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**HRH CHICAGO, LLC**

(Master Lessee)

and

**HRHC DELAWARE, LLC**

(Owner)

to

**LADDER CAPITAL FINANCE LLC, as assignee**

(Lender)

**ASSIGNMENT AND SUBORDINATION OF  
MASTER LEASE AND CONSENT OF MASTER LESSEE**

Dated: As of November 8, 2012

Location: 230 N. Michigan Avenue  
Chicago, Illinois

County: Cook County.

NCS- 570449  
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## ASSIGNMENT AND SUBORDINATION OF MASTER LEASE AND CONSENT OF MASTER LESSEE

**THIS ASSIGNMENT AND SUBORDINATION OF MASTER LEASE AND CONSENT OF MASTER LESSEE** (this "Assignment") is made as of November 8, 2012, by **HRH CHICAGO, LLC**, an Illinois limited liability company ("**Master Lessee**") and **HRHC DELAWARE, LLC**, a Delaware limited liability company ("**Owner**", and together with Master Lessee, hereinafter individually and/or collectively, as the context requires, the "**Borrower**"), the owner of the Property (as defined herein), to **LADDER CAPITAL FINANCE LLC**, as assignee, a Delaware limited liability company, having an address at 345 Park Avenue, 8<sup>th</sup> Floor, New York, New York 10154 (together with its successors and assigns, collectively, "**Lender**").

### WITNESSETH:

A. This Assignment is given in connection with a loan in the principal sum of Forty-Eight Million and No/100 Dollars (\$48,000,000.00) (the "**Loan**") made by Lender to Borrower pursuant to that certain Loan Agreement dated as of the date hereof between Borrower and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Loan Agreement**") and evidenced by that certain Promissory Note dated the date hereof made by Borrower to Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Note**"). Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement.

B. The Note is secured by that certain Fee and Leasehold Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated the date hereof (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Mortgage**") made by Borrower for the benefit of Lender, which grants Lender a first lien on the property encumbered thereby (the "**Property**") and Master Lessee's interest in the Master Lease (defined below).

C. Owner (as successor to Firststar Bank, N.A., not personally but as Trustee Under Trust Agreement dated October 10, 2011 and known as Trust No. 7504 and St. George Hotel, L.L.C., an Illinois limited liability company), as landlord, and Master Lessee, as tenant, have entered into that certain Lease dated October 25, 2001, as the same has been thereafter amended by that certain First Amendment to Lease dated February 23, 2005, effective as of October 25, 2001 (as so amended and assigned, or further amended, modified, renewed, extended or substituted from time to time, the "**Master Lease**"), a true and correct copy of which is attached hereto as Exhibit A.

D. Lender requires as a condition to the making of the Loan that Owner assign the Master Lease to Lender and that Master Lessee consent to the Loan and agree with Lender and Borrower as to certain matters more particularly described herein.

E. Master Lessee is the master Tenant of Owner and will derive a substantial benefit from the making of the Loan.

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NOW THEREFORE, for good and valuable consideration the parties hereto agree as follows:

## AGREEMENT

1. Assignment of Master Lease. As additional collateral security for the Loan, Owner hereby conditionally transfers, sets over and assigns to Lender all of Owner's right, title and interest in and to the Master Lease, said transfer and assignment to automatically become a present, unconditional assignment, at Lender's option, in the event of a default by Owner under the Note, the Mortgage or any of the other Loan Documents, and the failure of Owner to cure such default within any applicable grace period (an "Event of Default").

2. Master Lessee's Consent to Assignment. Master Lessee hereby consents to the assignment of Owner's interest in the Master Lease by Owner to Lender as additional security for the Loan.

3. Subordination of Master Lease; Non-Disturbance. The Master Lease as the same may hereafter be modified, amended or extended, and all of Master Lessee's right, title and interest in and to the Property, are, and all rights and privileges of Master Lessee thereunder are hereby and shall at all times be subject and subordinate to all the terms, conditions and provisions of the Mortgage and the lien thereof and to each and every advance made or hereafter made under the Mortgage, and to all renewals, modifications, consolidations, replacements, substitutions and extensions of the Mortgage, the Note and the other Loan Documents and the rights, privileges, and powers of Lender thereunder, so that at all times the Mortgage shall be and remain a lien on the Property prior and superior to the Master Lease for all purposes. Notwithstanding anything in Master Lease to the contrary, (a) Lender shall have no obligation of non-disturbance with respect to Master Lessee and (b) Lender shall have no obligation, except to the extent expressly set forth in the Loan Documents, to provide Master Lessee with any notices of default under the Loan and Master Lessee shall have no rights of cure with respect to any such default.

4. Termination of Assignment. At such time as the Loan is paid in full and the Mortgage is released or assigned of record, this Assignment and all of Lender's right, title and interest hereunder with respect to the Master Lease shall terminate.

5. Master Lessee Estoppel. Owner and Master Lessee represent and warrant that (a) the Master Lease is in full force and effect and has not been modified, amended or assigned by Owner or Master Lessee other than pursuant to this Assignment, (b) neither party is in default under any of the terms, covenants or provisions of the Master Lease and neither party knows of any event which, but for the passage of time or the giving of notice or both, would constitute an event of default under the Master Lease, (c) neither party to the Master Lease has commenced any action or given or received any notice for the purpose of terminating the Master Lease prior to its expiration according to the terms of the Master Lease; (d) there is no outstanding allowance or other payment owed by Owner to Master Lessee under the Master Lease; and (e) there is no security deposit outstanding with respect to the Master Lease.

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6. Release from Liability. In the event Lender exercises any rights pursuant to this Assignment, Borrower hereby releases Lender from any liability, costs, damages or other obligations of Lender to Borrower as a result of such exercise of rights including, without limitation, any liability for any security deposit or other advance payment made by Master Lessee under the Master Lease.

7. No Termination of Master Lease. Notwithstanding anything in Master Lease to the contrary, there shall be no termination, cancellation, surrender, amendment or modification of the Master Lease so long as any portion of the Loan remains outstanding other than with the prior written consent of Lender, which consent may be given or withheld in Lender's sole and absolute discretion.

8. Lender's Right to Terminate. Notwithstanding anything contained in the Master Lease to the contrary, Lender, or Owner at Lender's direction pursuant to the Loan Documents, shall have the right to terminate the Master Lease upon, or at any time after, (a) Master Lessee shall become insolvent or a debtor in a bankruptcy proceeding, (b) an Event of Default has occurred, or (c) a default has occurred under the Master Lease, by giving Master Lessee written notice of such termination. Master Lessee agrees not to look to Lender for any payments owed under the Master Lease.

9. Casualty and Condemnation. Master Lessee agrees that, notwithstanding any provision hereof or in the Master Lease to the contrary, the terms of the Loan Documents, including the Mortgage, shall govern with respect to the disposition of any insurance proceeds or eminent domain awards, and any obligations of Owner or Master Lessee to restore the Property.

10. Further Assurances. Owner and Master Lessee further agree to execute such affidavits and certificates as Lender shall reasonably require to further evidence the agreements contained herein. Master Lessee hereby acknowledges that some, or all, permits, licenses and authorizations necessary for the use, operation and maintenance of the Property including, without limitation, the Franchise Agreement, the Management Agreement, and any and all other license agreements (the "Permits") are held by, or on behalf of, the Master Lessee. By executing this Assignment, Master Lessee agrees that it is, or will be, holding or providing all such Permits for the benefit of Owner. Moreover, Master Lessee hereby agrees that, upon an Event of Default, it will continue to hold such Permits for the benefit of Lender. Master Lessee agrees that upon termination of the Master Lease, Master Lessee shall assign to Owner, the new Master Lessee, Lender or Lender's nominee, as directed by Lender, all of Master Lessee's interest in such Permits at Owner's expense.

11. Governing Law. (a) **THIS ASSIGNMENT WAS NEGOTIATED IN THE STATE OF NEW YORK, AND MADE BY OWNER AND MASTER LESSEE AND ACCEPTED BY LENDER IN THE STATE OF NEW YORK, AND THE PROCEEDS OF THE NOTE WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THIS ASSIGNMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE**

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GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER LOAN DOCUMENTS WITH RESPECT TO THE PROPERTY SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PROPERTY IS LOCATED. IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF ALL LOAN DOCUMENTS AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. TO THE FULLEST EXTENT PERMITTED BY LAW, OWNER AND MASTER LESSEE HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVE ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS ASSIGNMENT, THE NOTE AND/OR THE OTHER LOAN DOCUMENTS AND THIS ASSIGNMENT, THE NOTE AND/OR THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW.

(b) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST LENDER, OWNER OR MASTER LESSEE ARISING OUT OF OR RELATING TO THIS ASSIGNMENT MAY AT LENDER'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW, AND OWNER AND MASTER LESSEE WAIVE ANY OBJECTIONS WHICH THEY MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND OWNER AND MASTER LESSEE HEREBY IRREVOCABLY SUBMIT TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

12. Notices. All notices or other written communications hereunder shall be delivered in accordance with the Loan Agreement

13. WAIVER OF TRIAL BY JURY. EACH OF OWNER AND MASTER LESSEE AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THIS ASSIGNMENT, THE NOTE, THE MORTGAGE OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH.

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**THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY OWNER AND MASTER LESSEE AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LENDER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY OWNER AND MASTER LESSEE.**

14. Exculpation. The provisions of Section 11.22 of the Loan Agreement are hereby incorporated by reference into this Assignment to the same extent and with the same force as if fully set forth herein.

15. No Oral Change. This Assignment and any provisions hereof may not be modified, amended, waived, extended, changed, discharged or terminated orally, or by any act or failure to act on the part of Owner, Master Lessee or Lender, but only by an agreement in writing signed by the party against whom the enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

16. Conflict of Terms. In case of any conflict between the terms of this Assignment and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

17. Successors and Assign. This Assignment shall be binding upon and shall inure to the benefit of Owner, Master Lessee and Lender and their respective successors and permitted assigns forever. Lender may sell, assign, pledge, participate, delegate or transfer, as applicable, to one or more Persons, all or any portion of its rights under this Assignment in connection with any assignment of the Loan and the Loan Documents. Any assignee or transferee of Lender shall be entitled to all the benefits afforded to Lender under this Assignment. Neither Owner nor Master Lessee shall have the right to assign, delegate or transfer its rights or obligations under this Assignment without the prior written consent of Lender, as provided in the Loan Agreement, and any attempted assignment, delegation or transfer without such consent shall be null and void.

18. Inapplicable Provisions. If any provision of this Assignment is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of this Assignment, such provision shall be fully severable and this Assignment shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Assignment, and the remaining provisions of this Assignment shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Assignment, unless such continued effectiveness of this Assignment, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

19. Headings, Etc. The headings and captions of the various paragraphs of this Assignment are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

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20. Duplicate Originals, Counterparts. This Assignment may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Assignment may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single agreement. The failure of any party hereto to execute this Assignment, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

21. General Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Assignment may be used interchangeably in singular or plural form and the word "Owner" shall mean "each Owner and any subsequent owner or owners of the Property or any part thereof or interest therein," the words "Master Lessee" shall mean "each Master Lessee and any subsequent holder or holders of the leasehold estate created by the Master Lease or any part thereof or interest therein", the word "Lender" shall mean "Lender and any subsequent holder of the Note, the word "Note" shall mean "the Note and any other evidence of indebtedness secured by the Loan Agreement," the word "Property" shall include any portion of the Property and any interest therein, the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all attorney's, paralegal and law clerk fees and disbursements actually incurred, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder; whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

22. No Transfer. Without the consent of Lender, Master Lessee shall not sell, transfer, or assign any of Master Lessee's interest in the Master Lease.

23. Miscellaneous. Wherever pursuant to this Assignment it is provided that Owner shall pay any costs and expenses, such costs and expenses shall include, but not be limited to, reasonable legal fees and disbursements of Lender of retained outside law firms.

24. Survival of Agreement. Notwithstanding anything to the contrary contained herein, all provisions contained in this Assignment that pertain to the relationship of the Master Lessee to the Lender or the Lender's nominee in the event that the Lender or its nominee have succeeded to the interests of the Owner as "landlord" under the Master Lease, the terms of this Assignment shall survive until such time as the Lender or its nominee is no longer the "landlord" under the Master Lease.

**[NO FURTHER TEXT ON THIS PAGE]**

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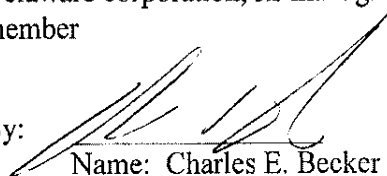
**IN WITNESS WHEREOF**, the undersigned have executed this Assignment as of the date and year first written above.

MASTER LESSEE:

HRH CHICAGO, LLC, an Illinois limited liability company

By: 230 N. Michigan Manager, Inc., a Delaware corporation, its managing member

By:



Name: Charles E. Becker  
Title: President

[CORPORATE SEAL]

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STATE OF Michigan

COUNTY OF Wayne

The foregoing instrument was acknowledged before me this 6 day of November, 2012 by Charles E. Becker, the Chairman of St. George Hotel, L.L.C., an Illinois limited liability company, the sole member of HRHC DELAWARE, LLC, a Delaware limited liability company, on behalf of the limited liability company.

(SEAL)

My Commission Expires:

Wayne

Dawn D  
Notary Public

Printed Name: Dawn Djordjevic

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EXHIBIT A

MASTER LEASE

(Attached Hereto)



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**LEASE**

**Between**

**FIRSTAR BANK, N.A.,**

**not personally but as Trustee Under Trust Agreement  
dated October 10, 2001 and known as Trust No. 7504**

**and**

**ST. GEORGE HOTEL, L.L.C.,**

**an Illinois limited liability company,**

**Landlord,**

**and**

**HRH CHICAGO, LLC,**

**an Illinois limited liability company,**

**Tenant.**

**Dated: October 25<sup>th</sup>, 2001**

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## LEASE

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## LEASE

THIS LEASE is made and entered into as of the \_\_\_\_ day of October, 2001, by and between **FIRSTAR BANK, N.A.**, not personally but as Trustee Under Trust Agreement dated October 10, 2001, and known as Trust No. 7504 (the "Trust") and **ST. GEORGE HOTEL, L.L.C.**, ("St. George") an Illinois limited liability company (St. George and the Trust together hereinafter referred to as "Landlord"), and **HRH CHICAGO, LLC**, an Illinois limited liability company (hereinafter referred to as "Tenant").

### ARTICLE 1

#### GRANT OF LEASE; PREMISES

1.1 Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the land and the improvements located thereon commonly known as the Carbide and Carbon Building (the "Building") and certain adjacent real property in Chicago, Illinois, legally described in Exhibit A attached hereto and made a part hereof and shortly to be operated as a Hard Rock Hotel, plus additional commercial space, together with all improvements and personal property now located thereon or to be located thereon and owned by Landlord during the Term (as hereinafter defined), together with all appurtenances, easements, rights of way and other rights belonging to or in any way pertaining to the said premises (such real estate, improvements, personal property, appurtenances, easements, rights of way and other rights hereinafter referred to as the "Premises").

