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Piper Rudnick
203 North LaSalle Street
Suite 1800
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Attn: Kathy H. Wilson



Doc#: 0429434035
Eugene "Gene" Moore Fee: \$34.50
Cook County Recorder of Deeds
Date: 10/20/2004 10:32 AM Pg: 1 of 6

When Recorded Mail to:

Name: First American Title
Insurance Company
Attn: Dick Seidel

Mailing Address:

30 North LaSalle Street
Suite 310
Chicago, Illinois 60601

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MEMORANDUM OF RIGHT OF FIRST REFUSAL

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MEMORANDUM OF RIGHTS OF FIRST REFUSAL

THIS MEMORANDUM OF RIGHTS OF FIRST REFUSAL ("Memorandum"), dated as of October 1, 2004 between Marriott International, Inc., a Delaware corporation ("Marriott"), Burr Ridge TRS, Inc., a Maryland corporation ("Franchisee"), and EHP Burr Ridge, LLC f/k/a/ Burr Ridge Hotel Partners, LLC, an Illinois limited liability company ("Owner").

RECITALS

A. Marriott and Franchisee have entered into a Franchise Agreement dated October 1, 2004 (the "Franchise Agreement"), relating to the operation of a hotel situated on certain real property located in the City of Chicago, County of Cook, State of Illinois, more fully described on Exhibit 1 attached hereto (the "Real Property").

B. In connection with and in furtherance of the Franchise Agreement, Marriott, Franchisee, and Owner have entered into an Owner Agreement dated October 1, 2004 (the "Owner Agreement") with respect to the real property.

C. Owner is the fee owner of the Real Property.

D. Marriott, Franchisee, and Owner are executing and delivering this Memorandum in accordance with Section 17.5 of the Franchise Agreement and Section 5 of the Owner Agreement for the purpose of submitting it to be recorded among the Land Records of Cook County, City of Chicago, State of Illinois (the "Local Jurisdiction").

AGREEMENT

NOW THEREFORE, for the good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto state as follows with respect to the Agreement:

1. **Grant of Right of First Refusal.** Pursuant to Section 17.4 of the Franchise Agreement and Section 5 of the Owner Agreement, Owner and Franchisee have granted Marriott the rights of first refusal to purchase the Real Property (the "Right of First Refusal"), and more particularly described on Exhibit 1, attached hereto and made a part hereof, together with the improvements thereto (the "Premises"), upon the terms and conditions contained in Sections 17.4, 17.5 and 17.6 of the Franchise Agreement and Section 5 of the Owner Agreement.

2. **Interest in Real Estate and Injunctive Relief.** Franchisee acknowledges that Marriott's rights under Sections 17.5 of the Franchise Agreement and Section 5 of the Owner Agreement are real estate rights in the Premises. Franchisee acknowledges and agrees that damages are not an adequate remedy in the event that Franchisee breaches its obligations under Sections 17.5 of the Agreement or in the event that Owner breaches its obligations under Section 5 of the Owner Agreement, and that Marriott shall in either case be entitled to injunctive relief to prevent or remedy such breach.

3. **Term.** The Right of First Refusal shall terminate upon the later to occur of the termination of the Franchise Agreement or the termination of the Owner Agreement, provided that in the event of an early termination of either Agreement, the Right of First Refusal shall survive such early termination in accordance with the provisions of Section 17.6 of the Franchise Agreement and Section 5 of the Owner Agreement.



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4. **Subordination.** Marriott's rights in real estate under Sections 17.4 of the Franchise Agreement and Section 5 of the Owner Agreement shall be subordinate to the interests of bona fide lenders who are not competitors or affiliates of competitors (as those terms are defined in the Franchise Agreement) and who duly record a security interest in the Premises, provided that any such financing and security interests are approved by Marriott in accordance with Section 5.2 of the Franchise Agreement.

5. **Addresses.** Marriott's address, as set forth in the Franchise Agreement, is 10400 Fernwood Road, Bethesda, MD 20817, Attn: Law Department. Franchisee's address, as set forth in the Franchise Agreement, is Burr Ridge TRS, Inc., 100 East RiverCenter Blvd., Suite 480, Covington, KY 41011. Owner's address is EHP Burr Ridge, LLC, 100 East RiverCenter Blvd., Suite 480, Covington, KY 41011.

