Other shared costs such as occupancy costs, utilities, and the like relating only partially to Centralized Services shall likewise be allocated by Operator to Centralized Services Costs on a fair and reasonable basis as determined in good faith by Operator so as to reflect, as nearly as reasonably possible, the portion of such costs fairly and reasonably attributable to the provision of Centralized Services. Any such allocation of shared personnel or other costs made by Operator in good faith and with the intention of fairly allocating such costs, shall be binding on the parties hereto. Centralized Services Costs shall include only the actual costs incurred by Operator, and shall not be subject to any mark up, premium or profit. Moreover, to the extent that Operator or any Affiliate of Operator receives (i) a fee or cost reimbursement from any third party, hotel, or hotel chain (including any hotel from the Operator Hotel Group other than Brand Hotels) in consideration of the provision of one or more of the Centralized Services to such third party, hotel or hotel chain, or (ii) any rebates, commissions or discounts from vendors or service providers whose costs are included as part of Centralized Services Costs, such amounts so received (including any profit element) will be offset against Centralized Services Costs. There shall likewise be credited against Centralized Services Costs with respect to any period any amounts that Operator or any of its Affiliates are entitled to be paid in respect of Centralized Services furnished during such period to hotels participating in Centralized Services that (because they are under construction or are otherwise being prepared for opening), are not included (or, if partially included, to the extent not so included) in the group of hotels among which Centralized Services Costs are then being allocated.

"Certificate of Authority" shall have the meaning set forth in Section 2.1(c).

"Chain Contracts" shall mean those contracts entered into by Operator from time to time with third party vendors of goods or services that are intended by Operator to be available for use at all or identifiable sub-groups of Brand Hotels.

"Corporate Personnel" shall mean any personnel from the corporate offices of Operator and its Affiliates who perform activities in connection with the services provided by Operator under this Agreement.

"CPI" shall mean the Consumer Price Index for United States City Averages for All Urban Consumers, All Items, published from time to time by the United States Bureau of Labor

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Statistics (1982-84 = 100). If the CPI is discontinued or is unavailable or is substantially revised, a comparable index agreeable to Owner and Operator reflecting the changes in the cost of living or the purchasing power of the consumer dollar, published by any governmental agency or recognized authority shall be used in place thereof. Unless otherwise provided, any CPI adjustment shall reflect CPI changes from the end of the CPI reporting period next preceding the Effective Date to the end of the CPI reporting period next preceding the effective date of any such adjustment.

"Cumulative Period" in connection with the calculation of Management Fees for any month shall mean the period from the beginning of the Fiscal Year in question to the end of the month for which the calculation is being made.

"Debt Service" shall mean both (i) the amount of principal and interest required to be paid under any indebtedness of Owner at any time during the Term secured by a mortgage or other similar lien on the Hotel, or any part thereof or interest therein, and (ii) the amount of rent required to be paid under any Ground Lease.

"Default," "Event of Default" and "Defaulting Party" shall all have the meanings set forth in Section 11.1.

"Disputes" shall have the meaning set forth in Section 14.1.

"Effective Date" shall have the meaning set forth on the cover page.

"Employee Costs" shall mean the aggregate compensation, including, without limitation, salary, fringe benefits, incentive compensation, bonuses, employee performance and service awards, and other such amounts paid or payable to Hotel employees, and other employee related costs such as payroll taxes and COBRA expenses less the net benefit of any tax credits (after deduction for any costs incurred in applying for or claiming said tax credits) received by Operator during the applicable period in question by reason of employment at the Hotel. The term **"fringe benefits"** shall include, without limitation, the cost of pension or profit sharing plans, workers' compensation benefits, group life and accident and health insurance or equivalent benefits, and similar benefits available to Hotel employees by virtue of their employment. Employee Costs shall not include any costs, liabilities or expenses resulting from a violation by operator of any Legal Requirement relating to Operator's employees, which shall be and remain the exclusive responsibility of Operator.

"Environmental Laws" shall have the meaning set forth in Section 7.10(b).

"Excess Cash" shall have the meaning set forth in Section 4.7(g).

"Executive Order" shall have the meaning set forth in Section 9.3(a).

"FFE" shall mean all fixtures, furniture, furnishings and equipment located at the Hotel, together with all replacements therefor and additions thereto, but shall not include Operating Equipment.

"Financial Records" shall have the meaning set forth in Section 4.8(a).