1.2 The Premises are owned by Landlord and are currently and will in the future be subject to (i) various financing arrangements with mortgage lenders secured by encumbrances upon the Premises (the "Financing Documents") and (ii) a Redevelopment Agreement with the City of Chicago, Illinois (the "Redevelopment Agreement"). In addition, if it has not already done so, it is anticipated that Tenant will enter into (i) a License Agreement with Hard Rock Café International (USA), Inc. (the "Hotel License Agreement"), (ii) a Hotel Management and Technical Consulting Services Agreement with HRH Management (Chicago) LLC (the "Hotel Management Agreement"), (iii) two leases to various users of portions of the Premises (the "Commercial Leases"), and (iv) various contracts relating to the operation of the Premises (the "Operating Contracts"). The Financing Documents and the Redevelopment Agreement have been previously delivered to Tenant by Landlord. Tenant has been provided with, and has had an opportunity to review, such instruments and other materials relating to the legal, financial and physical conditions of the Premises.

1.3 In addition, concurrently with the execution of this Lease, and in consideration for a portion of the rent payable under this Lease, the parties are executing an HTC Pass-Through Agreement relating to the pass-through of

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rehabilitation tax credits to Tenant by Landlord (the "HTC Pass-Through Agreement").

1.4 Landlord represents to Tenant that Landlord has entered into no other leases with respect to the Premises, and Landlord hereby approves the Commercial Leases listed on Exhibit B hereto to be entered into by Tenant as lessor with respect to certain portions of the Premises.

## ARTICLE 2

### TERM; POSSESSION

2.1 Term. The term of this Lease (hereinafter referred to as the "Term") shall commence on October \_\_, 2001 (hereinafter, as the same may be adjusted as hereinafter provided, referred to as the "Commencement Date") and end on December 31, 2035 (hereinafter, as the same may be adjusted as hereinafter provided, referred to as the "Expiration Date"), unless sooner terminated as provided herein. Tenant shall be entitled to possession of the Premises upon completion of Landlord's Work, as set forth in Section 7.1 hereof or such earlier date agreed to by the parties (the "Possession Date").

2.2 Lease Year Defined. As used in this Lease, the term "Lease Year" shall mean (i) if the Commencement Date is the first day of a calendar month, the twelve (12) month period commencing on the Commencement Date or (ii) if the Commencement Date is not the first day of a calendar month, the period commencing on the Commencement Date and ending on the last day of the twelfth (12th) full calendar month of the Term, and, in either case, each succeeding twelve (12) month period thereafter which falls in whole or in part during the Term.

2.3 Landlord's Termination Option. Notwithstanding the aforesaid Term, in the event of a sale or other direct or indirect transfer of all of Landlord's interest in the Premises to an unrelated buyer on arms' length terms, but in no other case, and except as set forth in the next paragraph, Landlord shall have the right to terminate this Lease upon the giving of notice thereof in writing to Tenant ("Lease Termination Notice"). The termination of the Lease shall be effective sixty (60) days from and after the giving of the Lease Termination Notice provided that Landlord shall have made to Tenant a payment (the "Lease Termination Payment") equal to thirty percent (30%) of the amount by which the proceeds received by the Landlord from the sale or other transfer of its interest in the Premises (net of any transactional or closing costs paid to third parties in connection with such sale or other transfer) exceeds Seventy-Five Million Six Hundred Thousand Dollars (\$75,600,000); provided, however, the Lease Termination Payment must equal at least Eleven Million Five Hundred Thousand Dollars (\$11,500,000). In the event that the consideration to be received by Landlord in connection with such sale or other transfer is to be paid over time, the

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Lease Termination Payment shall be paid in installments (and evidenced by a note setting forth the Landlord's obligations in connection therewith) proportionate to such payments as are scheduled to be received from time to time.

Notwithstanding the preceding paragraph, the Lease may not be terminated prior to the fifth anniversary of the date on which the last "qualified rehabilitation expenditures" as such term is defined in Section 47(c)(3) of the Internal Revenue Code of 1986, as amended ("QRE") with respect to the Building are first placed in service (such date referred to herein as the "QRE Completion Date") without the prior written consent of the Tenant signed by all the members of Tenant.

## ARTICLE 3

### BASE RENT

3.1 **Base Rent.** Tenant shall pay an annual base rent (hereinafter referred to as "Base Rent") to Landlord for the Premises per Lease Year, in the amounts set forth below, payable in equal monthly installments (hereinafter referred to as "Monthly Base Rent") payable on the first day of each month:

Lease Year Ending	Annual Amount
December 31, 2001 (partial year)	\$10,000 (partial year)
December 31, 2002	\$15,000
December 31, 2003	\$2,310,000
December 31, 2004	\$5,900,000
December 31, 2005	\$6,600,000
December 31, 2006	\$6,700,000
December 31, 2007	\$6,700,000
December 31, 2008	\$7,200,000
December 31, 2009	\$8,200,000
December 31, 2010	\$8,200,000
Thereafter	\$8,200,000 + Annual CPI Adjuster



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For purposes of the foregoing, the "Annual CPI Adjuster" shall mean the percentage change as of January 1 of each year from the prior January 1 in the CPI Index. The "CPI Index" means the Consumer Price Index as published from time to time by the United States Department of Labor Statistics for the Metropolitan Chicago area or any successor index thereto.

**3.2 Manner of Payment.** Base Rent and Tenant's Share of Impositions (as hereinafter defined) and all other amounts becoming due from Tenant to Landlord hereunder (hereinafter collectively referred to as "Rent") shall be paid in lawful money of the United States to Landlord at the office of Landlord, or as otherwise designated from time to time by written notice from Landlord to Tenant. By December 31, 2001, Tenant shall pay Landlord the Base Rent for the first partial year of the Term.

**3.3 Net Lease.** This Lease is what is commonly called a "net lease," it being understood that Landlord shall receive the Rent set forth in Paragraph 3.2 hereof free and clear, after the Possession Date, of any and all other Impositions (as defined in Section 4.2 below), taxes, assessments, liens, charges or expenses of any nature whatsoever in connection with the ownership, maintenance, repair and operation of the Premises, except as otherwise provided herein. From and after the Possession Date, Tenant shall be solely responsible for and shall pay all Impositions, insurance premiums, operating charges, maintenance charges, construction costs, rental under equipment or similar leases, and any other charges, costs and expenses which arise or may be contemplated under any provisions of this Lease during the Term. All of such charges, costs and expenses when due shall constitute additional rent ("Additional Rent"), even though not necessarily payable to Landlord, and upon the failure of Tenant to pay any of such costs, charges or expenses, Landlord shall have the same rights and remedies as otherwise provided in this Lease for the failure of Tenant to pay Rent. Rent, Additional Rent and all other sums payable hereunder by Tenant shall be paid (except as otherwise provided for herein) without notice or demand and without setoff, counterclaim, abatement, suspension, deduction or defense. Nothing herein contained shall obligate Tenant for the payment of any expenses payable by Landlord pursuant to Section 6.4 hereinbelow or any income or franchise taxes payable by Landlord under applicable law.

**3.4 No Termination.** Except as otherwise expressly provided herein, this Lease shall not terminate, nor shall Tenant have any right to terminate this Lease, nor shall Tenant be entitled to any abatement or reduction of Rent hereunder, nor shall the obligations of Tenant hereunder be affected, by reason of any default on the part of Landlord under this Lease, or under any other agreement to which Landlord and Tenant may be parties. It is the intention of the parties hereto that the obligations of Tenant hereunder shall be separate and independent covenants and agreements, that the Rent, and all other sums payable by Tenant hereunder

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shall continue to be payable in all events and that the obligations of Tenant hereunder shall continue unaffected, unless the requirement to pay or perform the same shall have been terminated pursuant to an express provision of this Lease. Nothing herein shall preclude Tenant from pursuing or realizing upon its other remedies at law or in equity by reason of any default hereunder by Landlord.

Tenant agrees that it will remain obligated under this Lease in accordance with its terms, and that it will not take any action to terminate, rescind or avoid this Lease, notwithstanding (i) the bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding up or other proceeding affecting Landlord or any assignee of Landlord in any such proceeding, and (ii) any action with respect to the Lease which may be taken by any trustee or receiver of Landlord or of any assignee of Landlord in any such proceeding or by any court in any such proceeding; provided that this Lease is not effectively disaffirmed in such proceedings and Tenant receives reasonable assurance thereof within a reasonable period of time following the commencement of such proceedings.

Tenant waives all rights which may now or hereafter be conferred by law (except by a final and binding judicial determination by a court of competent jurisdiction) (i) to quit, terminate or surrender this Lease or the Premises or any part thereof, or (ii) to any abatement, suspension, deferment or reduction of Rent, Additional Rent or any other sums payable under this Lease, except as otherwise expressly provided herein.

3.5 **Security Deposit.** Tenant shall deposit with Landlord an amount up to the Base Rent to be paid by Tenant during the first two full years of operations (i.e., 2004 and 2005) (the "Security Deposit") as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. The Security Deposit shall be made in two or more installments within twenty (20) days following request therefor by Landlord. The Security Deposit need not be held in escrow or trust and may be commingled with other funds; provided, however, the full amount thereof (less any amount applied as provided below) shall be returned to Tenant, without interest, at least sixty (60) days prior to the anticipated Possession Date. It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease prior to the date the Security Deposit must be returned to Tenant, Landlord may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any Rent or Additional Rent or any other sum as to which Tenant is in default or for any sum which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency in the reletting of the Premises, whether such damages or deficiency accrued before or after eviction proceedings or other re-entry by Landlord.

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## ARTICLE 4

### IMPOSITIONS

4.1 Obligation To Pay Tenant's Share of Impositions. In addition to paying the Rent specified in Article 3 hereof, from and after the Possession Date, for so much of the Term as follows the Possession Date, Tenant shall also pay Landlord, as additional rent, the amounts determined in accordance with this Article 4 (hereinafter referred to as "Tenant's Share of Impositions").

4.2 Payment by Tenant. For each calendar year during which any portion of the Term following the Possession Date falls, Tenant shall pay Landlord, as additional rent for the Premises, "Tenant's Share of Impositions." For purposes hereof, Tenant's Share of Impositions for any such calendar year shall mean all Impositions for such year (or portion of such year following the Possession Date). The term "Impositions" shall mean all taxes and assessments, general and special, water rates and all other impositions, ordinary and extraordinary, of every kind and nature whatsoever, which may be levied, assessed, charged or imposed during the Term of the Lease (following the Possession Date) upon the Premises, or any part thereof, or upon any improvements at any time situated thereon, including, without limitation, any assessment by any association of owners of property in the complex of which the Premises are a part. Impositions shall also include fees and costs incurred by Landlord pursuant to Section 4.6 hereinbelow during the Lease Term for the purpose of contesting or protesting tax assessments or rates, to the extent such fees and costs relate to payments anticipated by Landlord during the Term of the Lease. Impositions "for" a given calendar year shall mean Impositions which are due for payment or paid in such calendar year, regardless of when the same are assessed.

4.3 Alternative Taxes. If at any time during the Term the method of taxation prevailing at the commencement of the Term hereof shall be altered so that any new tax, assessment, levy, imposition or charge, or any part thereof, shall be measured by or be based in whole or in part upon the Lease or the Premises or the Rent or additional rent or other income therefrom, and shall be imposed upon the Landlord, then all such taxes, assessments, levies, impositions or charges, or the part thereof, to the extent that they are so measured or based, shall be deemed to be included within the definition of Impositions for the purposes hereof to the extent that such Impositions would be payable if the Premises were the only property of Landlord subject to such Impositions, and Tenant shall pay and discharge the same as herein provided in respect of the payment of Impositions. There shall be excluded from Impositions all federal, state and local net income tax, federal excess profit taxes, transfer, franchise, capital stock and federal or state estate or inheritance taxes of Landlord.

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4.4 Estimates of Impositions. Tenant's Share of Impositions for each calendar year during which any portion of the Term (following the Possession Date) falls shall be reasonably estimated by Landlord and shall be based upon the most recently ascertainable assessment and tax rate levels, and written notice of such estimate shall be given Tenant prior to the beginning of each such calendar year. Tenant shall pay Landlord each month, at the same time as the Monthly Base Rent payment is due, an amount equal to one-twelfth (1/12) of said annual estimate of Tenant's Share of Impositions. In the event Landlord's estimate of Tenant's Share of Impositions is not given to Tenant prior to the beginning of any applicable calendar year, Tenant shall continue to pay to Landlord, in monthly installments on account of Tenant's Share of Impositions, such amount estimated on the basis of the most current estimate by Landlord; provided, however, that on the first day of the calendar month following the month in which Landlord notifies Tenant of any change in such estimate, Tenant shall pay to Landlord a lump sum equal to the estimated Tenant's Share of Impositions as revised by Landlord minus (a) any previous monthly installments on account thereof made by Tenant for such calendar year and (b) any monthly installments on account thereof which are not yet due and payable for the remainder of such calendar year. Thereafter, Tenant shall pay Landlord monthly installments on account of Tenant's Share of Impositions based on the new revised estimate thereof given by Landlord.

4.5 Readjustments: Yearly Proration. Landlord shall deliver to Tenant a statement showing the actual Tenant's Share of Impositions for each calendar year as soon as reasonably feasible after same are determined, together with a copy of any tax bill or other evidence of the Impositions. Within thirty (30) days after delivery of such statement, Tenant shall pay to Landlord or Landlord shall credit against the next Rent payment or payments due from Tenant, as the case may be, the difference between the actual Tenant's Share of Impositions for such calendar year and the sum of the monthly installments on account of Tenant's Share of Impositions paid by Tenant during such calendar year. Tenant's obligation to pay Landlord such difference, if applicable, shall survive the expiration or termination of this Lease. If the Possession Date commences on any day other than the first day of January, or if the Term ends on any day other than the last day of December, the Tenant's Share of Impositions due Landlord for such partial calendar year shall be prorated so that Tenant shall pay a prorata share equal to said Tenant's Share of Impositions multiplied by a fraction, the numerator of which is the number of days of the Term falling within such partial calendar year and the denominator of which is 365.

4.6 Right To Contest. Without limiting Tenant's obligation to pay additional rent under this Article 4, Tenant shall have the right, in good faith and with due diligence, to contest the amount of Impositions or the validity thereof by appropriate legal proceedings with the proper taxing authority or other body; provided that, pending any such legal proceedings, Tenant shall give Landlord such

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security as may be deemed reasonably satisfactory to Landlord to insure payment of the amount of all Impositions or charges and all interest and penalties thereon. If, at any time during the continuance of such contest, the Premises or any part thereof is, in the reasonable judgment of Landlord, in imminent danger of being forfeited or lost, Landlord may use such security, together with Tenant's monthly installments in account of Tenant's Share of Impositions, for the payment of such Imposition. Tenant shall notify Landlord of its intent to contest Impositions prior to initiating any such legal proceedings. Landlord may hire counsel or other experts to protect its rights in connection with the contesting by Tenant (or for its account, if Tenant shall not contest the Impositions) as herein provided.

4.7 Representations and Warranties. Tenant agrees and acknowledges that Landlord has made no representation, warranty or guaranty relating to the amount of the Impositions. Tenant has had an opportunity to consult with Landlord with respect to the Impositions projected for the operation of the Premises but has not relied upon any statements or representations of Landlord or any agent or affiliate of Landlord in regard thereto in executing this Lease and agreeing to perform the terms and covenants hereof and shall make no claims against Landlord based thereon.

