

PROPERTY MANAGEMENT AGREEMENT

365 Airport Road, New Castle, DE 19720

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PROPERTY MANAGEMENT AGREEMENT

THIS PROPERTY MANAGEMENT AGREEMENT (this “**Agreement**”), made effective as of December 1, 2020 (the “**Commencement Date**”), is entered into between **NEW CASTLE COUNTY** (“**Owner**”), and **HERSHA HOSPITALITY MANAGEMENT L.P.**, a Pennsylvania limited partnership (“**Operator**”).

RECITALS

A. Owner owns the property located at 365 Airport Road, New Castle, DE 19720 (the “**Property**”); and

B. Owner desires to engage Operator to manage and operate the Property, and Operator has agreed to manage and operate the Property, in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and Operator agree as follows:

ARTICLE I THE PROPERTY

1.1 Property Description

Owner and Operator acknowledge that the Property consists of and contains:

- A. That certain real property (the “**Land**”) located at the address shown in Recital A above, and improvements thereon with 191 rooms and other facilities together with any outdoor parking areas, retail spaces and other facilities located on the Land (the “**Building**”) or otherwise used by the Property;
- B. Mechanical systems and built-in installations (the “**Installations**”) of the Building including, but not limited to, heating, ventilation, air conditioning, electrical and plumbing systems, elevators, and built-in laundry, refrigeration and kitchen equipment;
- C. Furniture, furnishings, wall coverings, floor coverings, window treatments, fixtures and Property equipment and vehicles (the “**FF&E**”);
- D. Chinaware, glassware, silverware, linens, and other items of a similar nature (the “**Operating Equipment**”); and
- E. Stock and inventories of paper supplies, cleaning materials and similar consumable items and food and beverage (the “**Operating Supplies**”).

ARTICLE II TERM

2.1 Initial and Renewal Terms

This Agreement shall have a term commencing on the Commencement Date and expiring on the date which is the fifth (5th) anniversary of the Commencement Date, unless sooner terminated in accordance with the provisions of this Agreement or unless extended by the written agreement of Owner and Operator (the “**Initial Term**”). Subject to the earlier termination of this Agreement pursuant to the terms of this Agreement, this Agreement may be extended for additional renewal terms (each a “**Renewal Term**,” and together with the Initial Term and all prior Renewal Terms, the “**Term**”) (each such Renewal Term to commence on the day immediately following the last day of the then expiring term) by mutual written agreement of the parties.

ARTICLE III GENERAL SERVICES BY OPERATOR

3.1 Scope of Services

During the Term, Operator, for the account of Owner, shall in accordance with the applicable provisions of this Agreement, and only to the extent Owner has provided sufficient funds therefor (subject to the budgets set forth in this Agreement), either through Property operations or directly from Owner:

- A. Recruit, train, direct, supervise, employ and dismiss Operator’s on-site staff (the “**Property Employees**”) for the operation of the Property;
- B. Negotiate and enter into contracts for the provision of goods and services to the Property; provided, however, without Owner’s prior written approval, which shall not be unreasonably withheld, conditioned or delayed, Operator shall not enter into any contract for the provision of goods and services to the Property unless the same is (1) terminable upon not more than thirty (30) days’ notice without penalty, or (2) is provided for in the applicable Budget, or (3) requires an annual payment of less than \$25,000;
- C. Apply for, process and take all necessary steps, as determined by Operator, to procure and keep in effect in Owner’s name (or, if required by the licensing authority, in Operator’s name, or a third party tenant’s name, or any or all of the foregoing) all licenses and permits required for the operation of the Property;
- D. Purchase all FF&E, Operating Equipment and Operating Supplies necessary for the operation of the Property;

- E. Provide routine accounting services in accordance with Operator's standard practices and purchasing services as required in the ordinary course of business;
- F. Use commercially reasonable efforts to comply with all applicable laws, ordinances, regulations, rulings and orders of governmental authorities affecting or issued in connection with the Property, as well as with orders and requirements of any board of fire underwriters or any other body which may exercise similar functions, so long as Owner promptly delivers to Operator any notice of violation thereof received by Owner;
- G. Cause all ordinary repairs and maintenance to the Property, of which Operator is aware, to be made and conducted;
- H. Provide project management services on Owner's behalf in connection with capital improvements to the Property, or the renovation and refurbishment of the Property, provided that all such capital improvements shall be funded from the FF&E Reserve Account (as hereinafter defined) or by Owner;
- I. Subject to Section 3.3 below, use commercially reasonable and professional efforts to operate the Property in accordance with any mortgage or deed of trust encumbering the Land (the "Mortgage"), and any covenants, conditions and restrictions encumbering the Land as of the date of this Agreement (the "Encumbrances") (collectively, the Mortgage and the Encumbrances, the "Major Agreements");
- J. Retain legal counsel and such other professionals, consultants, and specialists as Operator deems necessary in connection with the management of the Property, the cost of which shall be an Operating Expense; provided, however, Operator shall not expend more than the amount budgeted in the then applicable approved Budget (or, if the then-approved Budget does not contain a line item for such amounts, \$25,000 per claim) with respect to such fees and expenses without the prior written consent of Owner, which shall not be unreasonably withheld, conditioned or delayed;
- K. Provide such other services as are required under the terms of this Agreement, as authorized by Owner to the extent such authorization is required pursuant to this Agreement.
- L. Notwithstanding anything contained herein to the contrary, Operator and Property Employees shall not be responsible for providing social services, security services, van or vehicle operation service, or food services under this Agreement.

3.2 Reimbursements of Transition Expenses

All reasonable out-of-pocket expenses and disbursements incurred by Operator during or in connection with Operator's takeover of the management of the Property shall be paid by Owner to Operator upon demand therefor by Operator. Operator shall maintain and make available to Owner invoices or other evidence supporting such charges. Such charges shall not include expenses and disbursements related to Owner's purchase of the Property.

3.3 Major Agreements

Notwithstanding any other provision of this Agreement to the contrary, Operator's obligations with respect to any Major Agreement shall be limited to the extent that: (i) summaries of the relevant provisions, together with complete and accurate copies of the Major Agreements, have been delivered to Operator sufficiently in advance of the Commencement Date to allow Operator to review and approve the terms of such Major Agreements; and (ii) the provisions thereof and/or compliance with such provisions by Operator (1) are applicable to the day-to-day operation, maintenance and non-capital repair and replacement of the Property or any portion thereof, (2) do not require contribution of capital by Operator or payments of Operator's own funds, (3) do not materially increase Operator's obligations hereunder or materially decrease Operator's rights hereunder, (4) do not limit or purport to limit any corporate activity or transaction with respect to Operator or its affiliates other than at the site of the Property, (5) are within the reasonable control of Operator by reason of its management and operation of the Property pursuant to this Agreement, and (6) are otherwise within the scope of Operator's duties under this Agreement. Owner acknowledges and agrees, without limiting the foregoing, that any failure of Operator or the Property, to comply with the provisions of any Major Agreement arising out of (A) the condition of the Property, and/or the failure of the Property to comply with the provisions of such Major Agreement prior to Operator's assuming the day-to-day management thereof, (B) construction activities at the Property, (C) inherent limitations in the design and/or construction of, location of and/or parking at the Property, (D) instructions from Owner to operate the Property in a manner inconsistent with the Major Agreements, and/or (E) Owner's failure to approve any matter requested by Operator in Operator's reasonable good faith business judgment as necessary or appropriate to achieve compliance with any Major Agreement, shall not be deemed a breach by Operator of its obligations under this Agreement. Operator shall be entitled to rely upon the summaries of the Major Agreements provided by Owner.