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"**Fiscal Year**" shall mean the twelve (12) month period beginning October 1 and ending September 30, except that the last Fiscal Year hereunder shall end on the date of the expiration or earlier termination of this Agreement.

"**Force Majeure**" or "**Force Majeure Cause**" shall mean any one or more events or circumstances beyond the reasonable control of the party whose performance is affected thereby that, alone or in combination, adversely affects the operation of the Hotel whether or not such events or circumstances occur geographically in a location remote from the Hotel, including, without limitation, casualties, war, invasion, insurrection, acts of terrorism, sabotage, failure of transportation, outbreak of disease, inability to procure or general shortage of labor, equipment, facilities, materials or supplies in the open market, actions of labor unions, and governmental actions (but excluding causes which can be controlled by the reasonable expenditure of money in accordance with usual business practices).

"**Funds Request**" shall have the meaning set forth in Section 4.7(b).

"**Furnishings and Equipment**" shall have the meaning set forth in Section 1.2.

"**Gross Operating Profit**" for any period shall mean the excess (if any) of (a) Gross Receipts for such period over (b) Operating Expenses for such period, calculated in accordance with the Uniform System.

"**Gross Receipts**" for any period shall mean all revenues and income of any kind derived, directly or indirectly, from the operation of the Hotel during such period, including all revenues derived from the sale during such period of rooms, food and beverages, spa services, and rents or fees payable by tenants or other service providers for such period (but not the gross receipts of such sub-tenants or service providers). Without limiting the generality of the foregoing, it is the intention of the parties that the term "Gross Receipts" shall mean all amounts properly accounted for as Total Revenue for Total Operated Departments in accordance with, and as defined in, the Uniform System. Notwithstanding the foregoing, there shall be excluded in determining Gross Receipts for any period the sum of (i) any sales, excise or occupancy taxes actually collected during such period in accordance with Legal Requirements from guests or patrons of the Hotel and either remitted, or required to be remitted, to appropriate taxing authorities; (ii) amounts collected from guests or patrons of the Hotel on behalf of Hotel tenants and other third parties; (iii) interest earned on funds held in Operating Accounts (if any); (iv) insurance proceeds, condemnation proceeds, financing or refinancing proceeds and the proceeds of sale of any real or personal property comprising part of the Hotel (as distinguished from the sale of merchandise, food and beverage and other consumer goods or services); (v) receipts from valet parking service at the Hotel operated by or on behalf of Owner (and not Operator) (vi) gratuities or service charges payable directly to employees; (vii) allowances for overcharges or refunds; (vi) revenues for parking at the Hotel; (ix) revenue from sales of merchandise or services generated by airport concessionaires, including, without limitation, airport ground transportation concessionaires; (x) proceeds from the sale of items of FFE; and (xi) proceeds from the transfer, financing or refinancing of Owner's interest in the Hotel or from any Condemnation (except as provided above). Gross Receipts shall in all events include only amounts actually paid or payable to the Hotel (in cash or services), and shall not include, except as otherwise herein expressly provided,

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the value of any Hotel goods or services in excess of actual amounts paid (in cash or services) provided by the Hotel on a complimentary or discounted basis.

"Ground Lease" shall mean any lease to Owner of the Site, or the Site together with the Building, Building Systems and/or other real or personal property, or any part or parts thereof or interests therein, regardless of its term.

"Ground Lessor" shall mean the landlord or lessor under a Ground Lease.

"Hotel" shall mean the Site, the Building(s), the Building Systems, the FFE and the Operating Equipment, together with all other items of real and personal property at any time used in connection with the operation of the foregoing, collectively.

"Hotel Employees" shall mean all individuals employed at or for the direct benefit of the Hotel, to perform services in the name of the Hotel. For avoidance of doubt, Operator's Corporate Personnel are not Hotel Employees.

"Hotel Revenue Fund" shall have the meaning set forth in Section 4.7(a).

"Hotel Standard" as applied to any aspect of the construction, operation, maintenance, repair, furnishing, equipping or refurbishment of the Hotel, shall mean a collective reference to (a) a standard of service and quality that (x) would generally be considered to be "first class" and "upper upscale", and (y) is equal to or better than the level of service and quality prevailing from time to time at the Brand Hotels, and (b) the operational standards, policies and programs generally applicable to the Brand Hotels.