## ARTICLE 5

### USE OF PREMISES

Tenant shall use and occupy the Premises for purposes of operation of a hotel, together with ancillary facilities including one or more restaurants, meeting rooms and similar facilities, as commercial rental property, and for incidental uses thereto and for no other use or purpose. Tenant covenants and agrees to use and occupy the Premises in conformity with all federal, state and municipal statutes, laws, rules, ordinances, regulations and orders, including the Redevelopment Agreement. Tenant shall not use any materials that are hazardous or toxic, nor shall Tenant create any offensive or toxic emissions or effluents to emanate from the Premises, except to the extent reasonable or appropriate in connection with the lawful use of the Premises in the ordinary course of Tenant's business, and Tenant shall comply with all legal requirements in connection with such use. At all times during the Term, Tenant shall cause all of the Premises to remain in compliance with all legal requirements and, to the extent that Tenant should fail to do so beyond any applicable grace or cure period permitted by the appropriate authority, Landlord shall have the right to take all actions required or necessary to bring the Premises into compliance with all legal requirements, and all sums paid by Landlord, including, without limitation, any legal fees and disbursements, incurred by Landlord as a result of Tenant's failure shall constitute Additional Rent.

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## ARTICLE 6

### UTILITIES AND SERVICES; OPERATING EXPENSES; FINANCING DOCUMENTS

6.1 Utilities and Services. Tenant shall purchase all utility services, including, but not limited to, fuel, water, sewerage and electricity, from the utility or municipality providing such service, and shall pay for such services when such payments are due.

#### 6.2 Regulations Regarding Utilities and Services.

A. Tenant agrees to cooperate fully, at all times, with Landlord in abiding by all reasonable regulations and requirements which Landlord may prescribe for the proper functioning and protection of all utilities and services reasonably necessary for the operation of the Premises. Throughout the Term of this Lease, Landlord and its contractors shall have reasonable access after reasonable advance notice and in such manner as will minimize interference with the use and occupancy of the Premises to any and all mechanical installations, and Tenant agrees that there shall be no construction of partitions or other obstructions which might interfere with access to or the moving of servicing equipment to or from the enclosures containing said installations. Tenant further agrees that neither Tenant nor its employees, agents, licensees, invitees or contractors shall at any time tamper with, adjust or otherwise in any manner affect Landlord's mechanical installations.

B. Nothing contained herein shall be deemed to impose any duty or obligation on Landlord to maintain or repair such mechanical installations. Tenant shall be solely responsible for and shall maintain all such mechanical installations and shall repair and replace such items at Tenant's sole cost and expense.

6.3 Operating Expenses. Without limitation of any other provision herein and except as otherwise herein specified, from and after the Possession Date, Tenant shall pay all expenses of operation of the Premises including, without limitation, all Impositions, utility charges, insurance premiums, operating charges, maintenance and repair charges, construction costs, costs for replacements and other charges, and all other charges, whether or not contemplated under this Lease. It is specifically acknowledged and agreed that Tenant shall be responsible for paying all amounts payable to the manager under the Hotel Management Agreement and to the licensor under the Hotel License Agreement.

6.4 Debt Service. Nothing contained herein shall obligate Tenant to pay any principal, interest, prepayment premiums or other amounts in connection with the loans evidenced by the Financing Documents or any other loans of Landlord relating to the Premises, it being acknowledged that at all times the responsibility

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for payment of such loans (or any replacements, accretions or additions to such loans) shall remain the responsibility of Landlord. In the event of the failure by Landlord to pay any such debt-related payments within any applicable grace or cure period under the Financing Documents, Tenant shall have the right to pay such amounts on behalf of Landlord and Landlord shall be obligated to reimburse Tenant for the costs thereof and, in addition, Tenant shall have the right to set off against the next Rent payable hereunder such amounts as are advanced by Tenant on behalf of Landlord hereunder, together with interest from the date advanced until paid or set-off at the annual rate of one percent (1%) in excess of the prime rate of interest published from time to time in The Wall Street Journal, changing as and when said prime rate changes.

## ARTICLE 7

### CONDITION AND CARE OF PREMISES

#### 7.1 Possession.

A. The Carbide and Carbon Building comprising a portion of the Premises is a "certified historic structure" within the meaning of Section 47 of the Internal Revenue Code of 1986, as amended (the "Code"). Landlord is rehabilitating such building in a manner intended to qualify for the historic rehabilitation tax credit (the "Historic Tax Credit") described in Section 47 of the Code and has agreed in the HTC Pass-Through Agreement to pass the Historic Tax Credit through to Tenant in accordance with the provisions of Section 50(d) of the Code. The nature and scope of such rehabilitation work is more specifically described on Exhibit C attached hereto. The aforesaid work is sometimes herein referred to as the "Landlord's Work." Landlord agrees to cause such work to be substantially completed in a good and workmanlike manner conforming to all applicable law on or prior to June 30, 2004 in a lien-free manner (Landlord being entitled, however, to contest such liens in any manner customary in the State of Illinois). Without limiting the generality of the foregoing, Landlord agrees to rehabilitate the Premises in accordance with the Hard Rock Project Concept Plan attached to the Hotel License Agreement and to obtain all approvals required from the Licensor thereunder. Other than as herein provided, Tenant acknowledges that no promises have been made by Landlord to alter, remodel, improve, repair, decorate or clean the Premises or any part thereof. Tenant's taking possession of the Premises or any portion thereof, unless Tenant shall notify Landlord within twelve (12) months thereafter of any defective or incomplete work (in which event Landlord shall promptly remedy such work), shall be conclusive evidence against Tenant that the portion of the Premises taken possession of, including any portion of Landlord's Work therein, was then in good order and satisfactory condition.

B. Tenant grants to Landlord, Landlord's construction managers, contractors, subcontractors, materialmen and other parties the right to enter the

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Building and the other portions of the Premises as necessary to complete the Landlord's Work. Tenant shall be named as an additional insured on all insurance policies provided by such construction managers, contractors, subcontractors and other parties which name Landlord as an additional insured.

**7.2 Tenant Obligations.** At its sole cost and expense throughout the Term, Tenant shall (a) take good care of the Premises; (b) keep the same in good order and condition; and (c) make and perform all maintenance thereof and all necessary repairs thereto, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, of every nature, kind and description, including, without limitation, any maintenance required under the Financing Documents or the Redevelopment Agreement or required of the landlord under the Commercial Leases. When used in this Section, the term "repairs" shall include all necessary replacements, renewals, alterations, additions and betterments. All repairs made by Tenant shall be at least equal in quality and cost to the original improvements and shall be made by Tenant in accordance with all laws, ordinances and regulations whether heretofore or hereafter enacted. The necessity for or adequacy of maintenance and repairs shall be measured by the standards which are appropriate for improvements of similar construction and class, provided that Tenant shall in any event make all repairs reasonably necessary to avoid any structural damage or other damage or injury to the Improvements.

The foregoing notwithstanding, any repairs which are capital expenditures under the Code and which are made during the last three (3) years of the Term shall not be required to be made, unless Landlord and Tenant agree to an allocation of the costs thereof. If the parties cannot so agree, Landlord shall have the right to cause such repairs to be made and the cost thereof shall be amortized over the useful life thereof, as determined and in accordance with the Code, and Tenant shall pay as Additional Rent its share of the costs thereof relating to the remainder of the Term. Tenant shall be entitled to the tax benefits (including depreciation) attributable to repairs or capital expenditures made by it hereunder.

Landlord shall not be required to furnish any services or facilities or to make any repairs or alterations in, about or to the Premises or any improvements hereafter erected thereon. Tenant hereby assumes the full and sole responsibility for the condition, operation, repair, replacement, maintenance and management of the Premises hereafter erected thereon.

Tenant shall not do or suffer any waste or damage, disfigurement or injury to the Premises, or to the fixtures or equipment therein, or permit or suffer any overloading of the floors or other use of the improvements that would place an undue stress on the same or any portion thereof beyond that for which the same was designed.



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Tenant agrees to maintain or cause the hotel manager under the Hotel Management Agreement to maintain a reserve for replacements ("Replacement Reserve") in an amount not less than (a) two percent (2%) of monthly "gross operating revenues" (as calculated by Tenant's Hotel Manager) during the first twenty-four (24) months after commencement of hotel operations on the Premises, (b) three percent (3%) of monthly gross operating revenues during the third twelve (12) months after commencement of hotel operations on the Premises, (c) four percent (4%) of monthly gross operating revenues during the fourth twelve (12) months after commencement of operations, and (d) thereafter five percent (5%) of monthly gross operating revenues. Following commencement of operations of the Hotel, deposits to the Replacement Reserve shall be made monthly, based on gross monthly operating revenues for the preceding month, to an interest-bearing account. Withdrawals shall be made by Tenant as needed to purchase FF&E in replacement of existing items or to repair or refurbish rooms in the Hotel, subject to the consent of Landlord, which consent shall not be unreasonably withheld or delayed. If required under the Financing Documents, such reserves shall be held in an account with the Lender.

**7.3 Compliance With Rules and Regulations; Compliance with Covenants.** Tenant shall at its sole cost and expense:

(a) Comply with (i) all federal, state, county, municipal and other governmental and quasigovernmental statutes, laws, rules, orders, regulations and ordinances affecting the Premises or any part thereof, or the use thereof, including compliance with the requirements of the City of Chicago and the State of Illinois (and any federal law to the extent applicable) relating to the operation of the Premises as a hotel serving alcoholic beverages and food products, and further including those which require the making of any structural, unforeseen or extraordinary changes (except such changes in the nature of capital expenditures as are described in the second paragraph of Section 7.2 hereinabove, which shall be made in accordance with the provisions of such paragraph), whether or not any such statutes, laws, rules, orders, regulations or ordinances which may be hereafter enacted involve a change of policy on the part of the governmental body enacting the same, and (ii) all rules, orders and regulations of the National Board of Fire Underwriters or other bodies exercising similar functions in connection with the prevention of fire or the correction of hazardous conditions, which apply to the Premises. Tenant shall comply with the requirements of all policies of public liability, fire and other insurance which at any time may be in force with respect to the Premises.

(b) Comply with the requirements (the "Covenants") of the Financing Documents, the Redevelopment Agreement, the Hotel Management Agreement, the Hotel License Agreement, the Commercial

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Leases and the Operating Contracts, in each case to the extent applicable to Tenant or applicable to the Premises and not solely within the control of Landlord to comply. In the event of its failure to do so (without limitation of any other rights or remedies of Landlord hereunder), Landlord may, if such failure continues beyond the applicable grace period hereunder, pay such amounts or perform such obligations as are necessary in order to comply therewith. The amounts reasonably expended by Landlord on account thereof shall constitute Additional Rent.

**7.4 Existing Equipment.** Tenant acknowledges that Tenant is accepting possession of the Premises inclusive of any and all equipment, personal property, furniture, fixtures, equipment and other moveable items (collectively, the "Existing Equipment") currently located therein. Landlord makes no representations or warranties, whatsoever, as to the condition of said Existing Equipment, or as to Landlord's title or interest with respect thereto. In the event that the Existing Equipment is removed, whether by Tenant or any other party, during or at the end of the Term hereof, Tenant shall be responsible for restoring any and all damage to the Premises caused by such removal, at Tenant's sole cost and expense, and, with respect to Building Systems Equipment, as hereinafter defined, Tenant shall replace any such equipment so removed with like equipment of equal or better quality that shall be in good working order and of sufficient size and capacity as is required to serve the Premises. Tenant shall cause such Existing Equipment to be replaced as and when necessary or required under the Hotel License Agreement and/or the Hotel Management Agreement. Further, Tenant shall indemnify Landlord and its respective employees, agents and other representatives, from and against any and all cost, expenses, liens, damages, or other claims resulting from the removal of any such Existing Equipment. As used herein, the term "Building Systems Equipment" shall mean all plumbing, electrical, mechanical, heating, ventilating and air conditioning and life safety equipment in or serving the Premises.

**7.5 Tax Credits.** Except as otherwise specifically provided in the HTC Pass-Through Agreement and in Section 7.1 or Section 7.2 hereof, Tenant expressly waives and relinquishes in favor of Landlord any rights to claim the benefit of or to use any federal or state investment tax credits or depreciation benefits that are currently or may become, available during the Term as a result of the improvements constituting part of the Premises, or any installation of the Existing Equipment or any other equipment, furniture or fixtures installed by Landlord on the Premises whether or not such items become a part of the realty, and Tenant agrees to execute and deliver to Landlord any election form required to evidence Landlord's right to claim investment tax credits or depreciation benefits on improvements made or property installed by Landlord. Landlord and Tenant agree that Tenant shall be entitled to any investment tax credits or depreciation

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attributable to improvements made by or property installed by Tenant and paid for by Tenant following the Commencement Date.

7.6 **Initial FF&E.** Notwithstanding anything to the contrary herein, the Landlord and the Tenant agree that the initial Furniture, Fixtures and Equipment ("**FF&E**") for the Premises will be provided in part by Landlord and in part by Tenant, as set forth in more detail in Exhibit D hereto. No additional rent beyond that set forth in Article 3 hereof shall be payable by Tenant with respect to the FF&E provided by Landlord. Following the installation of the initial FF&E, all replacement FF&E shall be provided by Tenant as and when needed.

## ARTICLE 8

### RETURN OF PREMISES

8.1 **Surrender of Possession.** At the termination of this Lease by lapse of time or otherwise or upon termination of Tenant's right of possession without termination of this Lease, Tenant shall surrender possession of the Premises to Landlord and deliver all keys to the Premises to Landlord and make known to Landlord the combination of all locks of vaults then remaining in the Premises, and shall, subject to the following paragraph, return the Premises and all equipment and fixtures of Landlord therein to Landlord in as good condition as when Tenant originally took possession, ordinary wear, loss or damage by fire or other insured casualty, and damage resulting from the act of Landlord or its employees and agents excepted, failing which Landlord may restore the Premises and such equipment and fixtures to such condition and Tenant shall pay the reasonable cost thereof to Landlord on demand.

8.2 **Installations and Additions.** All installations, additions, partitions, hardware, light fixtures, nontrade fixtures and improvements, temporary or permanent, except FF&E, trade fixtures, movable furniture and equipment belonging to Tenant, in or upon the Premises, whether placed there by Tenant or Landlord, shall be Landlord's property and shall remain upon the Premises at the termination of this Lease, all without compensation, allowance or credit to Tenant; provided, however, that if prior to such termination or within ten (10) days thereafter Landlord so directs by notice, Tenant, at Tenant's sole cost and expense, shall promptly remove such of the installations, additions, partitions, hardware, light fixtures, nontrade fixtures and improvements placed in the Premises by Tenant as are designated in such notice and repair any damage to the Premises caused by such removal, failing which Landlord may remove the same and repair the Premises, and Tenant shall pay the reasonable cost thereof to Landlord on demand. Tenant may request, prior to making the installations, additions or other improvements provided hereinabove that Landlord determine whether Tenant shall be obligated to remove such installations, additions or other improvements (in which case Landlord shall make such determination in a reasonable manner within

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five (5) days following such request); provided, however, that Landlord shall not be limited from exercising its right to require such removal, notwithstanding a prior manifestation of the contrary intent, if the condition of such installations, additions or other improvements have deteriorated and constitute in Landlord's determination, unreasonable wear and tear.