6. **Termination of Previous Memorandum.** Franchisor, Owner and Franchisee each respectfully acknowledge and agree that effective upon the execution, delivery and recording of this Memorandum, that certain prior Memorandum of Right of First Refusal dated September 26, 2003 and recorded October 24, 2003 in Document No. 0329718175 of the Cook County, Illinois Recorder's Office is and shall be terminated in full without the necessity of any additional instruments.

IN WITNESS WHEREOF, the parties hereto have caused this Memorandum to be executed by their duly authorized representatives this 1st day of October, 2004.

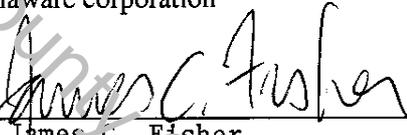
MARRIOTT:

ATTEST:



Assistant Secretary

MARRIOTT INTERNATIONAL, INC.,
a Delaware corporation

By:  (Seal)
James C. Fisher
Senior Vice President, Owner and Franchise Svcs.

FRANCHISEE:

ATTEST:



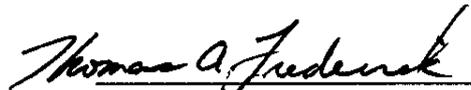
Assistant Secretary

BURR RIDGE TRS, INC., a Maryland corporation

By:  (Seal)
Name: William Blackham
Title: President

OWNER:

ATTEST:



Assistant Secretary

EHP BURR RIDGE, LLC

f/k/a/ Burr Ridge Hotel Partners, LLC, an Illinois limited liability company

By:  (Seal)
Name: William Blackham
Title: President



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State of MARYLAND
City/County of MONTGOMERY

I hereby certify that on October 15, 2004 before me, a Notary Public of the State and City/County aforesaid, personally appeared James C. Fisher, personally known to me (or proved to me on the basis of satisfactory evidence) who acknowledged himself/~~herself~~ to be the Sr. Vice President, Owner and Franchise Services of Marriott International, Inc., a Delaware corporation (the "Corporation"), and that he/~~she~~, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself/~~herself~~ as such officer.

Witness my hand and Notarial Seal.

Marjorie Peart
Notary Public

MARJORIE E. PEART
NOTARY PUBLIC STATE OF MARYLAND
My Commission Expires: My Commission Expires February 1, 2006

State of Kentucky
City/County of Kenton

I hereby certify that on October 6, 2004 before me, a notary public of the state and city/county aforesaid, personally appeared William Bachman, personally known to me (or proved to me on the basis of satisfactory evidence) who acknowledged himself/~~herself~~ to be the President of Burr Ridge TRS, Inc., a Maryland corporation (the "Franchisee"), and that he/~~she~~, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of Franchisee by himself/~~herself~~ as such officer.

Witness my hand and Notarial Seal.

Heather L. Harrison
Notary Public

My Commission Expires:



Heather L. Harrison, Notary Public
State at Large
Kentucky
My Commission Expires July 26, 2006 2007



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State of Kentucky
City/County of Kenton

I hereby certify that on October 6, 2004 before me, a notary public of the state and city/county aforesaid, personally appeared J. William Blackham, personally known to me (or proved to me on the basis of satisfactory evidence) who acknowledged himself/herself to be the President of EHP Burr Ridge, LLC f/k/a/ Burr Ridge Hotel Partners, LLC, an Illinois limited liability company (the "Owner"), and that he/she, as such officer, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of owner by himself/herself as such officer.

Witness my hand and Notarial Seal.

Heather L. Harrison
Notary Public

My Commission Expires:



Heather L. Harrison, Notary Public
State at Large
Kentucky
My Commission Expires July 26, ~~2006~~ 2007

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EXHIBIT 1 TO MEMORANDUM OF RIGHT OF FIRST REFUSAL

All the certain real property located in the County of Cook, State of Illinois, described as follows:

Lot 1 in Burr Ridge Hotel Partners Resubdivision of Lots 8, 9, and 10 in Burr Ridge Park Unit 1, being a subdivision in the West ½ of Section 30, Township 38 North, Range 12 East of the Third Principal Meridian, according to the Plat thereof recorded June 18, 2003 as Document 0316945047 in Cook County, Illinois

Permanent Index Numbers: 18-30-303-003; 18-30-303-004

Commonly known as: 1200 Burr Ridge Parkway
Burr Ridge, IL 60521

Property of Cook County Clerk's Office