"Hurdle Amount" shall mean Four Million Five Hundred Thousand and no/100 US Dollars (\$4,500,000) plus an amount equal to eight percent (8%) of the aggregate amount of Owner's Invested Capital actually incurred through the last day of the Fiscal Year in which the Hurdle Amount is being calculated.

"Improvements" shall have the meaning set forth in Section 1.1.

"Incentive Fee" shall have the meaning set forth in Section 6.1.

"Legal Requirements" shall mean any provision of law, including, without limitation, any statute, ordinance, regulation, rule, award or order of any governmental agency or tribunal having jurisdiction over the Hotel or its operations or over Owner, including without limitation relating to security and procurement to the extent communicated to Operator in writing and any Regulation.

"Lender(s)" shall mean any Person, including any Person Affiliated with Owner or any Ownership Participant, providing debt financing secured by the Hotel or by the Ownership Interests of any Ownership Participant, or for the development, construction, furnishing, equipping or operation of the Hotel, or to refinance any financing obtained for any of the foregoing purposes, and any of its successors or assigns.

"Major Project" shall have the meaning set forth in Section 4.3 (b).

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"Management Fees" shall mean the Basic Fee and the Incentive Fee, collectively and without distinction between them.

"Minor Casualty" shall mean damage to the Hotel resulting from a fire or other casualty to such an extent that the total cost of repairs or restoration as reasonably estimated by Operator would not exceed five hundred thousand and 00/100 US Dollars (US\$500,000).

"Operating Accounts" shall have the meaning set forth in Section 4.7(a).

"Operating Budget" shall have the meaning set forth in Section 4.1.

"Operating Equipment" shall mean linens, china, glassware, silverware, uniforms and the like, excluding FFE.

"Operating Expenses" for any period shall mean all ordinary and necessary operating and maintenance expenses of the Hotel incurred for such period, as determined in accordance with the Uniform System or otherwise provided for in this Agreement, including, without limitation, Employee Costs, Centralized Services Charges, expenses reimbursable to Operator hereunder, utility costs, costs of maintenance and repair, and costs and expenses for marketing, advertising and promotion of the Hotel, but expressly excluding the following: (i) Management Fees; (ii) taxes (other than employment taxes included in Employee Costs); (iii) insurance premiums paid for any insurance policies maintained with respect to the Hotel; (iv) deposits to or expenditures from the Capital Fund; (v) costs for the rental of real or personal property (except, with respect to personal property, rentals incurred directly in connection with revenue generating activities); (vi) any depreciation and amortization of capital assets; (vii) costs for the administration of Owner (including any board or shareholder meetings) or Owner's personnel, including salaries, wages, employee benefits and reimbursements of Owner's directors, officers, employees or agents; (viii) fees and costs for professional services, including the fees and expenses of attorneys, accountants and appraisers, incurred directly or indirectly in connection with any category of expense that is not itself an Operating Expense; and (ix) cost of valet parking services.

"Operator Hotel Group" shall mean all hotels and resorts owned, operated or licensed by Operator or its Affiliates under the Brand or under any other brand or identification.

"Operator's Grossly Negligent Acts or Willful Misconduct" shall mean any gross negligence, willful misconduct or fraud committed by Operator, its Affiliates, the Corporate Personnel, in the performance of Operator's duties under this Agreement. The acts or omissions (including grossly negligent, willful or fraudulent acts or omissions) of Hotel employees shall not be imputed to Operator, or be deemed to constitute Operator's Grossly Negligent Acts or Willful Misconduct, unless such acts or omissions resulted directly from the gross negligence or willful misconduct of the Corporate Personnel in hiring or supervising such Hotel employees.

"Owner's Invested Capital" shall mean the aggregate cumulative total, as of any given date during the Term, of any and all amounts contributed by Owner for the purpose of funding Capital Expenditures for the Hotel from and after the Effective Date, including, without limitation, the following: (i) any contributions to the Capital Fund in excess of the amount required to be deposited pursuant to Section 4.3(f), (ii) any funding by Owner for Capital