**8.3 Trade Fixtures and Personal Property.** Tenant shall also remove Tenant's furniture, machinery, safes, trade fixtures and other items of movable personal property of every kind and description belonging to Tenant from the Premises and restore any damage to the Premises caused thereby, such removal and restoration to be performed prior to the end of the Term (whether by lapse of time or by earlier termination of this Lease) or Tenant's right of possession, whichever might be earlier. If Tenant fails to remove such items, Landlord may do so and thereupon the provisions of Section 18.6 shall apply, and Tenant shall pay to Landlord upon demand the reasonable cost of removal and of restoring the Premises.

**8.4 Option To Acquire FF&E.** At the termination of this Lease by lapse of time or otherwise or upon termination of Tenant's right of possession without termination of this Lease, Landlord or Landlord's designee shall have the option to purchase from Tenant the FF&E of Tenant employed in the operation of the Hotel in the Premises. If the parties cannot agree to the purchase price for such FF&E, then the purchase price shall be the fair market value as determined by an appraiser jointly selected by Tenant and Landlord or Landlord's designee.

**8.5 Survival.** All obligations of Tenant under this Article 8 shall survive the expiration of the Term or sooner termination of this Lease.

## ARTICLE 9

### HOLDING OVER

Tenant shall pay Landlord for each day Tenant retains possession of the Premises or any part thereof after termination of this Lease, or of Tenant's right to possession of the Premises, by lapse of time or otherwise, an amount which is 150% the amount of Base Rent and Tenant's Share of Impositions for a day based on the annual rate of Base Rent set forth in Section 3.1 last payable and on the last amount of Tenant's Share of Impositions provided for in Article 4 for the period in which such possession occurs, calculated as though such period were within the Term, and Tenant shall also pay all damages, consequential as well as direct, sustained by Landlord by reason of such retention. Nothing contained in this Section shall be construed or operate as a waiver of Landlord's right of reentry or any other right or remedy of Landlord. Any such holding over shall be a tenancy at sufferance.

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## ARTICLE 10

### COMPLIANCE BY TENANT

Tenant agrees, for itself, its employees, agents, contractors, subtenants, invitees and licensees, (i) to observe and not to interfere with the rights reserved to Landlord contained in Article 11 hereof, and (ii) to comply with all terms and conditions set forth in any recorded easements, covenants, conditions or restrictions pertaining to the Premises at the present time or, if Tenant has consented thereto, thereafter. Any violation of the foregoing agreements may be restrained; but, whether or not so restrained, Tenant acknowledges and agrees that it shall be and remain liable for all damages, loss, costs and expenses resulting therefrom.

## ARTICLE 11

### RIGHTS RESERVED TO LANDLORD

Landlord reserves the following rights, exercisable after reasonable advance notice and in such manner as will minimize interference with the use and occupancy of the Premises:

- (a) to change the name or street address of the Premises (but only if requested to do so by the U.S. postal service or the local municipality or any other governmental authority);
- (b) to retain at all times, and to use in appropriate instances, pass keys to the Premises;
- (c) to exhibit the Premises at reasonable hours;
- (d) to enter the Premises at reasonable hours for inspection; and
- (e) to enter the Premises in the event of an emergency (without advance notice) and take all steps deemed reasonably necessary by it to respond to such emergency.

## ARTICLE 12

### MAINTENANCE

Subject to any limitation set forth in Section 7.2 hereof, Tenant shall keep and maintain the entire exterior and interior of the Premises, specifically including, without limitation, the roof, structural components of the buildings, the lighting systems, and the Building Systems Equipment in good condition and repair. Tenant specifically agrees to cause the requirements under the Financing Documents, the Redevelopment Agreement, the Hotel License Agreement, the Hotel

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Management Agreement, the Commercial Leases and the Operating Contracts with respect to the maintenance of the physical condition of the Premises to be complied with at all times, at its sole cost and expense. Tenant shall keep the Premises from falling temporarily out of repair or deteriorating. Tenant shall further keep and maintain the improvements at any time situated upon the Premises and all sidewalks and areas adjacent thereto, and all landscaped areas adjacent thereto, safe secure, clean and sanitary (including, without limitation, snow and ice clearance, planting and replacing flowers and landscaping, and necessary interior painting and carpet cleaning), and in full compliance with all health, safety and police regulations in force.

## ARTICLE 13

### ALTERATIONS

Tenant shall not, without the prior written consent of Landlord, which shall not be unreasonably withheld, delayed or conditioned, make any alterations, additions or improvements to the Premises, other than such alterations, additions, or improvements to the Premises which are cosmetic in nature or which shall cost less than \$10,000.00. Any alterations, additions or improvements which are consented to by Landlord shall continue to be subject to the remaining terms and conditions set forth in this Article 13.

If Landlord consents to such alterations, additions or improvements, before commencement of the work or delivery of any materials onto the Premises, Tenant shall furnish to Landlord for approval plans and specifications, names and addresses of contractors, copies of contracts, necessary permits and licenses, and instruments of indemnification against any and all claims, costs, expenses, damages and liabilities which may arise in connection with such work, all in such form, substance and amount as may be reasonably satisfactory to Landlord. In addition, for any work which shall cost, in the aggregate, in excess of \$100,000.00, prior to commencement of any such work or delivery of any materials into the Premises, Tenant shall provide Landlord with appropriate evidence of Tenant's ability to pay for such work and materials in full and, if requested by Landlord, shall deposit with Landlord at such time such security for the payment of said work and materials as Landlord may require. All alterations, additions and improvements shall be installed in a good, workmanlike manner, and only new, high-grade materials shall be used. All such work shall be done only by contractors or mechanics reasonably acceptable to Landlord. Tenant further agrees to hold Landlord harmless from any and all liabilities of every kind and description which may arise out of or be connected in any way with said alterations, additions or improvements. Before commencing any work in connection with such alterations, additions or improvements, Tenant shall furnish Landlord with certificates of insurance from all contractors performing labor or furnishing materials insuring Landlord against any

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and all liabilities which may arise out of or be connected in any way with said alterations, additions or improvements. Tenant shall permit Landlord to supervise construction operations at Landlord's sole cost in connection with the foregoing work if Landlord requests to do so. Tenant shall pay the cost of all such alterations, additions and improvements and also the cost of decorating the Premises occasioned by such alterations, additions and improvements, including the cost of labor and materials, contractors' profit, overhead and general conditions. Upon completing any alterations, additions or improvements, Tenant shall furnish Landlord with contractors' affidavits, in form required by law, and full and final waivers of lien and receipted bills covering all labor and materials expended and used. All alterations, additions and improvements shall comply with all insurance requirements and with all city and county ordinances and regulations and with the requirements of all state and federal statutes and regulations.

## ARTICLE 14

### ASSIGNMENT AND SUBLETTING

14.1 Assignment and Subletting. Except as otherwise herein provided, Tenant shall not, without the prior written consent of Landlord in each instance, (a) assign, transfer, mortgage, pledge, hypothecate or encumber, or subject to or permit to exist upon or be subjected to any lien or charge, this Lease or any interest under it; (b) allow to exist or occur any transfer of or lien upon this Lease or Tenant's interest herein by operation of law; (c) sublet the Premises or any part thereof; or (d) permit the use or occupancy of the Premises or any part thereof for any purpose not provided for under Article 5 of this Lease or by anyone other than Tenant and Tenant's employees and permitted subtenants. In no event shall this Lease be assigned or assignable by voluntary or involuntary bankruptcy proceedings or otherwise, and in no event shall this Lease or any rights or privileges hereunder be an asset of Tenant under any bankruptcy, insolvency or reorganization proceedings. Notwithstanding the foregoing, Landlord hereby consents to the occupancy by hotel guests of hotel rooms and facilities and the subleasing by Tenant of space in the commercial space (as opposed to the subleasing of the entire hotel facility) to various tenants selected by Tenant, including those subtenants who are parties to the Commercial Leases, and to the resubleasing of the same space to other tenants upon termination of any of such subleases or successor subleases, provided in each case that the sublease complies with all applicable requirements, including any consent provisions, of the Financing Documents, the Redevelopment Agreement, the Hotel License Agreement and the Hotel Management Agreement.

14.2 Tenant To Remain Obligated. Consent by Landlord to any assignment, subletting, use, occupancy or transfer shall not operate to relieve Tenant from any covenant or obligation hereunder except to the extent, if any,

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expressly provided for in such consent, or be deemed to be a consent to or relieve Tenant from obtaining Landlord's consent to any subsequent assignment, transfer, lien, charge, subletting, use or occupancy. Tenant shall pay all of Landlord's costs, charges and expenses, including attorneys' fees, reasonably incurred in connection with any assignment, transfer, lien, charge, subletting, use or occupancy made or requested by Tenant. Tenant agrees that all advertising by Tenant or on Tenant's behalf with respect to the assignment of this Lease or subletting of space must be approved in writing by Landlord prior to publication.

**14.2 Landlord's Consent.** Landlord will not unreasonably withhold or delay its consent to Tenant's assignment of this Lease or subletting the space leased hereunder whenever such consent is required hereunder. Landlord shall not be deemed to have unreasonably withheld its consent to a sublease of all or part of the Premises or an assignment of this Lease if its consent is withheld because: (a) Tenant is then in default beyond any applicable grace period hereunder or an event of default has occurred but for the giving of notice or passage of time would constitute a default by Tenant; (b) any notice of termination of this Lease or termination of Tenant's possession shall have been given under Article 18 hereof; (c) the portion of the Premises which Tenant proposes to sublease, including the means of ingress to and egress from and the proposed use thereof, or the remaining portion of the Premises will violate any city, state or federal law, ordinance or regulation, including, without limitation, any applicable building code or zoning ordinances; (d) the proposed use of the Premises by the subtenant or assignee does not conform with the uses permitted by this Lease; (e) in the reasonable judgment of Landlord, the proposed subtenant or assignee is of a character or is engaged in a business which would be deleterious to the reputation of the Premises, or the subtenant or assignee is not sufficiently financially responsible to perform its obligations under the proposed sublease or assignment; provided, however, that the foregoing are merely examples of reasons for which Landlord may withhold its consent and shall not be deemed exclusive of any permitted reasons for reasonably withholding consent, whether similar to or dissimilar from the foregoing examples. Any consent by Landlord to a proposed assignment or sublease shall in any event be subject to the terms of Section 14.1 and Section 14.2 hereinabove.

**14.4 Assignee To Assume Obligations.** If Tenant shall assign this Lease as permitted herein, the assignee shall expressly assume all of the obligations of Tenant hereunder in a written instrument reasonably satisfactory to Landlord and furnished to Landlord not later than fifteen (15) days prior to the effective date of the assignment. If Tenant shall sublease the Premises as permitted herein, Tenant shall obtain and furnish to Landlord, not later than fifteen (15) days prior to the effective date of such sublease and in form satisfactory to Landlord, the written agreement of such subtenant stating that the subtenant will attorn to Landlord, at Landlord's option and written request, in the event this Lease terminates before the expiration of the sublease.



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**14.5 Change of Ownership or Control of Tenant.** Notwithstanding anything to the contrary in this Article 14, if Tenant is a corporation, partnership or limited liability company, and if during the Term of this Lease, Tenant contemplates that the ownership of the shares of stock, partnership interests or membership interests in Tenant shall be changing, such proposed change shall not constitute a proposed assignment of this Lease or otherwise be governed by the terms of this Article 14. Notwithstanding the foregoing, Tenant shall advise Landlord of any such changes.

## ARTICLE 15

### WAIVER OF CERTAIN CLAIMS; INDEMNITY BY TENANT

**15.1 Waiver of Certain Claims; Release by Tenant.** To the extent not expressly prohibited by law, Tenant releases Landlord and its beneficiaries, if any, and their agents, servants and employees, from and waives all claims for damages to person or property sustained by Tenant, or by any other person, resulting directly or indirectly from fire or other casualty, or any existing or future condition, defect, matter or thing in or about the Premises, or from any equipment or appurtenance therein, or from any accident in or about the Premises, or from any act or neglect of any other person, including Landlord's agents and employees and contractors; provided, however, that the foregoing release shall not operate in the event of the gross negligence or willful misconduct of Landlord's agents, employees or contractors. This Section 15.1 shall apply especially, but not exclusively, to damage caused by water, snow, frost, steam, excessive heat or cold, sewerage, gas, odors or noise, or the bursting or leaking of pipes or plumbing fixtures, broken glass, sprinkling or air conditioning devices or equipment, or flooding of basements, and shall apply without distinction as to the person whose act or neglect was responsible for the damage and whether the damage was due to any of the acts specifically enumerated above or from any other thing or circumstance, whether of a like nature or of a wholly different nature.

**15.2 Damage Caused by Tenant's Neglect.** If any damage to the Premises, or any equipment or appurtenance thereon, results from any act or neglect of Tenant, its employees, agents, contractors, licensees or invitees, Tenant shall be liable therefor, and Landlord may at its option following expiration of the applicable grace period repair such damage, and Tenant shall upon demand by Landlord reimburse Landlord for all reasonable costs of repairing such damage in excess of amounts, if any, paid to Landlord under insurance covering such damage.

**15.3 Tenant Responsible for Personal Property.** All personal property on the Premises belonging to Tenant shall be there at the risk of Tenant, and Landlord shall not be liable for damage thereto or theft or misappropriation thereof.

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15.4 Indemnification. To the extent not expressly prohibited by law, Tenant agrees to hold Landlord and its beneficiaries, if any, and their agents, servants and employees, harmless and to indemnify each of them against claims and liabilities, including reasonable attorneys' fees, for injuries to all persons and damage to or theft or misappropriation or loss of property occurring in or about the Premises arising from Tenant's occupancy of the Premises or the conduct of its business or from any activity, work or thing done, permitted or suffered by Tenant in or about the Premises or from any breach or default on the part of Tenant in the performance of any covenant or agreement on the part of Tenant to be performed pursuant to the terms of this Lease, or due to any other act or omission of Tenant, its agents, contractors, invitees, licensees or employees, but only to the extent of Landlord's liability, if any, in excess of amounts, if any, paid to Landlord under insurance covering such claims or liabilities. Tenant's obligation to indemnify Landlord hereunder shall include the duty to defend against any claims asserted by reason of any such claims or liabilities and to pay any judgments, settlements, costs, fees and expenses, including attorneys' fees, reasonably incurred in connection therewith. For such purpose, Tenant shall be entitled to the use of an attorney designated by it or its insurer.