3.4 Independent Contractor Status

In the performance of its duties in the administration, management and operation of the Property, Operator shall act solely as an independent contractor. Nothing herein shall constitute or be construed to be or create a partnership or joint venture between Owner and Operator, or be construed to appoint or constitute Operator as an agent of Owner for any purpose, or be construed to create a lease by Operator of the Property or its facilities. Except as otherwise provided in this Agreement, including without limitation the provisions of Article XXI hereof, (a) all debts and liabilities to third persons incurred by Operator in the course of its operation and management of the Property in accordance with the provisions of this Agreement shall be the debts and liabilities of Owner only, and (b) Operator shall not be liable for any such obligations

by reason of its management supervision, direction and operation of the Property for Owner. Operator may so inform third parties with whom it deals on behalf of Owner and may take any other reasonable steps to carry out the intent of this paragraph. It is expressly covenanted that this Agreement is no more than an agreement for the rendering of services by Operator on behalf of Owner in the operation and management of the Property only. To the extent that any fiduciary or other duties may be implied as a result of the relationship of the parties under this Agreement, the parties disclaim any such implied duties and agree that: (a) Operator shall have no duties that are inconsistent with, or would have the effect of expanding, modifying, limiting or restricting any of the express terms of this Agreement, (b) the express terms of this Agreement shall control the duties of Operator hereunder, (c) this Agreement shall be interpreted in accordance with general principles of contract interpretation without regard to the common law principles of agency, and (d) any liability of the parties shall be based solely on principles of contract law and the express terms of this Agreement. The parties further acknowledge and agree that for the purposes of determining the nature and scope of any fiduciary duties of Operator under this Agreement, the terms of this Agreement, and the duties and obligations set forth herein, are intended to satisfy all such fiduciary duties that may exist as a result of the relationship between the parties, including all duties of loyalty, good faith, fair dealing and full disclosure, and any other duty deemed to exist under the common law principles of agency or otherwise (other than the duty of good faith and fair dealing implied under general contract principles, independent of the common law principles of agency). Accordingly, notwithstanding anything to the contrary in this Agreement, to the fullest extent permitted under applicable law, the parties hereby unconditionally and irrevocably waive and disclaim any power or right such party may have to claim any punitive, exemplary, statutory or treble damages or consequential or incidental damages for any breach of fiduciary duties.

ARTICLE IV GENERAL OPERATION OF THE PROPERTY

4.1 Exclusive Operator of Property

Owner hereby engages Operator as the exclusive operator of the Property during the Term, and Operator hereby accepts such engagement. Subject to the terms of this Agreement and the applicable Budget, Operator shall have control and discretion in the operation, direction, management and supervision of the Property. Such control and discretion of Operator shall include, without limitation, the determination of credit policies (including entering into agreements with credit card organizations), terms of admittance, food and beverage policies, and employee wages, benefits and severance policies.

4.2 Intentionally Omitted

4.3 Consultation with Owner

Operator will be available to consult with and advise Owner, at Owner's reasonable request, concerning all policies and procedures affecting all phases of the conduct of business at the Property.

ARTICLE V PROPERTY EMPLOYEES

5.1 Property Employees and Contractors

All Property Employees shall be employees of Operator, an affiliate of Operator, or a professional employer organization (“PEO”) engaged by Operator. Operator may, as deemed reasonably necessary by Operator, utilize shared employees and shared positions across multiple properties owned by the same or different owners, or may assign employees of Operator, an affiliate of Operator or PEO temporarily, part-time or on a shared basis to perform services at the Property or from a remote location, including Operator’s home office; and the allocable portion of such temporary, part-time shared employee’s salary (including employee benefits and all applicable employer taxes as well as any federal, state or local taxes imposed upon Operator for such reimbursement) while performing services for the Property will be reimbursed to Operator by Owner, or to the owner of the Property from which the employee is being shared, including any federal, state or local taxes imposed upon Operator for such reimbursement, as an Operating Expense, and such employee will be entitled to food and beverages, and parking and other amenities, and use of Property facilities while performing such services away from the employee’s home property. Subject to the Budgets, Operator shall have absolute discretion to hire, fire, promote, supervise, direct and train all Property Employees, to fix their compensation and benefits, and generally to establish and maintain all policies relating to employment and employment benefits. All costs of every kind and nature pertaining to all employees at the Property arising out of the employer-employee relationship, including, without limitation, salaries, benefits (including vacation, sick and personal days and accruals at the accrual rate established by Operator), bonuses, reasonable employment-related legal costs, employee taxes, costs incurred in connection with governmental laws and regulations and insurance rules, and such other expenses as Operator, in its reasonable discretion, may deem appropriate (e.g., costs of defense of employees in connection with the performance of their duties at the Property and costs of defending claims brought by employees, agents, vendors, contractors, or subcontractors of Owner, or brought by any Property employees against Owner, Operator or the Property) shall be an Operating Expense, and, absent a legal determination that the Operator acted with willful misconduct or grossly negligent, Owner shall reimburse(pursuant to Section 21.4), defend, and hold harmless Operator from all costs, expenses, fees (including, without limitation, attorney’s fees), costs, liabilities and claims incurred in connection therewith.

5.2 Benefit Plans for Associates

Operator may, to the extent consistent with the Budget, enroll the Property Employees in retirement, health and welfare employees benefit plans substantially similar to corresponding plans implemented in other properties with similar service levels managed by Operator. Such plans may be joint plans for the benefit of employees at more than one hospitality property owned, leased or managed by Operator or its affiliates. Subject (except as set forth below) to the

Budgets, employer contributions to such plans (including without limitation, but not subject to the Budgets, any withdrawal liability incurred upon termination of this Agreement) and reasonable administrative fees which Operator may expend in connection therewith, shall be responsibility of Owner and shall be an Operating Expense. The administrative expenses of any joint plans will be equitably apportioned by Operator among properties covered by such plan. Owner hereby acknowledges and agrees that compliance with the provisions of Worker Adjustment and Retraining Notification Act and/or similar state or local laws (together with all rules and regulations promulgated thereunder and including, without limitation, any such state or local laws, the **“WARN Act”**) upon any disposition of the Property, upon any termination of this Agreement or upon the occurrence of any other event giving rise to the application of the WARN Act, is the responsibility and obligation of Owner, and Owner hereby agrees to reimburse (pursuant to Section 21.4), defend, and hold harmless Operator from all costs, expenses, fees (including, without limitation, attorney’s fees), costs, liabilities and claims incurred in connection therewith which Operator may incur arising out of or in connection with any breach or claimed breach of the WARN Act in connection with any such disposition, termination or other occurrence.

5.3 Intentionally Omitted

5.4 Employment Laws

The Civil Rights Act of 1870, 42 U.S.C. §1981, the Civil Rights Acts of 1871, 42 U.S.C. §1983 the Fair Labor Standards Act, 29 U.S.C. §201, et seq., the Civil Rights Act of 1964, 42 U.S.C. §2000e, et seq., as amended, the Age Discrimination in Employment Act of 1967, 29 U.S.C. §621 et seq., the Rehabilitation Act, 29 U.S.C. §701, et seq., the Americans With Disability Act, of 1990, 29 U.S.C. §706, 42 U.S.C. §12101 et seq., the Employee Retirement Income Security of 1974, 29 U.S.C. §301, et seq., the Equal Pay Act, 29 U.S.C. §201 et seq., the National Labor Relations Act, 29 U.S.C. §151, et seq., and any regulations promulgated pursuant to such statutes (collectively, as amended from time to time, and together with any similar laws now or hereafter enacted) shall be defined herein as the **“Employment Laws”**.

5.5 Employment Policy

Operator shall from time to time develop and implement policies, procedures and programs for the Property (collectively, the **“Employment Policies”**) reasonably designed to affect compliance with the Employment Laws. Owner acknowledges and agrees that Operator shall have the right to institute severance payment policies for the Property Employees so long as such policies are reasonable and customary in the industry, provided, however, that any such severance payment policies shall be approved in advance by Owner.

5.6 Collective Bargaining Agreements

Neither party shall execute any agreement with a labor organization or agree to any labor contract provision (including, without limitation, any type of card-check neutrality or accretion) with respect to the Property or the Property Employees, without the express prior written consent of the other party (which consent may be granted or withheld in such party’s sole and absolute

discretion). After entering into this Agreement, if either party is notified or made aware of collective bargaining, labor union or other labor-related activity that could affect the Property or Property Employees, such party shall notify the other party within three (3) business days of receipt of such notice or consideration of such labor union activity (“**Collective Bargaining Notice**”). Notwithstanding anything to the contrary contained herein, either party shall have the right to terminate this Agreement by delivering written notice to the other at any time either party issues a Collective Bargaining Notice, or at any time a party gains knowledge of any breach of any of the representations or covenants set forth in this Section 5.6. Notwithstanding the party exercising the termination right set forth in this Section 5.6, Operator shall provide transition support to any replacement manager in accordance with Section 17.3 below. Under no circumstance shall Operator have any obligations or liabilities under any collective bargaining agreement as a result of the termination of this Agreement including, without limitation, any obligation to fund any portion of an unfunded pension liability. Anything in this Agreement notwithstanding, nothing herein shall impede, hinder, or otherwise prevent or supersede any union negotiations or union contracts conducted or held by Owner with regard to matters unrelated to the Property and the Property Employees.