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Expenditures pursuant to any Capital Budget in addition to contributions to the Capital Fund; (iii) any Capital Expenditures approved by Owner and Operator, to the extent not otherwise included under the Capital Budget, and any and all other contributions or funding by Owner, with the reasonable approval of Operator, for the purchase of FFE or for a Refurbishing Program; (iv) Capital Expenditures necessary to rebuild or repair the Hotel following a casualty; provided, however, in the event of any casualty or condemnation which does not result in the termination of this Agreement, the amount of any insurance proceeds or condemnation awards not re-invested in the Hotel shall be deducted in computing Owner's Invested Capital and (v) to the extent not addressed above, any Capital Expenditures directly by Owner for the Hotel. In no event shall Owner's Invested Capital include (1) Capital Expenditures or other amounts funded from amounts on deposit in the Capital Fund, or from insurance or condemnation proceeds; (2) the purchase price paid, or transaction costs incurred, by any purchaser of the Hotel in connection with its purchase of the Hotel; (3) transaction costs incurred in connection with any financing or refinancing of the Hotel; or (4) Capital Expenditures provided for from the Initial Capital Fund Deposit. Any salvage proceeds or any proceeds from the sale of goods replaced as part of the Capital Expenditure in question shall be deducted in computing Owner's Invested Capital. For purposes of calculating Owner's Invested Capital for any Fiscal Year, any Capital Expenditures made during the Fiscal Year for which such calculation is being made after the first day of such period shall be deemed to have been contributed on the first day of the month following the actual expenditure thereof by Owner, and, in calculating the Owner's Invested Capital applicable to such Fiscal Year there shall be included only a pro rata portion of such additional contributions computed on a per diem basis. From time to time, but not less than annually, Owner will provide Operator with all information, together with reasonable back up data and documentation, reasonably necessary in order to enable Operator to calculate the applicable amount of Owner's Invested Capital. Operator shall have the right to audit Owner's books and records to verify the amount of Owner's Invested Capital.

"Ownership Interest" shall mean the interest, direct or indirect, in Owner owned by any Ownership Participant.

"Ownership Participant" shall mean any shareholder, partner or member of Owner or other Person holding an ownership interest, direct or indirect, in Owner.

"Party" shall have the meaning set forth in Section 14.1.

"Person" shall mean an individual, corporation, partnership, limited liability company, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Primary Area of Protection" shall mean a circumferential geographic area within an eight (8) mile radius from the premises of the Hotel, as set forth in Exhibit D.

"Prime Rate" shall have the meaning set forth in Section 6.4.

"Pritzker Family" shall mean (i) all natural and adoptive lineal descendants of Nicholas J. Pritzker, deceased, and their current and former spouses; (ii) all trusts for the benefit of any Person described in clause (i) and the trustees of such trusts in their capacities as such; (iii) all

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legal representatives of any Person or trusts described in clauses (i) or (ii); and (iv) all partnerships, corporations, limited liability companies or other entities controlled by or under common control with any Person, trust or other entity described in clauses (i), (ii) or (iii). "**Control**" for purposes of this definition shall mean the ability to direct or otherwise significantly affect the major policies, activities or actions of any Person.

"**Proprietary Materials**" shall mean (i) all software from time to time owned by, or leased or licensed on an exclusive basis to, Operator or Operator's Affiliates (including, without limitation, revisions or enhancements to otherwise commercially available software) together with related source and object codes, (ii) the Protected Names and Protected Marks and all depictions thereof, either graphic or verbal, (iii) copyrighted materials, (iv) operating handbooks (including employee manuals, training materials, user manuals, and maintenance procedures), (v) operating policies and procedures, (vi) reporting and budgeting formats, (vii) Operator promotional materials, (viii) recipes, (ix) Gold Passport® members and member information, (x) customer information and customer contact lists for guests, patrons and groups patronizing other Operator Hotels (whether or not also patrons of the Hotel) with respect to their business at other Operator Hotels or at non-Brand Hotels, (xi) data and information on potential guests or groups, not otherwise guests or groups patronizing the Hotel, (xii) financial records of Operator and its Affiliates (except as otherwise herein expressly provided), (xiii) information relating to other Operator Hotels or non-Brand Hotels, (xiv) room rates and other charges at hotels other than the Hotel, (xv) business leads, booking proposals and tentative bookings not yet confirmed, and (xvi) information which Operator reasonably determines may not be disclosed by Operator or its Affiliates under applicable privacy or identity theft laws. Information and data on guests, patrons or groups relating solely to their use of Hotel facilities and relating solely to Hotel-specific information shall be deemed proprietary to both Operator and Owner, and each shall have the non-exclusive right to use the same both in connection with the ownership and operation of the Hotel, subject to Applicable Laws. In addition, none of the following shall be deemed proprietary to Operator: any records, including correspondence, memoranda, notes, contracts, and booking arrangements relating to bookings, whether group or individual for use of Hotel facilities after the effective date of expiration or earlier termination of this Agreement.