## ARTICLE 16

### DAMAGE OR DESTRUCTION BY CASUALTY

If the Premises shall be damaged by fire or other casualty and if such damage does not render all or a substantial portion of the Premises untenable, then Landlord shall proceed to repair and restore the same with reasonable promptness, subject to reasonable delays for insurance adjustments and delays caused by matters beyond Landlord's reasonable control. If any such damage renders all or a substantial portion of the Premises untenable (a "Substantial Casualty"), Landlord shall, with reasonable promptness after the occurrence of such damage, estimate the length of time that will be required to substantially complete the repair and restoration of such damage and shall by notice advise Tenant of such estimate. If it is so estimated that the amount of time required to substantially complete the repair and restoration of a Substantial Casualty will exceed three hundred sixty (360) days from the latter of (i) the date of such notice or (ii) the date of collection of the insurance proceeds (the "Start Date"), then either Landlord or Tenant shall have the right to terminate this Lease as of the date of such damage upon giving notice to the other at any time within twenty (20) days after Landlord gives Tenant the notice containing said estimate (it being understood that Landlord may, if it elects to do so, also give such notice of termination together with the notice containing said estimate). Unless this Lease is terminated as provided in the preceding sentence, Landlord shall proceed with reasonable promptness to repair and restore the Premises, subject to reasonable delays for insurance adjustments and delays caused by matters beyond Landlord's reasonable control, and also

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subject to zoning laws and building codes then in effect. Landlord shall have no liability to Tenant, and Tenant shall not be entitled to terminate this Lease (except as hereinafter provided) if such repairs and restoration are not in fact completed within the time period estimated by Landlord, as aforesaid. If the Premises are not repaired or restored within the time period estimated by Landlord (as the same may be extended for a period not to exceed one hundred fifty percent (150%) of the time period estimated by Landlord, to the extent that additional time is required on account of Landlord's inability to timely perform as more specifically provided in Section 29.11 hereinbelow) after the Start Date, then either party may terminate this Lease, effective as of the date of such fire or other casualty, by written notice to the other party not later than thirty (30) days after the expiration of said period, but prior to substantial completion of repair or restoration. Notwithstanding anything to the contrary herein set forth, (a) Landlord shall have no duty pursuant to this Section 16.1 to expend for any repair or restoration amounts in excess of insurance proceeds paid to Landlord and available for repair or restoration (without limiting Tenant's right to terminate this Lease as aforesaid); (b) Tenant shall not have the right to terminate this Lease pursuant to this Section 16.1 if the damage or destruction was caused by the act or neglect of Tenant or its agents, contractors or employees; and (c) if any such damage rendering all or a substantial portion of the Premises untenable shall occur during the last two (2) years of the Term, either party shall have the option to terminate this Lease by giving written notice to the other within sixty (60) days after the date such damage occurred, and, if such option is so exercised, this Lease shall terminate as of the date of such notice.

## ARTICLE 17

### EMINENT DOMAIN

If the Premises, or a substantial part thereof, shall be taken or condemned by any competent authority for any public or quasipublic use or purpose, subject to the provisions of the Financing Documents and the rights of lenders set forth therein, the following shall apply. The Term of this Lease shall end upon and not before the earlier of (a) the date when the possession of the part so taken shall be required for such use or purpose or (b) the effective date of the taking, and (except as otherwise herein provided) without apportionment of the award to or for the benefit of Tenant. In the event of the foregoing, Rent at the then current rate shall be apportioned as of the date of the termination. A "substantial part" of the Premises shall be deemed taken or condemned if, as Tenant may reasonably determine, such part taken shall materially interfere with the economic utilization of the Premises, taken as a whole. No money or other consideration shall be payable by Landlord to Tenant for the right of termination, and Tenant shall have no right to share in the condemnation award, whether for a total or partial taking, other than on account of compensation for the unamortized value of the Tenant's leasehold improvements and on account of Tenant's interest hereunder in light of the below-market rental, if any, payable

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hereunder. In the event that the Term of this Lease shall not be terminated as aforesaid in the event of a taking or condemnation, Landlord shall utilize the net proceeds from condemnation for the purpose of restoring the Premises to an economic whole within such a period of time as shall be reasonably necessary under the circumstances.

## ARTICLE 18

### DEFAULT

18.1 Events of Default. The occurrence of any one or more of the following matters constitutes a default ("Default") by Tenant under this Lease:

- (a) failure by Tenant to pay, within five (5) days after notice of failure to pay on the due date from Landlord to Tenant, Rent or any Operating Costs or other moneys required to be paid by Tenant under this Lease;
- (b) failure by Tenant to cure within a reasonable time after receipt of notice from Landlord any hazardous condition which Tenant has created in violation of law or of this Lease;
- (c) failure by Tenant to observe or perform any other covenant, agreement, condition or provision of this Lease, if such failure shall continue for thirty (30) days after notice thereof from Landlord to Tenant, or such longer period as is necessary for Tenant, acting diligently, to cure, if such failure cannot reasonably be corrected within said thirty (30) day period;
- (d) the levy upon under writ of execution or the attachment by legal process of the leasehold interest of Tenant, or the filing or creation of a lien in respect of such leasehold interest, which lien shall not be released or discharged within sixty (60) days from the date of such filing;
- (e) Tenant abandons the Premises whether or not Tenant thereafter continues to pay the Rent due under this Lease;
- (f) Tenant becomes insolvent or bankrupt, or admits in writing its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors, or applies for or consents to the appointment of a trustee or receiver for Tenant or for the major part of its property;
- (g) a trustee or receiver is appointed for Tenant or for the major part of its property and is not discharged within ninety (90) days after such appointment; or

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(h) bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted (i) by Tenant or (ii) against Tenant and are allowed against it or are consented to by it or are not dismissed or stayed within ninety (90) days after such institution.

**18.2 Rights and Remedies of Landlord.** If a Default occurs, Landlord shall have the rights and remedies hereinafter set forth, which shall be distinct, separate and cumulative and shall not operate to exclude or deprive Landlord of any other right or remedy allowed it by law:

(a) Landlord may terminate this Lease by giving to Tenant notice of Landlord's election to do so, in which event the Term of this Lease shall end, and all right, title and interest of Tenant hereunder shall expire on the date stated in such notice;

(b) Landlord may terminate the right of Tenant to possession of the Premises without terminating this Lease by giving notice to Tenant that Tenant's right of possession shall end on the date stated in such notice, whereupon the right of Tenant to possession of the Premises or any part thereof shall cease on the date stated in such notice;

(c) Landlord may enforce the provisions of this Lease and may enforce and protect the rights of Landlord hereunder by a suit or suits in equity or at law for the specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy, including recovery of all moneys due or to become due from Tenant under any of the provisions of this Lease;

(d) Landlord may apply the Security Deposit or any portion thereof to cure any default; and

(e) Landlord may proceed against the Collateral under the security interest granted to it under Section 18.9 and take any and all actions permitted to a secured party under the laws of the State of Illinois, including the Uniform Commercial Code as in effect in the State.

**18.3 Right To ReEnter.** If Landlord exercises either of the remedies provided for in subparagraphs (a) and (b) of the foregoing Section 18.2, Tenant shall surrender possession and vacate the Premises and immediately deliver possession thereof to Landlord, and Landlord may reenter and take complete and peaceful possession of the Premises, pursuant to applicable legal proceedings, full and complete license so to do being hereby granted to Landlord, and Landlord may remove all occupants and property therefrom, without relinquishing Landlord's right to Rent or any other right given to Landlord hereunder or by operation of law.

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18.4 Current Damages. If Landlord terminates the right of Tenant to possession of the Premises without terminating this Lease, Landlord shall have the right to immediate recovery of all amounts then due hereunder. Such termination of possession shall not release Tenant, in whole or in part, from Tenant's obligation to pay the Rent hereunder for the full Term, and Landlord shall have the right, from time to time, to recover from Tenant, and Tenant shall remain liable for, all Base Rent, Tenant's Share of Impositions and any other sums accruing as they become due under this Lease during the period from the date of such notice of termination of possession to the stated end of the Term. In any such case Landlord may relet the Premises or any part thereof for the account of Tenant for such rent, for such time (which may be for a term extending beyond the Term of this Lease) and upon such terms as Landlord shall reasonably determine and collect the rents from such reletting. Landlord shall not be required to accept any tenant offered by Tenant or to observe any instructions given by Tenant relative to such reletting. Also, in any such case, Landlord may make repairs, alterations and additions in or to the Premises and redecorate the same to the extent reasonably deemed by Landlord necessary or desirable and, in connection therewith, change the locks to the Premises, and Tenant shall upon demand pay the reasonable cost of all the foregoing together with Landlord's reasonable expenses of reletting. The rents from any such reletting shall be applied first to the payment of the reasonable expenses of reentry, redecoration, repair and alterations and the reasonable expenses of reletting, and second to the payment of Rent herein provided to be paid by Tenant. Any excess or residue shall operate only as an offsetting credit against the amount of Rent due and owing as the same thereafter becomes due and payable hereunder, and the use of such offsetting credit to reduce the amount of Rent due Landlord, if any, shall not be deemed to give Tenant any right, title or interest in or to such excess or residue, and any such excess or residue shall belong to Landlord solely, and in no event shall Tenant be entitled to a credit on its indebtedness to Landlord in excess of the aggregate sum (including Base Rent and Tenant's Share of Impositions) which would have been paid by Tenant for the period for which the credit to Tenant is being determined, had no Default occurred. No such reentry or repossession, repairs, alterations and additions, or reletting shall be construed as an eviction or ouster of Tenant or as an election on Landlord's part to terminate this Lease, unless a written notice of such intention shall be given to Tenant, or shall operate to release Tenant in whole or in part from any of Tenant's obligations hereunder, and Landlord may, at any time and from time to time, sue and recover judgment for any deficiencies from time to time remaining after the application from time to time of the proceeds of any such reletting.

18.5 Final Damages. If this Lease is terminated by Landlord as provided for by subparagraph (a) of Section 18.2, Landlord shall be entitled to recover from Tenant all Rent accrued and unpaid for the period up to and including such termination date, as well as all other additional sums payable by Tenant or for which Tenant is liable or in respect of which Tenant has agreed to indemnify

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Landlord under any of the provisions of this Lease, which may be then owing and unpaid, and all costs and expenses, including court costs and attorneys' fees, reasonably incurred by Landlord in the enforcement of its rights and remedies hereunder, and, in addition, Landlord shall be entitled to recover as damages for loss of the bargain and not as a penalty: (a) the aggregate sum which at the time of such termination represents the excess, if any, of the present value of the aggregate rents which would have been payable after the termination date had this Lease not been terminated, including, without limitation, Base Rent at the annual rate or respective annual rates for the remainder of the Term provided for in Article 3 of this Lease or elsewhere herein, over the then present value of the then aggregate fair rental value of the Premises for the balance of the Term, such present value to be computed in each case on the basis of a per annum discount rate equal to the default rate of interest on the termination date (as described in Section 29.8 hereinbelow) from the respective dates upon which such rentals would have been payable hereunder had this Lease not been terminated; and (b) any damages in addition thereto, including reasonable attorneys' fees and court costs, which Landlord shall have sustained by reason of the breach of any of the covenants of this Lease other than for the payment of Rent.

**18.6 Removal of Personal Property.** All property of Tenant removed from the Premises by Landlord pursuant to any provisions of this Lease or of law may be handled, removed or stored by Landlord at the cost and expense of Tenant, and Landlord shall in no event be responsible for the value, preservation or safekeeping thereof. Tenant shall pay Landlord for all expenses reasonably incurred by Landlord in such removal and storage charges against such property so long as the same shall be in Landlord's possession or under Landlord's control. All such property not removed from the Premises by the Tenant on or before the end of the Term, however terminated (i.e. whether by lapse of time or otherwise), or on or before the earlier termination of Tenant's right of possession of the Premises, shall, at Landlord's option, be conclusively deemed to have been conveyed by Tenant to Landlord as by bill of sale without further payment or credit by Landlord to Tenant.

**18.7 Attorneys' Fees.** Tenant shall pay all of Landlord's costs, charges and expenses, including court costs and reasonable attorneys' fees, reasonably incurred in enforcing Tenant's obligations under this Lease, reasonably incurred by Landlord in any action brought by Tenant in which Landlord is the prevailing party, or reasonably incurred by Landlord in any litigation, negotiation or transaction in which Tenant causes Landlord, without Landlord's fault, to become involved or concerned. Landlord shall pay all of Tenant's costs, charges and expenses, including court costs and attorneys' fees reasonably incurred by Tenant in connection with the enforcement of Landlord's obligations under this Lease, reasonably incurred by Tenant in any action brought by Landlord in which Tenant is the prevailing party, or reasonably incurred by Tenant in any litigation,

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negotiation or transaction in which Landlord causes Tenant, without Tenant's fault, to become involved or concerned.

**18.8 Assumption or Rejection in Bankruptcy.** If Tenant shall be adjudged bankrupt or if a trustee in bankruptcy shall be appointed for Tenant, Landlord and Tenant agree, to the extent permitted by law, to request that the trustee in bankruptcy shall determine within sixty (60) days' thereafter whether to assume or reject this Lease.

**18.9 Grant of Security Interest by Tenant.** To secure its obligations under this Lease, Tenant hereby grants to Landlord a security interest in all of Tenant's right, title and interest in, to and under the following-described property (the "Collateral"):

- (a) All of Tenant's interest (whether presently existing or hereafter acquired) in all FF&E which is or becomes attached to, installed in, or used on or in connection with the Premises;
- (b) Tenant's Replacement Reserves;
- (c) Tenant's right, title and interest to rent and other payments under the Commercial Leases and all successor subleases;
- (d) Tenant's revenues, incomes, proceeds, profits and other sums or benefits paid or payable to Tenant in connection with Tenant's operation of a hotel in the Premises or other use or operation of the Premises; and
- (e) All proceeds, including insurance proceeds, that arise out of the sale, liquidation, or other transfer of, or damage to or destruction of, or sale, use or enforcement of the above-described Collateral, or any proceeds thereof, including cash proceeds.

Tenant shall execute and deliver to Landlord, in form and substance satisfactory to Landlord, such financing statements and other collateral documents as Landlord may consider reasonably necessary to create, protect and preserve Landlord's security interest herein granted, and Landlord may cause such statements and documents to be recorded and filed at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest.

This security interest is a collateral security interest only, and Tenant shall have full use of and control over the Collateral prior to the occurrence of, and following the cure of, any Default hereunder, subject to Section 7.2 pertaining to withdrawals from the Replacement Reserve.



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If requested by Landlord, Tenant shall enter into a separate security agreement with Landlord to provide in greater detail the details of the security interest in the Collateral.

## ARTICLE 19

### SUBORDINATION

19.1 Subordination. Landlord may have previously and may hereafter from time to time execute and deliver one or more mortgages (hereinafter referred to as a "Mortgage") against the Premises or any interest therein. If requested by the mortgagee under any Mortgage, Tenant will either (a) subordinate its interest in this Lease to said Mortgage, and to any and all advances made thereunder and to the interest thereon and to all renewals, replacements, supplements, amendments, modifications and extensions thereof, or (b) make certain of Tenant's rights and interest in this Lease superior thereto; and Tenant will promptly execute and deliver such agreement or agreements as may be reasonably required by such mortgagee under any Mortgage.

In addition, upon request by any such mortgagee, Landlord may grant a security interest to such mortgagee in Landlord's interest in the Collateral in which Landlord has a security interest pursuant to Section 18.9 as security for Landlord's obligations under loan documents. In the event of any foreclosure under any such security interest, to the extent such foreclosure was not the result of a default by Tenant, St. George Hotel, L.L.C. (and no subsequent Landlord hereunder) shall be obligated to pay to Tenant any damages suffered by Tenant as a result of such foreclosure including, without limitation, the fair market value of all Collateral lost by Tenant in such transaction.