ARTICLE VI PROVISION OF FUNDS

6.1 Available Funds for Operations

In performing its services under this Agreement, Operator shall act solely for the account of Owner. Operator shall not be deemed to be in default of its obligations under this Agreement to the extent it is unable to perform any obligation due to a lack of available funds from the operation of this Property or as otherwise provided by Owner.

6.2 No Advance of Funds

Operator shall in no event be required (i) to advance any of its funds (whether by waiver or deferral of its management fees or otherwise) for the operation of the Property or (ii) to incur any liability unless Owner shall have furnished Operator with funds necessary for the discharge thereof prior to incurring such liability.

ARTICLE VII CENTRALIZED SERVICES; MULTI-PROPERTY PROGRAMS; NETWORKING SERVICES

7.1 Centralized Services

Operator shall provide or cause its affiliated companies to provide for the Property and its guests, or cause its affiliated companies to provide, centralized accounting services, IT services,

purchasing services, revenue management services (if applicable), training, and/or other centralized services as may be made available generally to similar properties managed by Operator from time to time (individually and collectively, “**Centralized Services**”). The accounting and IT Centralized Services currently provided by Operator are described in Exhibit A attached hereto. The cost of Centralized Services shall be (i) estimated in the Budgets, (ii) reasonably allocated to the Property on an equitable basis with all other properties utilizing the Centralized Services of Operator or its affiliates in a manner that does not unreasonably favor other properties managed by Operator over the Property, and (iii) reimbursed to Operator on a cost reimbursement basis, which costs may include, without limitation, salaries (including payroll taxes and employee benefits) of employees and officers of Operator and its affiliates, costs of all equipment employed in the provision of such services, and a reasonable charge for additional overhead of Operator or its affiliates. Operator agrees that, with respect to any new Centralized Services offered by Operator in the future, the cost of such services shall be established on an equitable basis among all properties utilizing the Centralized Services.

7.2 Multi-property Programs

Owner acknowledges and agrees that Operator may in Operator’s discretion enter into certain purchasing, maintenance, service or other contracts with respect to the operation of the Property and other properties operated by Operator (collectively, “**Multi-Property Programs**”) pursuant to which Operator or affiliates of Operator may receive rebates, discounts, cash or other incentives, administration fees, concessions, profit participations, stock or stock options, investment rights or similar payments or economic considerations (collectively, “**Operator Rebates**”) from the vendors or suppliers of goods or services provided under such Multi-Property Programs. Owner acknowledges and agrees that (i) Operator has disclosed to Owner the types of Multi-Property Programs Operator currently makes available to properties which it operates; and (ii) (a) the Property is likely to receive substantial benefit from its participation in such Multi-Property Programs which the Property could not obtain on its own and for which Operator is not adequately compensated by its Base Fee, (b) any and all Operator Rebates are the sole property of Operator and not Owner, and (c) the receipt by Operator of any Operator Rebates does not breach any fiduciary or other duty which Operator may have to Owner. Notwithstanding the foregoing, Operator hereby covenants to Owner that the terms of any Multi-Property Programs in which the Property participates, when taken as a whole, shall not be materially less favorable to the Property than the prevailing terms of contracts to provide similar goods or services on a single-property basis obtainable on a commercially reasonable basis from unrelated parties in the area of the Property.

7.3 Networking Services

Operator shall have the right to install and use Operator’s networking services (the “**Network**”) and associated software at the Property throughout the Term. The Network installation and connectivity charges and associated software license fees shall be determined in an equitable manner by Operator, shall be subject to the reasonable approval of Owner, shall be an Operating Expense, and shall be paid or reimbursed to Operator out of the Operating Account,

or if the funds therein are insufficient, by Owner. Owner acknowledges that, as of the date hereof, such charges and fees are included in the Information Technology Fee.

ARTICLE VIII WORKING CAPITAL AND BANK ACCOUNTS

8.1 Working Capital

Prior to the Commencement Date, Owner will fund the Operating Account with sufficient initial working capital for the Property, for use during the transition of management to Operator's management of the Property. Thereafter, Owner shall at all times provide, funds sufficient in amount, in the good faith business judgment of Operator (as identified in an applicable cash flow forecast pursuant to Section 9.2 below or in a supplement to such cash flow forecast), to constitute normal working capital for the uninterrupted and efficient operation of the Property, including without limitation funds sufficient to pay all Operating Expenses as and when due and operate, maintain and equip the Property for a period of three (3) months in accordance with all Major Agreements and to maintain the Property in a first-class physical condition ("**Working Capital**"). Working Capital for the first three (3) months of operation of the Property has been estimated at five hundred fifty thousand dollars (\$550,000). Operator may adjust the total required Working Capital from time to time as required based upon changes in the Budgets. Without limiting the generality of the foregoing, Owner specifically acknowledges and agrees that the current Budget does not include (i) the provision of social services, security services, van or vehicle operation services, or food services, (ii) costs or expenses arising from or in connection with usage of the Property pool, gym, or other facilities except as expressly provided under this Agreement, (iii) alternative usage of the Property public space for purposes including but not limited to office space or storage and the associated cleaning and maintenance costs associated therewith, or (iv) additional waste removal expenses related to food services. If at any time the funds in the Operating Account are less than the required Working Capital, Operator shall deliver written notice to Owner of the amount required to be deposited into the Operating Account, and Owner shall deposit such sum into the Operating Account within five (5) days of such written notice.

8.2 Operating and FF&E Account

All funds received by Operator in the operation of the Property, including Working Capital and other funds furnished by Owner from time to time as required under this Agreement, shall be deposited in an operating account held by Operator (the "**Operating Account**") in such federally insured bank, savings and loan or trust company as may be selected by Operator and reasonably approved by Owner. Any successor or substitute bank, savings and loan or trust company shall be selected in the same manner. From the Operating Account, but only to the extent of funds in the Operating Account, Operator shall pay Operating Expenses, Fixed Charges, debt service, capital costs and other amounts, if and to the extent the same are required to be paid by Operator on Owner's behalf under this Agreement. In addition to the Operating Account, an account shall be established by Operator at the same institution or another institution

selected by Operator and reasonably approved by Owner for a reserve for replacements, substitutions, and additions to the FF&E (the “**FF&E Reserve Account**”).

8.3 Internal Controls for Accounts

The Operating Account and (unless otherwise required by any Mortgage encumbering the Property) the FF&E Reserve Account shall be in the name of Operator for the account of Owner (and held in the EIN of Owner for IRS reporting purposes) and shall be under the control of Operator. Checks or other documents of withdrawal shall be signed only by representatives of Operator, provided that such representatives shall be bonded or otherwise insured in a manner reasonably satisfactory to Owner. The premiums for such bonding or other insurance shall be paid by Owner. Upon the expiration or termination of this Agreement and once Operator has been paid all funds due to Operator under this Agreement, all remaining amounts in the Operating Account and the FF&E Reserve Account shall be transferred to Owner.

ARTICLE IX BOOKS, RECORDS AND STATEMENTS; BUDGETS

9.1 Accounting Procedures

Operator shall keep full and accurate books of account and other records reflecting the results of the operation of the Property in accordance with the Uniform System with such exceptions as may be required by the provisions of this Agreement; provided, however, that Operator may, with prior notice to Owner, make such modifications to the methodology in the Uniform System as are consistent with Operator’s standard practice in accounting for its operations under management contracts generally, so long as such modifications do not affect the determination of Operating Expenses or Fixed Charges under Article XI. Except for the books and records which may be kept in Operator’s principal office or accounting office pursuant to the adoption of a central billing system or other centralized service, the books of account and all records relating to or reflecting the operation of the Property shall be kept at the Property, and such books of accounts and other records shall be available to Owner and its representatives at all reasonable times and upon reasonable prior written notices for examination, audit, inspection and transcription. All of such books and records including, without limitation, books of account, guest record and front office records shall be property of Owner. Upon any termination of this Agreement, all of such books and records shall thereafter be available to Operator at all reasonable times for inspection, audit, examination and transcription for a period of three (3) years.

9.2 Monthly Reports

Operator shall deliver to Owner within twenty (20) days after the end of each month, the following items (collectively, the “**Monthly Reports**”):

- A. A balance sheet as of the last day of such month;
- B. A source and use of funds statement for such month;
- C. An income and expense statement for such month; and
- D. Detailed departmental income and expense statements for such month.

The Monthly Reports shall be prepared in accordance with the Uniform System to the extent applicable and shall otherwise be prepared in accordance with Operator's standard financial reporting and budgeting practices.