"**Protected Marks**" shall mean those logos, trademarks, trade names, copyrights, service marks and other intellectual property owned by Operator or its Affiliates (or otherwise used by Operator in the operation of Operator Hotels), whether or not used in connection with the operation of the Hotel during or the Term.

"**Protected Names**" shall mean the names "Hyatt" and "**Regency**" and any other name that includes the word "Hyatt" (such as, for example and without limitation, "Hyatt Regency" or "Grand Hyatt" or "Park Hyatt") either alone or in conjunction with another word or words or any other name used in the operation of Brand Hotels or other hotels within the Operator Hotel Group, including, without limitation, "Gold Passport®."

"**Purchasing Company**" shall mean any company or companies designated by Operator from time to time, which may or may not be an Operator Affiliate, to provide purchasing services to Operator Hotels as described in Section 4.6.

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"Refurbishing Program" shall mean (i) any program for replacement of or additions to a major portion of FFE as part of a program to renovate a block of not less than twenty-five (25) guest rooms and suites; (ii) any program of replacement of carpeting, furnishings, fixtures or wall coverings in twenty-five percent (25%) or more of the Hotel public space, such as lobbies, guest room corridors, restaurants, banquet and meeting rooms and pre-function areas or (iii) any material change in theme of any Hotel restaurant or bar. Refurbishing Programs exclude expansions of the Hotel.

"Secondary Area of Protection" shall mean a circumferential geographic area within a six (6) mile radius from the premises of the Hotel, as set forth in Exhibit D.

"Shared Expenses" shall have the meaning set forth in Section 16.19(I).

"Site" shall have the meaning set forth in the Preliminary Statement.

"Structural Defects" shall have the meaning set forth in Section 7.10(b).

"Successor Manager" shall mean any Person (including Owner or any Affiliate of Owner) designated by Owner as the manager and operator of the Hotel to succeed Operator upon expiration or earlier termination of this Agreement.

"Third Party Payables" shall have the meaning set forth in Section 4.7(d).

"Term" shall have the meaning set forth in Section 1.2.

"Total Casualty" shall mean damage to the Hotel resulting from a fire or other casualty to such an extent that the cost of repairs or restoration as reasonably estimated by Operator exceeds fifty percent (50%) of the full replacement cost (excluding land, excavations, footings and foundations) of the Hotel.

"Uniform System" shall mean, at any time, the then-current edition of the "Uniform System of Accounts for the Lodging Industry," as adopted by the Hotel Lodging Association of New York City, Inc., and the American Hotel & Lodging Association, as the same may be modified, amended, supplemented or superseded by any subsequent editions or revisions thereto.

"WARN" or **"WARN Act"** shall mean the United States Worker Adjustment Retraining and Notification Act, together with any state and local laws, ordinances or regulations of similar import applicable to the Hotel, all as the same may have heretofore, or may hereafter, be amended.

EXHIBIT C

CERTIFICATE OF AUTHORITY

The undersigned ("**Owner**") is the owner of the Hotel located in _____, _____, at _____, and commonly known as "**[HOTEL NAME]**" (the "**Hotel**").

Owner and Hyatt Corporation ("**Operator**") have entered into a certain Hotel Management Agreement, dated as of _____ (the "**Management Agreement**").

This will acknowledge, to all to whom this Certificate of Authority becomes known, that, pursuant to the Management Agreement, Owner, for itself and on behalf of its successors in interest and assigns with respect to the Hotel, has appointed Operator as the exclusive agent of Owner, with full power and authority, to manage and operate the Hotel for the benefit of Owner, and, in that connection, to take all action incidental thereto in its own name, or in the name of Owner.

All persons to whom this Certificate of Authority may be issued shall be fully protected in relying hereon and on Operator's authority to manage and operate the Hotel and to take all action incident thereto, absent actual knowledge of said third party (i) of any revocation, expiration or termination of the Management; or (ii) limitation of Operator's authority.