19.2 Liability of Holder of Mortgage; Attornment. It is further agreed that (a) if any Mortgage shall be foreclosed, (i) the holder of the Mortgage, ground lessor (or their respective grantees) or purchaser at any foreclosure sale (or grantee in a deed in lieu of foreclosure), as the case may be, shall not be (x) liable for any act or omission of any prior landlord (including Landlord), (y) subject to any offsets or counterclaims which Tenant may have against a prior landlord (including Landlord), or (z) bound by any prepayment of Base Rent or Tenant's Share of Impositions which Tenant may have made in excess of the amounts then due for the next succeeding month; (ii) the liability of the mortgagee hereunder or the purchaser at such foreclosure sale or the liability of a subsequent owner designated as Landlord under this Lease shall exist only so long as such mortgagee, purchaser or owner is the owner of the Premises, and such liability shall not continue or survive with respect to claims accruing after further transfer of ownership; and (iii) upon request of the mortgagee, if the Mortgage shall be foreclosed, Tenant will attorn, as Tenant under this Lease, to the purchaser at any foreclosure sale under any Mortgage, and Tenant will execute such instruments as may be necessary or

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appropriate to evidence such attornment; and (b) this Lease may not be modified or amended so as to reduce the Rent or shorten the Term provided hereunder or increase Landlord's obligations or decrease Tenant's obligations or so as to adversely affect in any other respect to any material extent the rights of Landlord and obligations of Tenant, nor shall this Lease be cancelled or surrendered, without the prior written consent, in each instance, of the mortgagee under any Mortgage.

**19.3 Modification Required by Mortgagee.** Should any prospective mortgagee require a modification or modifications of this Lease, which modification or modifications will not cause an increased cost or expense to Tenant or in any other way materially change the rights and obligations of Tenant hereunder, Tenant agrees that this Lease may be so modified and agrees to execute whatever documents are required therefor and deliver the same to Landlord within ten (10) days following the request therefor.

**19.4 Short Form Lease or Notice of Lease.** Should any prospective mortgagee require execution of a short form of lease for recording (containing the names of the parties, a description of the Premises and the Term of this Lease) or a certification from Tenant concerning this Lease in such form as may be reasonably required by a prospective mortgagee, Tenant agrees to promptly execute such short form of lease or certificate and deliver the same to Landlord within ten (10) days following the request therefor, whereupon Landlord shall join in the execution of such short form lease and arrange for the recordation thereof. In addition, at the request of Landlord or Tenant, the parties shall execute a short form of lease or notice of lease for recording containing the names of the parties, a description of the Premises and the Term of this Lease.

**19.5 Tenant Protections.** With respect to any Mortgage to which Tenant's interest under this Lease shall be subordinate, Landlord shall use reasonable efforts to cause (but shall not be obligated to cause) the mortgagee thereunder and its successors and assigns to agree to recognize and not disturb the interest of Tenant in the event of a default by Landlord under said Mortgage. Notwithstanding the foregoing, Landlord shall agree to cause any notice of default under such Mortgage for the financing related thereto to be promptly given to Tenant and Landlord shall agree to cause Tenant to have a right to cure any default by Landlord under said Mortgage.

**19.6 Limitation on Landlord's Rights to Refinance.** Until the end of the Seventy-Eighth (78<sup>th</sup>) month following the QRE Completion Date, Landlord shall be free to encumber the Premises with any amount of mortgage indebtedness as determined by the Landlord, without Tenant's consent, and Tenant shall have no right to any proceeds of any such financing. Notwithstanding anything to the contrary herein contained, at no time thereafter shall Landlord, without the prior written consent of Tenant, encumber the Premises with a Mortgage(s) which secures principal indebtedness in excess of the sum of: (a) Fifty-Nine Million Dollars

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(\$59,000,000); and (b) any amounts to be paid as transactional costs or otherwise to third parties in connection with such Mortgage(s) and the indebtedness thereby secured. No adjustments shall be made to the Rent payable under this Lease as a result of any increased debt service costs incurred by Landlord.

## ARTICLE 20

### MORTGAGEE PROTECTION

Tenant agrees to give any holder of any Mortgage (as defined in Section 19.1 hereof) against the Premises, or any interest therein, by registered or certified mail, a copy of any notice or claim of Default served upon Landlord by Tenant, provided that prior to such notice Tenant has been notified in writing (by way of service on Tenant of a copy of an assignment of Landlord's interests in leases, or otherwise) of the address of such Mortgage holder. Tenant further agrees that if Landlord shall have failed to cure such Default within thirty (30) days after such notice to Landlord (or if such Default cannot be cured or corrected within that time, then such additional time as may be necessary if Landlord has commenced within such thirty (30) days and is diligently pursuing the remedies or steps necessary to cure or correct such Default), then the holder of the Mortgage shall have an additional thirty (30) days within which to cure or correct such Default (or if such Default cannot be cured or corrected within that time, then such additional time as may be necessary if such holder of the Mortgage has commenced within such thirty (30) days and is diligently pursuing the remedies or steps necessary to cure or correct such Default, including the time necessary to obtain possession if possession is necessary to cure or correct such Default).

## ARTICLE 21

### ESTOPPEL CERTIFICATE

Tenant agrees that, from time to time upon not less than ten (10) days' prior request by Landlord or the holder of any Mortgage or any ground lessor, Tenant (or any permitted assignee, subtenant, licensee, concessionaire or other occupant of the Premises claiming by, through or under Tenant) will deliver to Landlord, or to the holder of any Mortgage or any ground lessor, a statement in writing signed by Tenant certifying (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease as modified is in full force and effect and identifying the modifications); (b) the date upon which Tenant began paying Rent and the dates to which the Rent and other charges have been paid; (c) that Landlord is not in Default under any provision of this Lease, or, if in Default, the nature thereof in detail; (d) that (if applicable) the Premises have been completed in accordance with the terms hereof and Tenant is in occupancy and paying Rent on a current basis with no rental offsets or claims; (e) that there has been no prepayment of Rent other than that provided for in this Lease; (f) that there are no actions,

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whether voluntary or otherwise, pending against Tenant under the bankruptcy laws of the United States or any state thereof; and (g) such other matters as may be required by Landlord, the holder of the Mortgage or any ground lessor. Landlord shall provide a statement of like tenor if and as requested by Tenant.

## ARTICLE 22

### SUBROGATION AND INSURANCE

**22.1 Waiver of Subrogation.** Landlord and Tenant agree to have all fire and extended coverage and other property damage insurance which may be carried by either of them endorsed with a clause (if commercially available) providing that any release from liability of, or waiver of claim for, recovery from the other party entered into in writing by the insured thereunder prior to any loss or damage shall not affect the validity of said policy or the right of the insured to recover thereunder and providing further that the insurer waives all rights of subrogation which such insurer might have against the other party. Without limiting any release or waiver of liability or recovery set forth elsewhere in this Lease, and notwithstanding anything in this Lease which may appear to be to the contrary, each of the parties hereto waives all claims for recovery from the other party for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such insurance policies. Notwithstanding the foregoing or anything contained in this Lease to the contrary, any release or any waiver of claims shall not be operative, nor shall the foregoing endorsements be required, in any case where the effect of such release or waiver is to invalidate insurance coverage or invalidate the right of the insured to recover thereunder or to increase the cost thereof (provided that in the case of increased cost the other party shall have the right, within ten (10) days following written notice, to pay such increased cost keeping such release or waiver in full force and effect).

**22.2 Tenant's Insurance.** Tenant shall procure and maintain policies of insurance, including, without limitation, liability, casualty and rental interruption insurance for the Premises, at its sole cost and expense, during the entire Term hereof with terms and coverages and companies reasonably satisfactory to Landlord and with such increases in limits as Landlord may from time to time reasonably request, including all insurance required under any Mortgage and/or under the Redevelopment Agreement, the Hotel Management Agreement, the Hotel License Agreement, the Commercial Leases or the Operating Contracts. Alternatively, Landlord may cause such policies to be procured and maintained, and Tenant shall reimburse Landlord for the cost thereof, upon demand. If Landlord provides policies of insurance, such policies shall be all risk coverage exclusive of footings and foundation.

All policies of insurance required hereunder which insure against loss or damage to the Premises shall provide that the proceeds thereof (or so much of such

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proceeds as pertain to loss or damage to the Premises) shall be payable to Landlord, and if Landlord so requests, shall also be payable to any contract purchaser of the Premises and any holder of a Mortgage, as the interest of such purchaser or holder of a Mortgage appears pursuant to a standard named insured or mortgagee clause. Tenant shall not, on Tenant's own initiative or pursuant to request or requirement of any third party, take out separate insurance concurrent in form or contributing in the event of loss with that required hereunder, unless Landlord is included therein as named insureds with loss payable as in this Section provided Tenant shall immediately notify Landlord whenever any such separate insurance is taken out and shall deliver to Landlord duplicate originals thereof or original certificates evidencing the same with true copies of such insurance policies attached. All such policies of insurance shall provide that any loss shall be payable to Landlord notwithstanding any act or omission of Tenant which might otherwise result in a forfeiture or reduction of such insurance.

**22.3 Certificates of Insurance.** Prior to the commencement of the Term (unless Landlord has elected to procure the policies of insurance as provided above), Tenant shall furnish to Landlord policies or certificates evidencing such coverage, which policies or certificates shall state that such insurance coverage may not be reduced, cancelled or not renewed without at least thirty (30) days' prior written notice to Landlord and Tenant (unless such cancellation is due to nonpayment of premium, and, in that case, only ten (10) days' prior written notice shall be sufficient).

## ARTICLE 23

### NONWAIVER

No waiver of any condition expressed in this Lease shall be implied by any failure of either party to enforce any remedy on account of the violation of such condition whether or not such violation be continued or repeated subsequently, and no express waiver shall affect any condition other than the one specified in such waiver and that one only for the time and in the manner specifically stated. Without limiting Landlord's rights under Article 9, it is agreed that no receipt of monies by Landlord from Tenant after the termination in any way of the Term or of Tenant's right of possession hereunder or after the giving of any notice shall reinstate, continue or extend the Term or affect any notice given to Tenant prior to the receipt of such monies. It is also agreed that after the service of notice or the commencement of a suit or after final judgment for possession of the Premises, Landlord may receive and collect any monies due, and the payment of said monies shall not waive or affect said notice, suit or judgment.

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## ARTICLE 24

### AUTHORITY OF TENANT

In case Tenant is a corporation, Tenant (a) represents and warrants that this Lease has been duly authorized, executed and delivered by and on behalf of Tenant and constitutes the valid and binding agreement of Tenant in accordance with the terms hereof, and (b) if Landlord so requests, shall deliver to Landlord or its agent, concurrently with the delivery of this Lease executed by Tenant, certified resolutions of the board of directors (and shareholders, if required) authorizing Tenant's execution and delivery of this Lease and the performance of Tenant's obligations hereunder. In case Tenant is a partnership, Tenant represents and warrants that all of the persons who are general or managing partners in said partnership have executed this Lease on behalf of Tenant, or that this Lease has been executed and delivered pursuant to and in conformity with a valid and effective authorization therefor by all of the general or managing partners of such partnership and is and constitutes the valid and binding agreement of the partnership and each and every partner therein in accordance with its terms. Also, it is agreed that each and every present and future partner in Tenant shall be and remain at all times jointly and severally liable hereunder and that the death, resignation or withdrawal of any partner shall not release the liability of such partner under the terms of this Lease unless and until Landlord shall have consented to such release in writing. In case Tenant is a limited liability company, Tenant represents and warrants that all of the persons who are Managers or Managing Members in said limited liability company have executed this Lease on behalf of Tenant, or that this Lease has been executed and delivered pursuant to and in conformity with a valid and effective authorization therefor by all of the managers or managing members of such company and is and constitutes the valid and binding agreement of the company.

## ARTICLE 25

### REAL ESTATE BROKERS

Each party represents that it has not dealt with any broker in connection with this Lease, and agrees to indemnify and hold the other harmless from all damages, liability and expense (including reasonable attorneys' fees) arising from any claims or demands of any broker or brokers or finders for any commission alleged to be due such broker or brokers or finders in connection with its having introduced such party to the Premises or dealing with such party in the negotiation of this Lease.

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## ARTICLE 26

### NOTICES

All notices and demands required or desired to be given by either party to the other with respect to this Lease or the Premises shall be in writing and shall be sent by overnight courier service, prepaid, or sent by United States registered or certified mail, return receipt requested, postage prepaid, and addressed as herein provided. Notices to or demands upon Tenant shall be addressed to HRH Chicago, LLC at c/o 230 N. Michigan, L.L.C., 233 N. Michigan Avenue, Chicago, IL 60601, Attention: John McDonald, with copies to Chevron TCI, Inc., 575 Market Street, 32<sup>nd</sup> Floor, San Francisco, CA 94105, Attention: John H. Medinger; and Holland & Knight LLP, 10 St. James Avenue, Boston, MA 02116, Attention: William F. Machen, Esq. Notices to or demands upon Landlord shall be addressed to St. George Hotel, L.L.C. at 68 East Wacker Place, 10<sup>th</sup> Floor, Chicago, IL 60601, Attention: Niki Development, LLC, with copies to McBride Baker & Coles, 500 West Madison Street, 40<sup>th</sup> Floor, Chicago, IL 60661-2511, Attention: Elias N. Matsakis, Esq.; and Becker Ventures, LLC, 250 Stephenson Highway, Suite 300, Troy, MI 48083, Attention: Mike McInerney, President, Facsimile: (248) 589-4905. Notices and demands shall be deemed given and served (a) upon receipt or refusal, or (b) one (1) business day after deposit with an overnight courier service. Either party may change its address for receipt of notices by giving notice of such change to the other party in accordance herewith. Notices and demands from Landlord to Tenant may be signed by Landlord, its beneficiary, the managing agent for the Premises or the agent of any of them.

## ARTICLE 27

### HAZARDOUS SUBSTANCES

#### 27.1 Defined Terms.

(a) "Claim" shall mean and include any demand, cause of action, proceeding or suit (i) for damages (actual or punitive), losses, injuries to person or property, damages to natural resources, fines, penalties, interest, contribution or settlement, (ii) for the costs of site investigations, feasibility studies, information requests, health or risk assessments or Response actions, and (iii) for enforcing insurance, contribution or indemnification agreements.

(b) "Environmental Laws" shall mean and include all existing and future federal, state and local statutes, ordinances, regulations and rules relating to environmental quality, health, safety, contamination and cleanup, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 *et seq.*; the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*, and the Water

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Quality Act of 1987; the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. Section 136 et seq.; the Marine Protection, Research, and Sanctuaries Act, 33 U.S.C. Section 1401 et seq.; the National Environmental Policy Act, 42 U.S.C. Section 4321 et seq.; the Noise Control Act, 42 U.S.C. Section 4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. Section 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act, the Emergency Planning and Community Right to Know Act, and the Radon Gas and Indoor Air Quality Research Act; the Toxic Substances Control Act ("TSCA"), 15 U.S.C. Section 2601 et seq.; the Atomic Energy Act, 42 U.S.C. Section 2011 et seq., and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 et seq.; and the Environmental Protection Act of Louisiana ("IEPA"), Ill. Rev. Stat. ch. 111½, para. 1001 et seq., and state superlien and environmental cleanup statutes, with implementing regulations and guidelines. Environmental Laws shall also include all existing and future state, regional, county, municipal and other local laws, regulations and ordinances insofar as they are equivalent or similar to the federal laws recited above or purport to regulate Hazardous Materials.

(c) "Hazardous Materials" shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, byproduct or constituent regulated under CERCLA; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the FIFRA; asbestos and asbestos containing materials, PCBs and other substances regulated under the TSCA; source material, special nuclear material, byproduct material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. § 1910.1200 et seq.; and industrial process and pollution control wastes, whether or not hazardous within the meaning of RCRA, together with any and all other hazardous or toxic materials regulated from time to time under any other Environmental Laws.