9.3 Audited Financials

If desired by Owner or required by Owner's Mortgage lender, year-end financial statements for the Property (including a balance sheet, income statement and statement of sources and uses of funds) shall be audited by an independent certified public accountant selected by Owner subject to Operator's reasonable approval, the cost of which shall be an Owner expense and not an Operating Expense. Such accountant shall address any findings, reports or opinions that concern Operator's work under this Agreement to both Operator and Owner. Operator shall provide reasonable assistance with such accountant in the preparation of such statements.

9.4 Annual Budgets

On or before December 1st of each Fiscal Year (or partial Fiscal Year) during the Term, Operator shall submit to Owner for the next Fiscal Year the following items (collectively, the "**Budgets**"):

- A. An operating budget (the "**Operating Budget**") setting forth in reasonable line-item detail the projected expenses of all aspects of the operations of the Property;
- B. A capital budget (the "**Capital Budget**") setting forth in reasonable line-item detail proposed capital projects and expenditures for the Property including but not limited to FF&E expenditures; and
- C. Such other reports or projections or meetings as Owner may reasonably request and to which Operator agrees.

The Budgets shall be prepared in accordance with the Uniform System to the extent applicable and shall otherwise be prepared in accordance with Operator's standard financial reporting and budgeting practices. Owner shall notify Operator in writing of its approval or disapproval of the Budgets not later than thirty (30) days after the delivery of the Budgets to Owner and, if Owner disapproves any such Budgets, Owner shall state in such notice the reasons therefor with reasonable specificity. Owner shall not disapprove any item in the Budgets that is reasonably necessary for the continued operation of the Property in accordance with the requirements of any

of the Major Agreements and the operational standards set forth in this Agreement. In the event Owner fails to notify Operator in writing of its approval or disapproval of any Budgets on or before the expiration of such thirty (30) day approval period, then such Budgets shall be deemed approved by Owner.

9.5 Resolution of Disputes over Budgets

If the Budgets (or any component of the Budgets) with respect to any Fiscal Year are disapproved by Owner in accordance with the provisions of this Agreement, then, until approval of the Budgets (or such components) by Owner, Operator, until the resolution of such dispute, shall cause the Property to be operated substantially in accordance with most recent approved Budgets, except for, or as modified by (a) those components of such Budgets for the applicable Fiscal Year approved by Owner; (b) expenses that are variable based on the utilization of the Property, to the extent required based upon the occupancy of the Property which shall be paid as required; and (c) necessary expenses for the continued operation of the Property in accordance with the Major Agreements, operational standards set forth in this Agreement, or are immediately necessary, in Operator's good faith judgment, to protect the physical integrity or lawful operation of Property or the health or safety of its occupants; provided, however, that Operator shall promptly notify Owner of expenditures for such expenses.

9.6 Approval for Capital Expenditures

Operator shall seek approval from Owner, which shall not be unreasonably withheld, conditioned or delayed, for any capital expense that is over \$25,000 individually, or \$100,000 in the aggregate in the Fiscal Year, unless such expense(s) are provided for in the applicable Operating Budget or Capital Budget.

ARTICLE X MANAGEMENT FEES AND PAYMENTS TO OPERATOR AND OWNER

10.1 Base Fee

Operator shall be entitled to receive, on a monthly basis commencing upon the Commencement Date, and thereafter throughout the Term, for services rendered under this Agreement, a management fee (the "Base Fee") equal to (a) for the first year of the Term, Two Hundred Thousand Dollars (\$200,000), (b) for the second year of the Term, Two Hundred Fifty Thousand Dollars (\$250,000) and (c) for each year thereafter, the Base Fee payable for the immediately prior year as adjusted for CPI (as defined below) increases.

"CPI" shall mean the Consumer Price Index-All Urban Consumers (CPI-U)/All Items, Not Seasonally Adjusted, 1982-84=100, for the United States, as published by the United States Department of Labor Statistics, for the applicable comparison period. If the CPI shall cease to use 1982-84 as the base year, the CPI shall be converted in accordance with the conversion factor, if any, published by the United States Department of Labor, Bureau of Labor Statistics. If

the Index is discontinued or revised during the Term, such other governmental index or computation, if any, with which it is replaced shall be used. If no conversion factor is supplied by the United States Department of Labor, Bureau of Statistics, either for a new base year or a new index, the parties shall reasonably agree upon a replacement for the Index.

10.2 Intentionally Omitted

10.3 Payment of Management Fees

In each month during the Term, Operator shall be paid out of the Operating Account the Base Fee for the preceding month. The Base Fee shall be paid to Operator out of the Operating Account beginning on the Commencement Date in monthly installments of one-twelfth (1/12th) of the applicable Base Fee, in advance, on the first day of each month.

10.4 Intentionally Omitted

10.5 Audit of Management Fees

At the end of each Fiscal Year and, if an audit is performed pursuant to Section 9.3 above, following receipt by Owner of such audit, an adjustment will be made, if necessary, based on the audit so that Operator shall have received the accurate Base Fee for such Fiscal Year. Within thirty (30) days of receipt by Owner and Operator of such audit, Operator shall either (a) place in the Operating Account or remit to Owner, as appropriate, any excess amounts Operator may have received for such fees during such calendar year or (b) be paid out of the Operating Account or by Owner, as appropriate, any deficiency in the amounts due Operator for the Base Fee.

10.6 Renovation Services

From time to time, the Property may require renovation to upgrade its facilities to remain operable and for asset preservation. Subject to Owner's prior approval, Operator shall provide project management services to include setting a scope for design, materials and construction for such renovation, requesting multiple bids and securing agreements with contractors, supervising the work of contractors, and providing project accounting updates to Owner on a regular basis. Operator shall provide these services for a fee equal to five percent (5%) of the total cost of such renovations (the "**Project Management Fee**"), as and when such costs are incurred. The foregoing notwithstanding, Operator shall not receive a Project Management Fee for renovations performed by Owner unless Operator performs project management services approved in advance by Owner.

10.7 Purchasing Services

From time to time, the Property may require refurbishment of FF&E and other capital items other than in connection with a renovation of the Property. Subject to Owner's approval, Operator shall provide purchasing support services to include review of existing capital equipment or materials, setting a scope for design and materials for such capital investment,

requesting pricing and securing purchase orders with vendors of the capital items, supervising the work of any contractors, and providing updates on the amount of such capital spend to Owner on a regular basis. Operator shall provide these services for a fee equal to five percent (5%) of the total cost of such capital purchases (the “**Purchasing Management Fee**”), as and when such costs are incurred. Operator shall not charge a Purchasing Management Fee in those instances where it charges a Project Management Fee.

10.8 Reimbursable Expenses

Owner shall be obligated to reimburse Operator for all lodging, meals, telephone, telecopy, postage, courier, delivery, employee training and other expenses incurred by Operator which are directly related to its performance of services under this Agreement (“**Reimbursable Expenses**”). Operator shall be entitled to obtain payment of all such amounts from the Operating Account, or from Owner, if insufficient funds are available in the Operating Account.

ARTICLE XI CERTAIN DEFINITIONS

11.1 Intentionally Omitted

11.2 Operating Expenses

A. The term “**Operating Expenses**” shall mean all costs and expense of maintaining, conducting and supervising the operation of the Property and all of its facilities, which are properly attributable under the Uniform System to the period in question. Operating Expenses shall include, without limitation:

- (i) The cost of all Operating Equipment and Operating Supplies;
- (ii) Salaries and wages of Property Employees, including costs of payroll taxes, employee benefits and severance payments. Except as set forth in Exhibit A (“**Centralized Services**”), the salaries or wages of off-site employees or offsite executives of Operator shall not be Operating Expenses, provided that if it becomes necessary for an off-site employee or executive of Operator to temporarily perform reasonable and necessary services for a reasonable and necessary period of time at the Property of a nature normally performed by Property Employees, his or her salary (including payroll taxes and employee benefits) for such period only, shall be Operating Expenses and reimbursed to Operator by Owner;
- (iii) The costs of all other goods and services obtained in connection with the operation of the Property including, without limitation, heat and utilities, laundry, landscaping and exterminating services and office supplies;

- (iv) The costs of all non-capital repairs to and maintenance of the Property;
- (v) Insurance premiums (or allocable portion thereof in the case of blanket policies) for all insurance maintained under Article XIII (other than insurance against physical damage to the Property) and losses incurred on any self-insured risks including deductibles;
- (vi) All taxes, assessments, permit fees, inspection fees, and water and sewer charges and other charges (other than income and franchise taxes) payable by or assessed against Owner with respect to the operation of the Property, excluding Property Taxes (as defined in Section 11.3);
- (vii) Legal fees and fees of any independent certified public accountant for services directly related to the operation of the Property and its facilities (other than fees associated with an audit conducted pursuant to Section 9.3, which shall be an Owner's expense);
- (viii) All Reimbursable Expenses, which fees and disbursements shall be paid out of the Operating Account or paid or reimbursed by Owner to Operator upon demand. Without limiting the generality of the foregoing, such charges may include all reasonable telephone, telegram, facsimile, air express and other incidental expenses but, except as otherwise provided in this Agreement, shall not include any of the regular expenses of the central offices maintained by Operator, other than offices maintained at the Property for the management of the Property. Operator shall maintain and make available to Owner invoices or other evidences supporting such charges;
- (ix) The Base Fee and Centralized Services Fees, as set forth in Exhibit A;
- (x) Any other item specified as an Operating Expense in this Agreement; and
- (xi) Any other cost or charge classified as an Operating Expense or an Administrative and General Expense under the Uniform System unless specifically excluded under the provision of this Agreement.