Dated: _____

OWNER:

_____, a

By: _____

Its: _____

EXHIBIT D

AREA OF PROTECTION

[Map to be attached]

EXHIBIT E

HYATT MAINTENANCE RESPONSIBILITY

Orlando International Airport
GOAA/Hyatt Maintenance Responsibilities
Draft - October 21, 2014

		<u>Responsible Party</u>	
		<u>GOAA</u>	<u>Hyatt¹</u>
Grounds	Arrival Court - Pavement, incl. Parking		x
	Arrival Court - Landscaping/Irrigation		x
	Arrival Court - Walls/Ceiling/Canopies		x
	Arrival Court - Electrical, Lighting & Ventilation		x
	Arrival Court - Fountain (Equipment and Structures)	x	
	Fountain Landscape/Irrigation	x	
	"Hyatt" Signage @ Fountain Wall		x
	Electrical Service to "Hyatt" Signage @ Fountain Wall		x
	Terminal Roadway Signage (for Hotel)	x	
Common Terminal	Structure	x	
	Loading Docks (Center Core)	x	
	Loading Docks (Hyatt, A side, east end, commercial lane)		x
	Dock Master Office - Level 1	x	
	Terminal Parking - incl. Landscape/Irrigation/Decks	x	
	Lightning Protection - except Pool Decks	x	
	Lightning Protection - Pool Decks		x
Envelope	Roofs and sky lights (See note one)		x
	Balcony - Walls, Floors, Ceilings, Planters		x
	Balcony Electrical		x
	Pool		x
	Pool Deck - Walls, Deck, Planters		x
	Pool Deck Lighting/Lightning Protection		x
	Balcony & Pool Deck Landscaping/Irrigation		x
	Windows and Doors		x
	Joint Sealing		x
	Expansion Joints		x
	Exterior Fans - incl. Enclosures & Electrical		x
Exterior Finishes Pressure Washing, all glazing and sealants		x	
Service Systems	Chilled Water Supply @ Central Plant	x	
	Chilled Water Supply to Hyatt wall (between column lines 25 and 26 and column line 35)	x	
	Primary Electrical Supply from OUC Transformer		x

¹ All "Hyatt" responsibilities to be deemed Operating Expenses of the Hotel. All "GOAA" responsibilities to be Owner's expenses.

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	Water Supply from OUC Meter		X
	Communication System from GOAA Switch		X
	Gas Supply		X
Hotel Systems - Mechanical	Chilled Water Piping - Within Hotel		X
	Tertiary Pump for Hyatt chilled water	X	
	Air Handlers/ Fan Coil Units		X
	Hotel Duct Work / Insulation		X
	Exhaust Fans		X
	Hot Water Heaters / Boilers		X
	Pumps		X
	Gas Distribution		X
	Public & Service Elevators / Escalators (See note one)		X
	Building Automation System		X
	Pool Equipment		X
	Pipe & Duct Distribution		X
Hotel Systems - Electrical	Switchgear		X
	Secondary Electrical Service from OUC Transformer		X
	Secondary Transformers		X
	Lighting / Lighting Dimmer Panels		X
	Electrical Distribution Panels & Branch Wiring		X
	Circuit Breakers, Transfer switches		X
	UPS Systems		X
	Motor Starters		X
Hotel Systems - Plumbing	Fountains - North & South Atriums		X
	Water heaters		X
	Potable water/Irrigation - within Hotel		X
	Sanitary piping exclusive to the hotel		X
	Sanitary Collection - Exterior of Hotel A side, forth curb	X	
	Fixtures - within Hotel		X
	Grease Traps		X
Hotel Systems - Life Safety	Fire Alarm Panel, Devices, Controllers & Wiring		X
	Fire Sprinkler - Heads, Pipe, Valves and Panels		X
	Fire Pump (See note one)	X	
	Fire Flow Piping to Hotel	X	
	Fire Flow Piping within Hotel		X
	Emergency Exit Signage and Doors		X
	Generator - Life Safety Only (See note one)	X	
	Electrical Transfer Switch		X
	Smoke exhaust fans	X	
Hotel Systems - Communications	Telephone/Data within Hotel - Wiring, Controllers, & Conduit		X
	Cable/Pay TV - Wiring, Controllers, Receivers & Equipment		X
	Security Cameras/Monitors/Recorders		X
Fixtures, Furniture & Equipment	Kitchens		X

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Guest Rooms	X
Meeting Rooms	X
Back-of-House	X
Administrative Offices	X
Laundry	X
Art Work	X
Building Automation System	X
Interior Landscape, Planters & Irrigation	X
Interior Finishes, Furniture and Furnishings	X

Note one: GOAA will perform the work and bill the hotel management company.