(d) "Manage" means to generate, manufacture, process, treat, store, use, reuse, refine, recycle, reclaim, blend or burn for energy recovery, incinerate, accumulate speculatively, transport, transfer, dispose of or abandon Hazardous Materials.



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(e) "Release" or "Released" shall mean any actual or threatened spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of Hazardous Materials into the environment, as "environment" is defined in CERCLA.

(f) "Response" or "Respond" shall mean action taken in compliance with Environmental Laws to correct, remove, remediate, cleanup, prevent, mitigate, monitor, evaluate, investigate, assess or abate the Release of a Hazardous Material.

## 27.2 Tenant's Obligations with Respect to Environmental Matters.

During the Term of this Lease: (a) Tenant shall at its own cost comply with all Environmental Laws; (b) Tenant shall not conduct or authorize the Management of any Hazardous Materials on the Premises, including installation of any underground storage tanks, without prior written disclosure to and approval by Landlord, provided, however, that the use by Tenant of cleaning solvents and other materials used in the ordinary course of the operation of the Premises shall be deemed disclosed to and approved by Landlord, as long as such use is not in violation of any Environmental Laws; (c) Tenant shall not take any action that would subject the Premises to permit requirements under RCRA or any other Environmental Laws for storage, treatment or disposal of Hazardous Materials; (d) Tenant shall not dispose of Hazardous Materials in dumpsters (if any) provided by Landlord for Tenant use; (e) Tenant shall not discharge Hazardous Materials into drains or sewers; (f) Tenant shall not cause or allow the Release of any Hazardous Materials on, to or from the Premises; and (g) Tenant shall at its own cost arrange for the lawful transportation and off-site disposal of all Hazardous Materials that it generates.

27.3 Copies of Notices. During the term of this Lease, Tenant shall promptly provide Landlord with copies of all summons, citations, directives, information inquiries or requests, notices of potential responsibility, notices of violation or deficiency, orders or decrees, Claims, complaints, investigations, judgments, letters, notices of environmental liens or Response actions in progress and other communications, written or oral, actual or threatened, from the United States Environmental Protection Agency, Occupational Safety and Health Administration, Illinois Environmental Protection Agency or other federal, state or local agency or authority, or any other entity or individual, concerning (a) any Release of a Hazardous Material on, to or from the Premises; (b) the imposition of any lien on the Premises; or (c) any alleged violation of or responsibility under Environmental Laws. Landlord and Landlord's agents, contractors, beneficiaries and employees (and the agents, contractors, employees or representatives of any such parties) shall have the right subject to the other applicable provisions of this Lease to enter the Premises and conduct appropriate inspections or tests in order to determine Tenant's compliance with Environmental Laws.

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**27.4 Tests and Reports.** Upon written request by Landlord, Tenant shall provide Landlord with the results of appropriate reports and tests, with transportation and disposal contracts for Hazardous Materials, with any permits issued under Environmental Laws, and with any other applicable documents to demonstrate that Tenant complies with all Environmental Laws relating to the Premises, and if such reports, tests or other items reveal any failure of the Premises to so comply with all Environmental Laws, then, in addition to other rights and remedies of Landlord hereunder, Tenant shall reimburse Landlord, upon demand, for the reasonable cost of such reports, tests and other investigations.

**27.5 Access and Inspection.** Landlord and its agents and representatives shall have access to the Premises and to the books and records of Tenant (and any occupant of the Premises claiming by, through or under Tenant) relating to Hazardous Materials for the purpose of ascertaining the nature of the activities being conducted thereon and to determine the type, kind and quantity of all products, materials and substances brought onto the Premises or made or produced thereon. Landlord and its agents and representatives shall have the right to take samples in quantity sufficient for scientific analysis of all products, materials and substances present on the Premises, including, but not limited to, samples of products, materials or substances brought onto or made or produced on the Premises by Tenant or an occupant claiming by, through or under Tenant or otherwise present on the Premises. And, further, notwithstanding any provision of this Lease or applicable statutes or judicial decisions to the contrary, with respect to any assignment, subletting, grant of license, concession or any other permission to use the Premises by any person other than Tenant, Landlord shall have the right to withhold Landlord's consent thereto if, the assignee, subtenant, licensee, concessionaire or such other person is not capable of performing or is not sufficiently qualified to perform in accordance with the requirements of this Article 27. Any assignment, sublease, license or other permission to use the Premises from which Landlord withholds its consent as provided in this Section 27.5 shall be voidable at the Landlord's sole option.

**27.6 Tenant's Obligation To Respond.** If Tenant's Management of Hazardous Materials at the Premises (i) gives rise to liability or to a Claim under any Environmental Law, (ii) causes a significant public health effect, or (iii) creates a nuisance, Tenant shall promptly take all applicable action in Response.

**27.7 Landlord's Obligations with respect to Environmental Matters.** As part of Landlord's work, Landlord shall cause the Premises to be in compliance with all Environmental Laws prior to the Possession Date and, without limitation of the foregoing, shall cause all removal of Hazardous Materials on or about the Premises and all remediation work with respect to existing violations of Environmental Laws to be performed in accordance with the recommendations contained in the Phase I Environmental Site Assessment dated March 18, 1997, and

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the Phase I Environmental Site Assessment Update dated July 1, 1998 for the Carbide and Carbon Building located at 230 North Michigan Avenue, Chicago, Illinois and Phase I Environmental Site Assessment Update dated August 17, 2001 for the Commercial Buildings located at 222 and 230 North Michigan Avenue, Chicago, Illinois, all prepared by ATC Associates, Inc.

**27.8 Indemnification.** Tenant shall indemnify, defend and hold harmless Landlord, its members, its beneficiaries, its lenders, any managing agents and leasing agents of the Premises, and their respective beneficiaries, agents, partners, officers, directors and employees, from all Claims (other than those arising from a breach by Landlord of its obligations under Section 27.7) arising from or attributable to: (a) the presence of Hazardous Materials in or on the Premises or the subsurface thereof or the violation of any Environmental Laws (including, without limiting the generality thereof, any cost, claim, liability or defense expended in remediation required by a governmental authority or by reason of the release, escape, seepage, leakage, discharge or migration of any Hazardous Material on or from the Premises or violation of any Environmental Laws), or (b) any breach by Tenant of any of its warranties, representations or covenants in this Section. Tenant's obligations hereunder shall survive the termination or expiration of this Lease.

Landlord shall indemnify, defend and hold harmless Tenant, its members, its beneficiaries, its Lenders, any managing agents and leasing agents of the Premises, and their respective beneficiaries, agents, partners, officers, directors and employees, from all Claims arising from or attributable to any breach by Landlord of any of its representations, warranties or covenants in Section 27.7. Landlord's obligations hereunder shall survive the termination or expiration of this Lease.

## ARTICLE 28

### TITLE AND COVENANT AGAINST LIENS

Landlord's title is and always shall be paramount to the title of Tenant, and nothing in this Lease contained shall empower Tenant to do any act which can, shall or may encumber the title of Landlord. Tenant covenants and agrees not to suffer or permit any lien of mechanics or materialmen to be placed upon or against the Premises or against Tenant's leasehold interest in the Premises and, in case of any such lien attaching, to immediately pay and remove same. Tenant has no authority or power to cause or permit any lien or encumbrance of any kind whatsoever, whether created by act of Tenant, operation of law or otherwise, to attach to or be placed upon the Premises and any and all liens and encumbrances created by Tenant shall attach only to Tenant's interest in the Premises. If any such liens so attach and Tenant fails to pay and remove same within ten (10) days after notice thereof, Landlord, at its election, may pay and satisfy the same, and in such event the sums so paid by Landlord shall accrue with interest from the date of

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payment at the rate set forth in Section 29.8 hereof for amounts owed Landlord by Tenant. Such sums shall be deemed to be additional rent due and payable by Tenant at once without notice or demand.

## ARTICLE 29

### MISCELLANEOUS

**29.1 Successors and Assigns.** Each provision of this Lease shall extend to and shall bind and inure to the benefit not only of Landlord and Tenant, but also their respective heirs, legal representatives, successors and assigns, but this provision shall not operate to permit any transfer, assignment, mortgage, encumbrance, lien, charge or subletting contrary to the provisions of this Lease.

**29.2 Modifications in Writing.** No modification, waiver or amendment of this Lease or of any of its conditions or provisions shall be binding upon either party unless in writing signed by such party.

**29.3 No Option; Irrevocable Offer.** Submission of this instrument for examination shall not constitute a reservation of or option for the Premises or in any manner bind Landlord, and no lease or obligation of Landlord shall arise until this instrument is signed and delivered by Landlord and Tenant.

**29.4 Definition of Tenant.** The word "Tenant" whenever used herein shall be construed to mean Tenants or any one or more of them in all cases where there is more than one Tenant; and the necessary grammatical changes required to make the provisions hereof apply either to corporations or other organizations, partnerships or other entities, or individuals, shall in all cases be assumed as though in each case fully expressed herein. In all cases where there is more than one Tenant, the liability of each shall be joint and several.

**29.5 Definition of Landlord.** The term "Landlord" as used in this Lease means only the owner or owners at the time being of the Premises so that in the event of any assignment, conveyance or sale, once or successively, of said Premises, or any assignment of this Lease by Landlord, said Landlord making such sale, conveyance or assignment shall be and hereby is entirely freed and relieved of all covenants and obligations of Landlord hereunder accruing after such sale, conveyance or assignment, and Tenant agrees to look solely to such purchaser, grantee or assignee with respect thereto. This Lease shall not be affected by any such assignment, conveyance or sale, and Tenant agrees to attorn to the purchaser, grantee or assignee.

**29.6 Headings.** The headings of Articles and Sections are for convenience only and do not limit, expand or construe the contents of the Sections.

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29.7 Time of Essence. Time is of the essence of this Lease and of all provisions hereof.

29.8 Default Rate of Interest. All amounts (including, without limitation, Rent and Additional Rent) owed by Tenant to Landlord pursuant to any provision of this Lease and not paid within ten (10) days from the date when due shall bear interest from the date due until paid at the annual rate of one percent (1%) in excess of the rate of interest published from time to time in the Wall Street Journal as the prime rate, changing as and when said prime rate changes, unless a lesser rate shall then be the maximum rate permissible by law with respect thereto, in which event said lesser rate shall be charged.

29.9 Severability. The invalidity of any provision of this Lease shall not impair or affect in any manner the validity, enforceability or effect of the rest of this Lease.

29.10 Entire Agreement. All understandings and agreements, oral or written, heretofore made between the parties hereto are merged in this Lease, which alone fully and completely expresses the agreement between Landlord (and its beneficiary, if any, and their agents) and Tenant.

29.11 Force Majeure. If either party fails to timely perform any of the terms, covenants and conditions of this Lease on its part to be performed (other than relating to the payment of money) and such failure is due in whole or in part to any strike, lockout, labor trouble, civil disorder, inability to procure materials, failure of power, restrictive governmental laws and regulations, riots, insurrections, war, fuel shortages, accidents, casualties, acts of God, acts caused directly or indirectly by the other party (or the other party's agents, employees, contractors, licensees or invitees) or any other cause beyond the reasonable control of such party, then such party shall not be deemed in default under this Lease as a result of such failure and any time for performance by such party provided for herein shall be extended by the period of delay resulting from such cause.

29.12 Signs. Tenant may erect signs on the exterior or interior of the Premises, provided that such sign or signs (i) do not cause any structural damage or other damage to the Premises; (ii) do not violate applicable governmental laws, ordinances, rules or regulations; (iii) do not violate any covenants, conditions or restrictions affecting the Premises; and (iv) are compatible with the architecture of the Premises.

29.13 Waiver of Trial by Jury. It is mutually agreed by and between Landlord and Tenant that the respective parties hereto shall, and they hereby do, waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant,

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Tenant's use of or occupancy of the Premises or any claim of injury or damage and any emergency statutory or any other statutory remedy. If Landlord commences any summary proceeding for nonpayment of Rent, Tenant will not interpose any counterclaim of whatever nature or description in any such proceeding.

29.14 Relationship of Parties. Nothing contained in this lease shall be deemed or construed by the parties to this Lease, or by any third party, to create the relationship of principal and agent, partnership, joint venture, lender and borrower, or any association between Landlord and Tenant, it being expressly understood and agreed that neither the method of computing Rent hereunder nor any other provisions contained in this Lease nor any acts of the parties to this Lease shall be deemed to create any relationship between Landlord and Tenant, other than the leasehold relationship contemplated hereby.

## ARTICLE 30

### EXCULPATORY PROVISIONS

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that in case of default hereunder by Landlord (or default through, under or by any of its agents or representatives), Tenant shall look solely to the interests of Landlord in the Premises and any other assets of Landlord and that none of Landlord's members or managers shall have any personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained. Nothing herein contained shall preclude injunctive or other equitable relief.

It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that in case of default hereunder by Tenant (or default through, under or by any of its agents or representatives), Landlord shall look solely to the interests of Tenant in the Premises and any other assets of Tenant and that none of Tenant's members or managers shall have any personal liability to pay any indebtedness accruing hereunder or to perform any covenant, either express or implied, herein contained. Nothing herein contained shall preclude injunctive or other equitable relief.

This Lease is executed by Firststar Bank, N.A., not personally but as Trustee under Trust No. 7504 as aforesaid, in the exercise of power and authority conferred on and vested in said Trustee as such, and it is expressly understood and agreed that nothing in said document contained shall be construed as creating any liability on said Trustee personally to pay any indebtedness accruing thereunder, or to perform any promises, agreements or covenants or to honor any warranties or representations, either expressed or implied, including but not limited to warranties (including but not limited to warranties of title, physical condition, environmental condition, merchantability, and fitness for particular purpose), indemnifications

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(including but not limited to indemnifications for injury to persons or property, for environmental liability, and for liability or damages resulting from or relating to claims or matters of any nature whatsoever), and hold harmless representations in said Lease (all such liability, if any, being expressly waived by the parties hereto and their respective successors and assigns) and that so far as said Trustee is concerned, the owner or any indebtedness or right accruing under said document shall look solely to the premises described therein for the payment or enforcement thereof, it being understood that said Trustee merely holds legal title to the premises described therein and has no control over the management thereof or the income therefrom, and has no knowledge respecting any factual matter with respect to said premises, except as represented to it by the beneficiary or beneficiaries of said Trust. In event of conflict between the terms of this paragraph and this Lease, on any questions of apparent liability or obligation resting upon said trustee, the provisions of this paragraph shall be controlling.]

**REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK.  
SIGNATURE PAGE TO FOLLOW.**

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Signature page for the Lease:

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first written above.

**LANDLORD:**

FIRSTAR BANK, N.A., not personally but solely as Trustee Under Trust Agreement dated October 10, 2001 and known as Trust No. 7504

By: *J. Stout*  
Its: JUNE Stout, Vice Pres.

**ST. GEORGE HOTEL, L.L.C.**

By: Niki Development, L.L.C., a Member

By: *John Marks*  
John Marks, Manager

**TENANT:**

**HRH CHICAGO, LLC**

By: 230 N. Michigan, L.L.C., its Managing Member

By: Marks/McDonald Management, LLC, a Member

By: *John Marks*  
John Marks, Manager



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## EXHIBIT A

### Legal Description of the Premises

LOTS 10, 11, 12, 13, 14 AND 15 IN BLOCK 7 IN FORT DEARBORN ADDITION TO CHICAGO IN SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PERMANENT INDEX NO.: 17-10-303-024-0000

COMMON ADDRESS: 222 and 230 NORTH MICHIGAN AVENUE  
CHICAGO, ILLINOIS

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## EXHIBIT B

### Commercial Leases

1. Retail Lease Agreement between HRH Chicago, LLC, as landlord, and Hard Rock Café International (USA), Inc., as tenant.
2. Lease Agreement between HRH Chicago, LLC, as landlord, and John Marks and Mark IV Realty Group, Inc., collectively, as tenant.