B. Operating Expense shall not include:

- (i) Amortization and depreciation;
- (ii) The making of or the repayment of any loans or any interest thereon;

- (iii) The costs of any alterations, additions, or improvements which for Federal income tax purposes must be capitalized and amortized over the life of such alteration, addition, or improvement;
- (iv) Payments on account of any equipment lease that is to be capitalized under generally accepted accounting principles;
- (v) Payments under any space lease, ground lease, submerged land lease, or easement agreement;
- (vi) Payments into or out of the FF&E Reserve Account; or
- (vii) Any item defined as a Fixed Charge in Section 11.3.

11.3 Fixed Charges

“**Fixed Charges**” shall mean the cost of the following items to the Property or its facilities, which are properly attributable under the Uniform System to the period in question:

- (i) Real estate taxes, assessments, personal property taxes and any other ad valorem taxes imposed on or levied in connection with the Property, the Installations and the FF&E (collectively, “**Property Taxes**”);
- (ii) Insurance against physical damage to the Property; and
- (iii) Payments into the FF&E Reserve Account in accordance with Section 12.1 below.

11.4 Intentionally Omitted

11.5 Fiscal Year

“**Fiscal Year**” shall mean each twelve (12) consecutive calendar month period or partial twelve (12) consecutive calendar month period within the Term commencing on January 1st (or, with respect to the first year of the Term, the Commencement Date) and ending on December 31st (or, with respect to the last year of the Term, the expiration or earlier termination of the Term) unless Owner and Operator otherwise agree.

ARTICLE XII FF&E RESERVE

12.1 Establishing FF&E Reserve Account

During each Fiscal Year there shall be allocated and paid on a monthly basis in twelve equal installments, in advance, on the first day of each calendar month to the FF&E Reserve Account funds provided by Owner an annual amount of two hundred four thousand dollars (\$204,000) during the first year of the Term, and each year thereafter, the FF&E Reserve Account funds provided by Owner shall be increased from the immediately prior year as adjusted for CPI.

12.2 Use of Funds in FF&E Reserve Account

All funds in the FF&E Reserve Account, together with any interest earned thereon and the proceeds of any sale of FF&E (which proceeds shall be deposited in the FF&E Reserve Account) shall be used solely for purposes of replacing or refurbishing the FF&E in accordance with the applicable Capital Budget.

ARTICLE XIII INSURANCE

13.1 Insurance Requirements

At all times during the Term, Operator shall, to the extent such insurance is commercially available, procure and maintain insurance coverage with respect to the Property as described in Sections 13.1(C) – (E) below at Owner’s sole cost and expense. At all times during the Term, Owner shall, to the extent such insurance is commercially available, procure and maintain insurance coverage with respect to the Property as described in Sections 13.1(A) – (B) and (F) below.

- A. Insurance covering the Building, the Installations and the FF&E on an all-risk, broad form basis, against such risks as are customarily covered by such insurance (including, without limitation, boiler and machinery insurance), in aggregate amounts which shall be not less than the full replacement costs of the Building, the Installations and the FF&E (exclusive of foundations, footings and land);
- B. Commercial general liability insurance (including broad form endorsement and coverage against liability arising out of the ownership or operation of motor vehicles) with a combined single limit of not less than \$2,000,000 and \$15,000,000 excess for each occurrence for liability for (i) bodily injury, (ii) death, (iii) property damage, (iv) personal and advertising injury, or (v) liquor law or dram shop liability;
- C. Worker’s compensation insurance or insurance required by similar employee benefit acts having a minimum per occurrence limit as Operator may deem advisable against all claims which may be brought for personal injury or death of Property employees, but in any event not less than amounts prescribed by applicable state law;

- D. Fidelity insurance, in such amounts and with such deductibles as Operator may deem advisable, covering Operator's employees at the Property (other than executive employees of Operator) or in job classifications normally bonded in other properties it manages in the United States or otherwise required by law;
- E. Employment Practices Liability Insurance ("**Employment Insurance**") with reasonable limits and deductibles to include allegations of wrongdoing involving employee theft or dishonesty; and
- F. If the Property is located within an area designated "flood prone" pursuant to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as the same may be amended from time to time, flood insurance in such amount as Owner may reasonably require.

13.2 Named Insured Party

All insurance policies procured by Owner for the Property shall name Operator as an additional named insured party. All insurance policies procured by Operator for the Property (other than insurance policies related to Operator's employees) shall name Owner as an additional insured.

13.3 Form of Insurance

All insurance policies procured by Operator shall be in such form and with such companies as shall be reasonably satisfactory to Owner and provided Owner has given Operator detailed written notice of such requirements, shall comply with the requirements of any Major Agreement. Insurance may be provided under blanket or master policies covering one or more other properties operated by Operator or owned by Owner. The portion of the premium for any blanket or master policies which is allocated to the Property as an Operating Expense or Fixed Charge shall be determined in an equitable manner by Operator and reasonably approved in advance by Owner and paid out of the Operating Account, or if the funds therein are insufficient, by Owner, upon demand therefore by Operator.

13.4 Cancellation and Modification of Insurance

All insurance policies shall specify that they cannot be canceled or modified on less than twenty (20) days prior written notice to both Owner and Operator and any additional insureds (or such longer period as may be required under a Major Agreement, provided that Operator has been advised in writing of such period).

13.5 No Subrogation Rights

All insurance policies shall provide, to the extent customarily obtainable from the insurance company providing such insurance, that the insurance company will have no right of subrogation against Owner, Operator, any party to a Major Agreement or any of their respective agents, employees, partners, members, officers, directors or beneficial assigns. Owner and Operator hereby release one another from any and all liability, to the extent of the waivers of subrogation obtained under Section 13.5, associated with any damage, loss or liability with respect to which property insurance coverage is provided pursuant to this Article or otherwise.

13.6 Insurance Proceeds

The proceeds of any insurance claim (other than proceeds payable to third parties under the terms of the applicable policy) for Sections 13.1(C) – (E) shall be paid into the Operating Account to the extent of Owner’s interest therein unless otherwise required by the terms of a Major Agreement. The insurance company shall have the right to adjust and settle any general liability or property insurance claims.

13.7 Payment for Insurance

Operator shall have the right to pay for, or reimburse itself for, insurance required to be procured by Operator under this Article XIII out of the Operating Account. Notwithstanding anything to the contrary set forth in this Agreement, Operator shall have no obligation to obtain or maintain any insurance set forth in this Article if funds otherwise provided by Owner are not made available to Operator to purchase the same. Subject to the provisions of the Budgets, Operator may act, directly or indirectly, as a direct insurer or reinsurer with respect to the insurance required under this Article.

ARTICLE XIV SPECIAL TERMINATION EVENTS

14.1 Sale to Third Party

Owner shall have the right to terminate this Agreement in connection with any sale or transfer of the Property to a bona-fide third party, provided that (i) Owner advises Operator of its election to so terminate pursuant to this Section 14.1 by timely delivery of a written notice (the “**Termination Notice**”) delivered at least thirty (30) days prior to the anticipated closing date of such sale, setting forth the identity of the purchaser, the intention of Owner to terminate this Agreement, and the proposed date of closing of such sale; and (ii) on or prior to the closing date of such sale, Owner shall have paid to Operator in cash the Termination Fee, in the amount calculated by Operator in accordance with Section 17.1. No Termination Fee shall be required pursuant to this Section 14.1 upon Owner’s sale of the Property to a third-party purchaser (“**Purchaser**”), provided the Purchaser (i) continues to use the Property as a shelter, hotel, motel, or other lodging establishment, and (ii) assumes this Agreement or enters into a new management agreement with Operator on substantially the same terms as this Agreement.

14.2 Change of Use

Owner shall have the right to terminate this Agreement in connection with any change of use of the Property such that no portion of the Property is used as a shelter, hotel, motel, or lodging establishment, provided that (i) Owner delivers a Termination Notice at least thirty (30) days prior to the anticipated date of such change of use, and setting forth the nature of the change of use, and the intention of Owner to terminate this Agreement; (ii) on or prior to the change of use date, Owner shall have paid to Operator in cash the Termination Fee, in the amount calculated by Operator in accordance with Section 17.1; and (iii) Owner shall not have the right to terminate this Agreement in connection with a temporary change in use.

ARTICLE XV DAMAGE OR DESTRUCTION; CONDEMNATION

15.1 Fire or Casualty

If the Property is damaged by fire or other casualty, Operator shall promptly notify Owner. This Agreement shall maintain in full force and effect subsequent to such casualty provided that either party may terminate this Agreement upon thirty (30) days prior notice to the other party if (a) Owner shall elect to close the Property permanently as a result of such casualty (except on a temporary basis for repair or restoration) or (b) Owner shall determine in good faith not to proceed with the restoration of the Property and provided further that Operator may terminate this Agreement upon sixty (60) days prior notice to Owner if twenty percent (20%) or more of the rooms in the Property are unavailable for use for a period of sixty (60) days or longer as a result of such casualty.

15.2 Condemnation

If all or any portion of the Property becomes the subject of a condemnation proceeding or if Operator learns that any such proceeding may be commenced, Operator shall promptly notify Owner upon Operator's receipt of written notice thereof. Either party may terminate this Agreement on sixty (60) days' notice to the other party if all or substantially all of the Property is taken through condemnation

15.3 Miscellaneous

Any condemnation award or similar compensation shall be the property of Owner, provided that, subject to the provisions of any first mortgage or deed of trust loan encumbering the Property, Operator shall have the right to bring a separate proceeding against the condemning authority for any damages and expenses specifically incurred by Operator as a result of such condemnation.

ARTICLE XVI
EVENTS OF DEFAULT

16.1 Listing of Defaults

The following shall constitute an event of default under this Agreement:

- A. If either party shall be in default in the payment of any amount required to be paid under the terms of this Agreement, or Owner fails to fund the Operating Account as required under this Agreement, and such default continues for a period of five (5) days after such payment was due (or, with respect to a non-recurring payment under this Agreement (e.g., excluding payments of Base Fees and Centralized Services Fees), such default continues for a period of ten (10) days after written notice is delivered indicating that such payment was due and not paid);
- B. If either party shall be in material default in the performance of its other obligations under this Agreement, and such default continues for a period of thirty (30) days after written notice from the other party, provided that if such default cannot by its nature reasonably be cured within such thirty (30) day period, an event of default shall not occur if and so long as the defaulting party promptly commences and diligently pursues the curing of such default; provided, however, in no event shall the cure period with respect to such obligation exceed sixty (60) days;
- C. If either party shall (i) make an assignment for the benefit of creditors, (ii) institute any proceedings seeking relief under any federal or state bankruptcy or insolvency laws, (iii) institute any proceeding seeking the appointment of a receiver, trustee, custodian or similar official for its business or assets, or (iv) consent to the institution against it of any such proceeding by any other person or entity (an **“Involuntary Proceeding”**);
- D. If an Involuntary Proceeding shall be commenced against the other party and shall remain undismissed for a period of ninety (90) days; or
- E. If within thirty (30) days after receiving Operator’s written request, Owner fails to approve any changes, repairs, alterations, improvements, renewals or replacements to the Property which Operator determines in its reasonable judgment are necessary (i) to protect the Property, Owner and/or Operator from liability exposure, (ii) to ensure material compliance with any applicable code requirements pertaining to life safety systems requirements, or (iii) to ensure material compliance with any applicable state, local or federal employment law, including without limitation the Americans with Disabilities Act.

16.2 Termination Rights

If any event of default shall occur and not be cured within the applicable cure period set forth in this Agreement, the non-defaulting party may terminate this Agreement immediately upon delivering written notice to the defaulting party (or such longer period as is specified in the written termination notice delivered by the non-defaulting party to the defaulting party).

16.3 Non-Exclusive Remedy

The right of termination set forth in Section 16.2 shall not be in substitution for, but shall be in addition to, any and all rights and remedies for breach of contract available in law or at equity.

16.4 Force Majeure

Neither party shall be deemed to be in default of its obligations under this Agreement if and to the extent that such party is unable to perform such obligation as a result of fire or other casualty, act of God, strike or other labor unrest, unavailability of materials, war, terrorist activity, riot or other civil commotion or any other cause beyond the control of such party (which shall not include the inability of such party to meet its financial obligations or in any event apply to the payment of any amounts due to either party under this Agreement) (collectively, “**Force Majeure Events**”).

16.5 Waiver of Certain Claims

Each of the parties hereto irrevocably waives any right such party may have against the other party hereto at law, in equity or otherwise to any consequential damages, punitive damages, special or exemplary damages.

ARTICLE XVII TERMINATION

17.1 Termination Fee

Upon any termination of this Agreement by Operator pursuant to Section 16.1A, B or E, or by Owner pursuant to Sections 14.1 or 14.2 (an “**Early Termination**”), Owner shall, in addition to any other rights or remedies that may be available to Operator, pay to Operator a termination fee (the “**Termination Fee**”) equal to (x) the average monthly Base Fee paid or payable to Operator with respect to the twelve (12) full calendar months immediately preceding the calendar month in which the effective date of the Early Termination occurs (provided, that, if the Early Termination occurs prior to the twelve (12) month anniversary of the Commencement Date, then the average monthly Base Fee will be calculated using actual Base Fees paid or payable to Operator through the Early Termination date and the budgeted Base Fees for the balance of such twelve (12) month period), multiplied by (y) twelve (12) months, if the

Early Termination occurs during the first year of the Term, nine (9) months if the Early Termination occurs during the second year of the Term, or six (6) months if the Early Termination occurs after the first two years of the Term .If there is a dispute between Owner and Operator as to the amount of the Termination Fee, this Agreement shall nonetheless terminate, Owner shall pay to Operator the amount that is not in dispute and shall deposit the disputed portion in an escrow satisfactory to Owner and Operator with interest on the amount in escrow to be allocated in proportion to the manner in which the escrow fund is ultimately allocated, and the parties shall thereafter resolve the amount of the Termination Fee.

17.2 Intentionally Omitted

17.3 Transition of Management

Upon any termination or expiration of this Agreement for any reason whatsoever, Owner expressly agrees that Operator may remove any of its documents which are proprietary to Operator (including, without limitation, employee files, manuals, software programs, stored data, and internal correspondence of a proprietary nature) but specifically excluding financial records, documents, correspondence or other materials proprietary to the Property. Operator shall have the right to make copies of all other non-proprietary files and information relating to its management of the Property. Upon such termination or expiration, within twenty (20) days of billing thereof, Owner shall pay to Operator, in addition to any other amounts due pursuant to this Agreement (i) Operator's reasonable out-of-pocket costs incurred by reason of request by Owner for assistance after termination of this Agreement and not otherwise reasonably expected of Operator in the orderly termination of its operations at the Property, (ii) any unpaid fees and other charges and reimbursements due Operator hereunder, and (iii) to the extent reasonable and consistent with Operator's standard practices and industry standards, termination-related employee expenses, including payments of accrued and earned sick and vacation time, pension, bonus and other termination payments due to employees.

17.4 WARN Act Liability

Owner acknowledges that Operator or its affiliates or the PEO employer of Property Employees may have an obligation under applicable law (including the WARN Act) to give advance notice to Property Employees of any termination of employment, and that failure to comply with such notification obligation might give rise to certain liabilities under applicable law. Accordingly, notwithstanding anything to the contrary in this Agreement, the effective date of termination may, at Operator's discretion, be extended to permit Operator to comply with all time periods under applicable law (including the WARN Act) if any, unless Owner agrees in writing to defend, indemnify and hold harmless Operator and its affiliates from and against all claims (including lost compensation, fines, penalties and attorneys' fees and expenses) incurred by Operator or its affiliates or the PEO employer of Property Employees, arising thereunder as a result of such termination.