Property of Cook County Clerk's Office

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## EXHIBIT C

### Landlord's Work

Landlord shall cause the Premises to be rehabilitated in accordance with (1) the plans and specifications prepared by Lucien LaGrange and Associates as listed in the drawing list dated as of 12/19/98 for a proposed Radisson St. George Hotel in the Premises, as such plans and specifications are updated for the proposed Hard Rock Hotel and (2) the Part 2 Application with respect to the Building as approved by the National Park Service.

Landlord shall also cause tenant fit out to be completed in the spaces that are to be subleased by Tenant pursuant to the Commercial Leases in accordance with the requests of the respective subtenants under the Commercial Leases; provided, however, the subtenants under the Commercial Leases shall oversee the work in their respective spaces and neither Tenant nor either subtenant under the Commercial Leases shall have any claim or be entitled to seek any redress against Landlord in any manner whatsoever with respect to such work including, without limitation, any claims or redress regarding the quality of the fit out or its adherence to plans and specifications, the failure to complete the fit out by certain dates, or any personal injury or property damage arising out of the fit out; and provided further, however, that the amount required to be expended by Landlord to fit out such space shall be limited to the amount of Special Capital Contributions received by St. George pursuant to the terms of its Operating Agreement as in effect as of the date hereof.

Landlord shall be responsible for fitting the hotel portion of the Premises with all FF&E that constitute or may constitute fixtures or real estate, including glued carpeting, as well as to provide additional FF&E as specified by Tenant with an aggregate cost for such additional FF&E not to exceed Nine Hundred Twenty Five Thousand Dollars (\$925,000). Tenant shall provide all remaining FF&E necessary to operate the hotel portion of the Premises as a hotel.

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## FIRST AMENDMENT TO LEASE

THIS FIRST AMENDMENT TO LEASE is made and entered into as of this 23<sup>rd</sup> day of February, 2005, effective as of October 25, 2001, by and among U.S. BANK NATIONAL ASSOCIATION, not personally but as Trustee Under Trust Agreement dated October 10, 2001, and known as Trust No. 7504 (the "Trust") and ST. GEORGE HOTEL, L.L.C., ("St. George") an Illinois limited liability company (St. George and the Trust together hereinafter referred to as "Landlord"), and HRH CHICAGO, LLC, an Illinois limited liability company (hereinafter referred to as "Tenant").

### RECITALS

The parties entered into a Lease dated as of October 25, 2001 related to certain land and improvements known commonly as the Carbide and Carbon Building and certain adjacent real property thereto (the "Lease").

The parties entered into the Lease on the basis of various factual assumptions related to the expense and timing of the renovation of the Building which through the due course of time have proved inaccurate. The parties therefore desire to amend the Lease, effective as of the date of the Lease, to more accurately reflect the intentions of the parties.

Capitalized terms not otherwise defined herein shall have the meanings provided for in the Lease.

In consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereby agree as follows:

1. Section 3.1 of the Lease is hereby deleted in its entirety and replaced with the following:

Base Rent. Tenant shall pay an annual base rent (hereinafter referred to as "Base Rent") to Landlord for the Premises per Lease Year, in the amounts set forth below, payable in equal monthly installments (hereinafter referred to as "Monthly Base Rent") payable on the first day of each month:

<u>Lease Year Ending</u>	<u>Annual Amount</u>
December 31, 2001 (partial year)	\$ 10,000
December 31, 2002	\$ 15,000
December 31, 2003	\$ 15,000
December 31, 2004	\$4,500,000
December 31, 2005	\$7,400,000

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December 31, 2006	\$7,400,000
December 31, 2007	\$8,000,000
December 31, 2008	\$8,000,000
December 31, 2009	\$8,500,000
December 31, 2010	\$8,500,000
December 31, 2011	\$8,700,000
Thereafter	\$8,700,000 Plus Annual CPI Adjuster

For purposes of the foregoing, the "Annual CPI Adjuster" shall mean the percentage change as of January 1 of each year from the prior January 1 in the CPI Index. The "CPI Index" means the Consumer Price Index as published from time to time by the United States Department of Labor Statistics for the Metropolitan Chicago area or any successor index thereto.

2. Section 3.5 of the Lease is hereby deleted in its entirety and replaced with the following:

Security Deposit. Tenant shall deposit with Landlord an amount equal to \$6,500,000 (the "Security Deposit") as security for the faithful performance and observance by Tenant of the terms, provisions and conditions of this Lease. The Security Deposit shall be made in three installments of \$1,500,000, \$3,500,000, and \$1,500,000, by not later than December 31 of 2001, 2002, and 2004, respectively. The Security Deposit need not be held in escrow or trust and may be commingled with other funds. Any interest accruing on the Security Deposit shall accrue to Landlord's benefit. Landlord may use the Security Deposit as it sees fit in the operation of its business and is not required to maintain cash funds equal to the Security Deposit. Landlord may pledge its rights in the Security Deposit to Landlord's lender(s) as Landlord's own funds and as if Tenant has no rights thereto. Tenant shall acknowledge the validity of any such pledge for the benefit of Landlord's lender. Landlord's sole obligation to Tenant is to repay to Tenant cash funds in the amount of the Security Deposit when and if Tenant becomes entitled to its return as provided herein.

In each of years 2005, 2006, 2007, 2008, and 2009, the Landlord shall return \$1,000,000 of such Security Deposit to Tenant on or prior to December 31 (for each year, the "Annual Security Deposit Return"), or, at the election of the Tenant, the Landlord shall use such Annual Security Deposit Return to reduce the Monthly Base Rent by \$83,333.33 per month.

It is agreed that in the event Tenant defaults in respect of any of the terms, provisions and conditions of this Lease, including, but not limited to, the payment of Rent or Additional Rent, Landlord may use, apply or retain the whole or any part of the Security Deposit to the extent required for the payment of any Rent or Additional Rent or any other sum as to which Tenant is in default or for any sum

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which Landlord may expend or may be required to expend by reason of Tenant's default in respect of any of the terms, covenants and conditions of this Lease, including, but not limited to, any damages or deficiency in the reletting of the Premises, whether such damages or deficiency accrued before or after eviction proceedings or other re-entry by Landlord.

In the event that Tenant shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease, the unreturned and unapplied portion of the Security Deposit shall be returned to Tenant without interest after the Expiration Date (or earlier termination date as provided for herein) and after delivery of possession of the entire Premises to Landlord pursuant to the provisions hereof. In the event of a sale of the Premises or leasing of the Building subject to this Lease, Landlord shall have the right to transfer the Security Deposit to the vendee or lessee and Landlord shall thereupon be released by Tenant from all liability for the return of such Security Deposit and Tenant agrees to look to the new landlord solely for the return of said Security Deposit. It is agreed that the provisions hereof shall apply to every transfer or assignment made of the Security Deposit to a new landlord. Tenant further covenants that it will not assign or encumber or attempt to assign or encumber the moneys deposited herein as security and that neither Landlord nor its successors or assigns shall be bound by any such assignment, encumbrance, attempted assignment or attempted encumbrance.

3. Section 19.6 of the Lease is hereby deleted in its entirety and replaced with the following:

Limitation on Landlord's Rights to Refinance. Until the end of the Seventy-Eighth (78<sup>th</sup>) month following the QRE Completion Date, Landlord shall be free to encumber the Premises with any amount of mortgage indebtedness as determined by Landlord, without Tenant's consent, and Tenant shall have no rights to any proceeds of any such financing. Notwithstanding anything to the contrary herein contained, at no time thereafter shall Landlord, without the prior written consent of Tenant, encumber the Premises with a Mortgage(s) which secures principal indebtedness in excess of the sum of: (a) Sixty-Nine Million Five Hundred Thousand Dollars (\$69,500,000); and (b) any amounts to be paid as transactional costs or otherwise to third parties in connection with such Mortgage(s) and the indebtedness thereby secured. No adjustments shall be made to the Rent payable under this Lease as a result of any increased debt service costs incurred by Landlord.

4. The last paragraph of Exhibit C is hereby deleted in its entirety. A new Exhibit D (which was referenced in Section 7.1 of the Lease) with the following text is hereby inserted:

Landlord shall be responsible for fitting the hotel portion of the Premises with all FF&E that constitute or may constitute fixtures or real estate, including

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glued carpeting, as well as to provide additional FF&E as specified by Tenant with an aggregate cost for such additional FF&E not to exceed Five Million Three Hundred Thousand Dollars (\$5,300,000). Tenant shall provide all remaining FF&E necessary to operate the hotel portion of the Premises as a hotel.

By executing this First Amendment, Tenant acknowledges that Landlord has completed its work as described in Section 7.1, Section 7.6 and Exhibit D of the Lease as hereby amended to Tenant's satisfaction.

5. To the extent Tenant paid a Security Deposit to Landlord pursuant to the terms of the Lease prior to its amendment hereby, Landlord shall repay such amounts as necessary to cause the Security Deposit payments to be the amounts required by Section 3.5 of the Lease as hereby amended.

6. This Amendment may be executed in one or more counterparts.

7. Except as amended hereby, the Lease remains in full force and effect.

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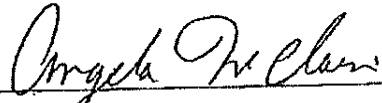
Signature page for the Amendment:

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first written above.

See trustee exoneration attached hereof.

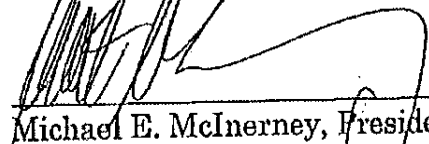
LANDLORD:

U.S. BANK NATIONAL ASSOCIATION,  
not personally but solely as Trustee  
Under Trust Agreement dated October  
10, 2001 and known as Trust No. 7504

By:   
Its: Land Trust Officer

ST. GEORGE HOTEL, L.L.C.

By: Becker-HRHC LLC, a Member

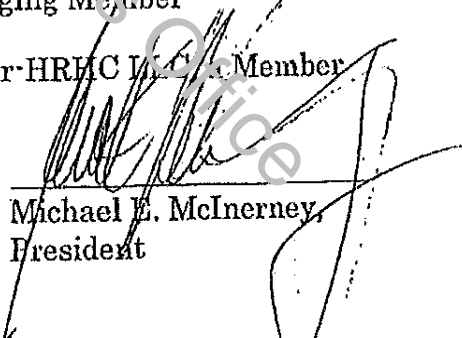
By:   
Michael E. McInerney, President

TENANT:

HRH CHICAGO, LLC

By: 230 N. Michigan, LLC, its  
Managing Member

By: Becker-HRHC LLC, a Member

By:   
Michael E. McInerney,  
President

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Signature page for the Amendment:

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed as of the date first written above.

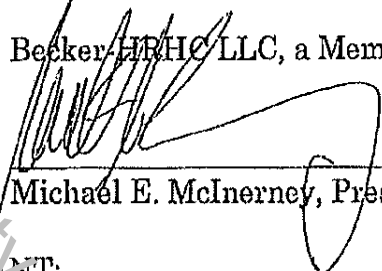
LANDLORD:

U.S. BANK NATIONAL ASSOCIATION,  
not personally but solely as Trustee  
Under Trust Agreement dated October  
10, 2001 and known as Trust No. 7504

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

ST. GEORGE HOTEL, L.L.C.

By: Becker/HRHC LLC, a Member

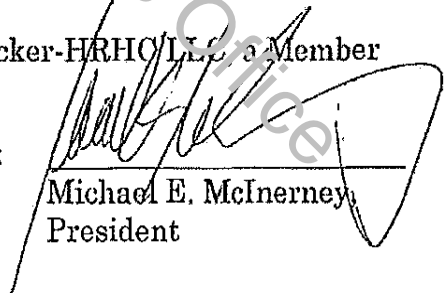
By:   
\_\_\_\_\_  
Michael E. McInerney, President

TENANT:

HRH CHICAGO, LLC

By: 230 N. Michigan, LLC, its  
Managing Member

By: Becker-HRHC/LLC, a Member

By:   
\_\_\_\_\_  
Michael E. McInerney,  
President

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## GENERAL DOCUMENT EXONERATION RIDER

The foregoing instrument is executed by U.S. BANK, N.A., not personally but as Trustee under Trust No. 7504 as aforesaid, in the exercise of power and authority conferred upon and vested in said Trustee as such, and it is expressly understood and agreed that nothing in said instrument shall be construed as creating any liability on said Trustee personally to pay any indebtedness accruing thereunder, or to perform any promises, agreements or covenants or to honor any warranties or representations, either expressed or implied, including but not limited to warranties (including but not limited to warranties of title, physical condition, environmental condition, merchantability, and fitness for particular purpose), indemnifications (including but not limited to indemnifications for injury to persons or property, for environmental liability, and for liability or damages resulting from or relating to claims or matters of any nature whatsoever), and hold harmless representations in said instrument (all such liability, if any, being expressly waived by the parties hereto and their respective successors and assigns) and that so far as said Trustee is concerned, the owner of any indebtedness or right accruing under said document shall look solely to the premises described therein for the payment or enforcement thereof, it being understood that said Trustee merely holds legal title to the premises described therein and has no control over the management thereof or the income therefrom, and has no knowledge respecting any factual matter with respect to said premises, except as represented to it by the beneficiary or beneficiaries of said trust. In event of conflict between the terms of this rider and of the instrument to which it is inserted or attached, on any questions of apparent liability or obligation resting upon said trustee, the provisions of this rider shall be controlling.

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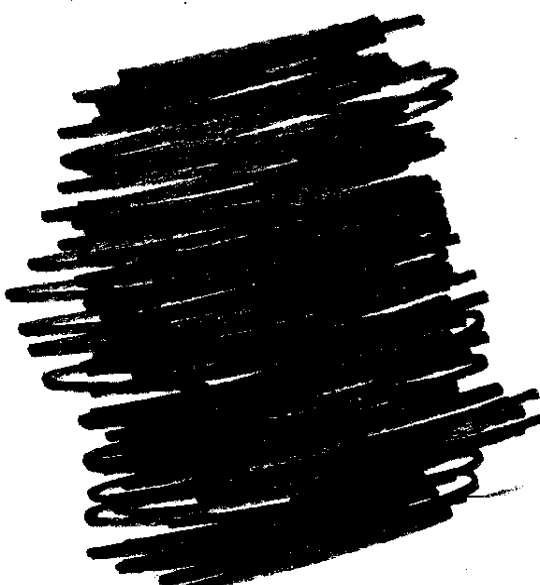
EXHIBIT A  
"Legal Description"

Real property in the City of Chicago, County of Cook, State of Illinois, described as follows:

**Lots 10, 11, 12, 13, 14 and 15 in Block 7 in Fort Dearborn Addition to Chicago in Section 10, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.**

230 N. Michigan Ave, Chicago IL

Tax No.: 17-10-303-024



Property of Cook County Clerk's Office