New Castle, DE 19720
Attn: County Attorney

Operator: Hersha Hospitality Management L.P.
510 Walnut Street, 9th Floor
Philadelphia, PA 19106
Attn: Naveen Kakarla, President

With a Copy to: Hersha Hospitality Management L.P.
510 Walnut Street, 9th Floor
Philadelphia, PA 19106
Attn: Legal Department

or to such other addresses as Operator and Owner shall designate in the manner provided in this Section 19.1. Any notice or other communication shall be deemed given (a) on the date three (3) business days after it shall have been mailed, if sent by certified mail, or (b) on the date received if it shall have been given to a nationally-recognized overnight courier service.

ARTICLE XX ESTOPPELS

20.1 Confirmation of Agreement

Owner and Operator agree that from time to time upon the request of the other party or a party to a Major Agreement, it shall execute and deliver within ten (10) days after the request a certificate confirming that this Agreement is in full force and effect, stating whether this Agreement has been modified and supplying such other information as the requesting party may reasonably require.

ARTICLE XXI LIABILITIES

21.1 Liability of Operator

Operator hereby agrees to assume financial responsibility for and reimburse Owner (and Owner's affiliates, agents, principals, shareholders, partners, members, officers, directors and employees) for, and defend and hold harmless Owner (and Owner's affiliates, agents, principals, shareholders, partners, members, officers, directors and employees) from and against all liabilities, losses, claims, damages, costs and expenses (including, but not limited to, reasonable attorneys' fees and expenses) ("**Losses**") that may be incurred by or asserted against any such party and that arise from (a) the fraud, willful misconduct or gross negligence of the general manager and/or any off-site employees of Operator, (b) the breach by Operator of any provision of this Agreement, or (c) any action taken by Operator which is beyond the scope of Operator's authority under this Agreement. Owner shall promptly provide Operator with written notice of

any claim or suit brought against it by a third party, which might evoke Operator's obligations hereunder. Owner shall cooperate with the Operator or its counsel in the preparation and conduct of any defense to any such claim or suit.

21.2 Liability of Owner

Except as provided in Section 21.1, Owner hereby agrees assume financial responsibility for and reimburse Operator (and Operator's affiliates, agents, principals, shareholders, partners, members, officers, directors and employees) for, and defend and hold harmless Operator (and Operator's affiliates, agents, principals, shareholders, partners, members, officers, directors and employees) from and against all Losses that may be incurred by or asserted against such party and that arise from or in connection with (a) the performance of Operator's services under this Agreement; (b) any act or omission (whether or not willful, tortuous or negligent) of Owner or any third party, including without limitation any occupants staying at or present on the Property pursuant to this Agreement or any invitees or guests of such occupants; or (c) any other occurrence related to the Property and/or Operator's duties under this Agreement whether arising before, during or after the Term. Operator shall promptly provide Owner with written notice of any claim or suit brought against it by a third party, which might evoke Owner's obligations hereunder. Operator shall cooperate with the Owner or its counsel in the preparation and conduct of any defense to any such claim or suit.

21.3 Employment Claims

Supplementing the provisions of Section 21.1 and 21.2, if any claim shall be made against Owner and/or Operator which is based upon a violation or alleged violation of the Employment Laws (an "**Employment Claim**"), the Employment Claim shall fall within Operator's obligations under Section 21.1 only if it is based upon (a) the willful misconduct or gross negligence of the general manager of the Property and/or Operator's off-site employees or (b) Operator's breach of its obligations under Section 5.5 and shall otherwise fall within Owner's obligations under Section 21.2.

21.4 Procedure for Reimbursement and Defense

If any action, lawsuit or other proceeding shall be brought against any party (the "**Obligee**") hereunder arising out of or based upon any of the matters for which such party is entitled to defense or reimbursement under this Agreement, such Obligees shall promptly notify the party required to provide reimbursement or defense hereunder (the "**Obligor**") in writing thereof and Obligor shall promptly assume the defense thereof (including without limitation the employment of counsel selected by Obligor), such defense to be subject to the consent of the Obligees, which consent shall not be unreasonably withheld or delayed (provided, however, by way of illustration and not limitation, it shall be reasonable for the Obligees to deny consent to any settlement that requires the Obligees to admit guilt or liability). The Obligees shall cooperate with the Obligor in the defense of any such action, lawsuit or proceeding, on the condition that the Obligor shall reimburse the Obligees for any out-of-pocket costs and expenses actually incurred in connection therewith. The Obligor shall have the right to negotiate settlement or

consent to the entry of judgment with respect to Losses for which Obligor is responsible hereunder; provided, however, that if any such settlement or consent judgment contemplates any action or restraint on the part of Obligee, then such settlement or consent judgment shall require the written consent of the Obligee, which consent shall not be unreasonably withheld or delayed. In addition to the foregoing, the Obligee shall have the right, at the expense of the Obligee, to employ separate counsel in any such action and to participate in the defense thereof. An Obligee may settle any action for Losses for which Obligor is responsible hereunder on behalf of itself only (i.e., with respect to its own liability and with no requirement of Obligor to admit guilt or liability) with the prior written consent of Obligor, which consent shall not be unreasonably withheld or delayed (provided, however, by way of illustration and not limitation, it shall be reasonable for Obligor to deny consent to any settlement that requires Obligor to expend funds in an amount Obligor determines in good faith to be appropriate so long as the Obligee remains adequately protected at all times). In the event the Obligor fails to use reasonable efforts to defend or compromise any action, lawsuit or other proceeding for which an Obligee is owed defense or reimbursement hereunder, the Obligee may, at Obligor's expense and without limiting Obligor's liability under Sections 21.1, 21.2 and 21.3 (as applicable), assume the defense of such action and the Obligor shall pay the charges and expenses of such attorneys and other persons on a current basis within thirty (30) days of submission of invoices or bills therefore. In the event the Obligor is Owner and Owner neglects or refuses to pay such charges, Operator may pay such charges out of the Operating Account and deduct such charges from any amounts due Owner, or add such charges to any amounts due Operator from Owner under this Agreement. If Operator is the Obligor and Operator neglects or refuses to pay such charges, the amount of such charges shall be deducted from any amounts due Operator under this Agreement.

21.5 Survival Beyond Termination

The provisions of this Article shall survive the termination of this Agreement with respect to acts, omissions and occurrences arising during the Term.

ARTICLE XXII MISCELLANEOUS

22.1 Binding and Enforceable Agreement

Owner and Operator shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Agreement fully and legally effective, binding, and enforceable as between them and as against third parties.

22.2 Transactions with Affiliates

Operator may engage one or more of its affiliates or other related parties to furnish goods or services to Property, provided, however, that the terms of any such arrangement, when taken as a whole, shall not be materially less favorable to the Property than the prevailing terms of similar such arrangements obtainable on a commercially reasonable basis from unrelated parties

in the area of Property. Operator shall promptly notify Owner of any such engagement of Operator's affiliates to the extent such engagement and affiliations are not included in the applicable Budgets.

22.3 Entire Agreement

This Agreement constitutes the entire agreement between the parties relating to the subject matters hereof, superseding all prior agreements or undertakings, oral or written. Owner acknowledges that in entering into this Agreement Owner has not relied on any projection of earnings, statements as to the possibility of future success or other similar matter which may have been prepared by the Operator.

22.4 Headings

The headings of the titles to the several articles of this Agreement are inserted for convenience only and are not intended to affect the meaning of any of the provisions hereof.

22.5 Waiver

A waiver of any of the terms and conditions of this Agreement may be made only in writing and shall not be deemed a waiver of such terms and conditions of any future occasion.

22.6 Binding Agreement

This Agreement shall be binding upon and inure to the benefit of Owner and Operator and their respective successors and permitted assigns.

22.7 Choice of Law

This Agreement shall be construed, both as to its validity and as to the performance of the parties in accordance with the laws of the state in which the Property is located and venue shall be exclusively in New Castle County Delaware.

22.8 Qualified Loans

Excluding Operator's right to receive payment of the Base Fee, Incentive Fee (to the extent accrued), Centralized Service Fees and reimbursement and other amounts due to Operator pursuant to this Agreement, Operator agrees to subordinate this Agreement to the lien of any Qualified Loan which now or hereafter encumber the Property; provided, however, Operator shall have the right to condition such subordination on its receipt of a commercially reasonable form of non-disturbance agreement from a Qualified Lender (as hereafter defined). The term "**Qualified Loan**" means (i) any loan from a Qualified Lender secured by a mortgage or deed of trust encumbering the Property or all of any part of Owner's interest therein, and (ii) all amendments, modifications, supplements and extensions of any such mortgage or deed of trust. The term "**Qualified Lender**" means any recognized third party institutional lender such as any federally insured commercial or savings bank, national banking association, savings and loan

association, investment banking firm, commercial finance company and other similar lending institution that is a holder of a Qualified Loan.

22.9 Dispute Resolution

If any claim, dispute or difference of any kind whatsoever (a “**Dispute**”) shall arise out of or in connection with or in relation to this Agreement whether in contract, tort, statutory, or otherwise, and including any questions regarding the existence, scope, validity, breach or termination of this Agreement, the following mediation procedures shall apply:

- A. The parties shall first attempt to settle such Dispute by participating in at least ten (10) hours of mediation, which mediation shall take place at the principal place of business of the Operator and shall be administered by JAMS (or if JAMS no longer exists, another mutually acceptable alternative dispute resolution provider) (the “**ADR Provider**”). The complaining party must notify the other party that a Dispute exists and then contact the ADR Provider to schedule the mediation conference, which conference shall take place no later than fourteen (14) days after the complaining party notifies the other party that a Dispute exists. A designated individual mediator who is a member in good standing of the ADR Provider will then be mutually selected by the parties to conduct the mediation; provided that such mediator must have at least 10 years’ experience as a mediator and must not have any conflict of interest (the “**Mediator**”). If the parties are unable to agree upon the identity of the Mediator within five (5) days after the complaining party has notified the other party that a Dispute exists, then, subject to the requirements of this Section, the ADR Provider shall select a qualified mediator of its choosing who shall act as the Mediator of the Dispute. The mediation will be a nonbinding conference between the parties conducted in accordance with the applicable rules and procedures of the ADR Provider. The mediation shall take place in Philadelphia, Pennsylvania. Neither Party may initiate litigation with respect to any dispute until the mediation of such dispute is complete. Any mediation will be considered complete: (i) if the parties enter into an agreement to resolve the dispute; or (ii) if the dispute is not resolved after completion of ten (10) hours of such mediation. The parties shall share equally in the cost of the mediation.
- B. Until such time as a final determination of any Dispute is obtained and, notwithstanding any termination of or default under, or alleged termination of or default under, this Agreement, all parties to this Agreement involved in such Dispute shall remain liable for, and shall be required to continue to satisfy, their respective obligations under this Agreement.
- C. This Section 22.9 shall survive the expiration or termination of this Agreement.

22.10 No Guarantee of Operating Results

Owner acknowledges that (a) all budgets and financial projections prepared by Operator or its affiliates prior to the Commencement Date or under this Agreement, are intended to assist in operating the Property, but are not to be relied on by Owner or any third party as to the accuracy of the information or the results predicted therein, and (b) Operator does not guarantee the accuracy of the information nor the results of in such budgets and projections. Accordingly, Owner agrees that (i) neither Operator nor its affiliates shall have any liability whatsoever to Owner or any third party for any divergence between such budgets and projections and actual operating results achieved, and (ii) if Owner provides any such budgets or projections to a third party, Owner shall advise such third party in writing of the substance of the disclaimer of liability set forth in this Section 22.10.

22.11 Oversight of Renovation Services

Owner acknowledges that any review, advice, assistance, recommendation or direction provided by Operator with respect to the design, construction, equipping, furnishing, decoration, alteration, improvement, renovation or refurbishing of the Property (including, if applicable, the property improvement plan or any capital expenditure) (a) is intended solely to assist Owner in the development, construction, maintenance, repair and upgrading of the Property and Owner's compliance with its obligations under this Agreement, and (b) does not constitute any representation, warranty or guaranty of any kind whatsoever that (i) there are no errors in the plans and specification, and (ii) there are no defects in the design of construction of the Property or installation of any building systems or FF&E therein, or (c) the plans, specifications, construction and installation work will comply with all applicable laws (including the American with Disabilities Act or similar laws or regulations governing public accommodations for individuals with disabilities). Accordingly, Owner agrees that neither Operator nor its affiliates shall have any liability whatsoever to Owner or any third party for any (1) errors in the plans and specifications, (2) defects in the design of construction of the Property or installation of any building systems or FF&E therein, or (3) non-compliance with any engineering and structural design standards or applicable laws.

22.12 Operating Funds

Operator's obligations under this Agreement are subject in all respects to the availability of sufficient funds from the operation of the Property, or which are otherwise provided by Owner. Except as otherwise expressly provided in this Agreement, all costs and expenses of operating the Property shall be payable out of funds from the operation of the Property, or which are otherwise provided by Owner. In no event shall Operator be obligated to pledge or use its own credit or advance any of its own funds to pay any such costs or expenses for the Property. Operator is not, and never shall be, liable to any creditor of Owner or its subsidiaries or affiliates for any debt incurred by Operator which was incurred in furtherance of Operator's services hereunder for the Property. Owner agrees to reimburse (pursuant to Section 21.4) and hold Operator harmless from and against any and all such claims of creditors and against all costs, charges and expenses (including attorney's fees and expenses) incurred or sustained by Operator in connection with any action, suit or proceeding to which it may be made a party by any creditor of Owner or with respect to any debt incurred by Operator which was incurred in furtherance of providing the services hereunder for the Property (the "Credit Obligation"). In the event that

Operator has pledged or used its own credit, or advanced any of its own funds to pay any costs or expenses, for the Property, Owner may be required to provide a parent guaranty to guarantee any such Credit Obligation and for repayment of any such extensions of credit by Operator upon thirty (30) days prior written notice from Operator. Accordingly, notwithstanding anything to the contrary in this Agreement, Operator shall be relieved from its obligations to operate the Property in accordance with this Agreement whenever and to the extent that Operator is prevented or restricted in any way from doing so by reason of (a) the occurrence of a Force Majeure event, (b) Owner's breach of any term of this Agreement (including Owner's obligation to provide sufficient funds or a parent guaranty as required under this Agreement), (c) any limitation or restriction in this Agreement on Operator's authority or ability to expend funds in respect of the Property, (d) by reason of Operator's inability, whether foreseen or unforeseen, to reasonably provide the services required herein, or (e) any change in use of the Property by Owner. The provisions of this Section 22.12 shall survive the termination of this Agreement with respect to acts, omissions and occurrences arising during the Term.

22.13 Consents and Approvals

Owner acknowledges that in granting any consents, approvals or authorizations under this Agreement, and in providing any advice, assistance, recommendation or direction under this Agreement, neither Operator nor its affiliates guarantee success or a satisfactory result from the subject of such consent, approval, authorization, advice, assistance, recommendation or direction. Accordingly, Owner agrees that neither Operator nor its affiliates shall have any liability whatsoever to Owner or any third person by reason of (a) any consent, approval or authorization, or advice, assistance, recommendation or direction, given or withheld by Operator, or (b) any delay or failure by Operator to provide any consent, approval or authorization, or advice, assistance, recommendation or direction.

22.14 Signature Counterparts

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, each of which so executed shall be deemed an original, irrespective of the date of its execution and delivery, and counterparts together shall constitute one and the same instrument. Counterparts delivered by facsimile, email or other electronic means shall be deemed originals for all purposes. It shall not be necessary that the signature on behalf of both parties hereto appear on each counterpart hereof.

[The remainder of the page is intentionally left blank.]

IN WITNESS WHEREOF, Owner and Operator have duly executed this Property Management Agreement the day and year first above written.

OWNER:

NEW CASTLE COUNTY

By:  _____

Name: Matthew Meyer

Title: NCC Executive

OPERATOR:

**HERSHA HOSPITALITY MANAGEMENT L.P., a
Pennsylvania limited partnership**

By: Star HHM GP, L.L.C., a Delaware limited liability
company, its sole general partner

By: _____

Name: Naveen Kakarla

Title: President

IN WITNESS WHEREOF, Owner and Operator have duly executed this Property Management Agreement the day and year first above written.

OWNER:

NEW CASTLE COUNTY

By: _____

Name: _____

Title: _____

OPERATOR:

HERSHA HOSPITALITY MANAGEMENT L.P., a
Pennsylvania limited partnership

By: Star HHM GP, L.L.C., a Delaware limited liability
company, its sole general partner

By:  _____

Name: Naveen Kakarla

Title: President

EXHIBIT A

CENTRALIZED SERVICES

| Fees | Amount / Calculation | Description |
|---------------------------------------|---|--|
| Accounting and Financial Services Fee | \$3,000 per month (subject to annual CPI increases) | To reimburse Operator for costs related to the integration, support, budgeting, centralized accounting services, and financial reporting associated with the Property. |
| Information Technology Services Fee | \$1,100 per month (subject to annual CPI increases) | To reimburse Operator for costs related to the installation, integration, and ongoing support of Information Technology related systems at Property. |