

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

CURRENT REPORT

PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): **April 29, 2019**

MOODY NATIONAL REIT II, INC.

(Exact Name of Registrant as Specified in Its Charter)

Maryland
(State or other jurisdiction
of incorporation)

000-55778
(Commission File Number)

47-1436295
(I.R.S. Employer
Identification No.)

6363 Woodway Drive, Suite 110
Houston, Texas 77057
(Address of principal executive offices, including zip code)

(212) 753-5100
(Registrant's telephone number, including area code)

N/A
(Former name or former address, if changed since last report)

Securities registered or to be registered pursuant to Section 12(b) of the Securities Exchange Act of 1934:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
None	None	None

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (17 CFR §230.405) or Rule 12b-2 of the Securities Exchange Act of 1934 (17 CFR §240.12b-2).

Emerging Growth Company ☒

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☒

Item 1.01. Entry Into a Material Definitive Agreement.

The information discussed under Item 2.01 and Item 2.03 of this Current Report on Form 8-K is incorporated by reference into this Item 1.01.

Item 2.01. Completion of Acquisition or Disposition of Assets.

Property Acquisition

On April 29, 2019 (the “Closing Date”), Moody National REIT II, Inc. (the “Company”) assigned to Moody National Kirby-Houston Holding, LLC, a wholly-owned subsidiary of the Company (“Houston Holding”), all of the Company’s rights to and interests in an Agreement of Purchase and Sale (the “Purchase Agreement”), by and between the Company and RI II MC-HOU, LLC, an affiliate of the Company (the “Seller”), for the acquisition of a hotel property located in Houston, Texas commonly known as the Residence Inn by Marriott Houston Medical Center / NRG Park (the “Medical Center Property”).

On the Closing Date, Houston Holding acquired fee simple title to the Medical Center Property from the Seller for an aggregate purchase price, excluding acquisition costs, of approximately \$52,000,000, inclusive of (i) Houston Holding’s assumption as of the Closing Date of an existing mortgage loan from American National Insurance Company (the “Lender”), secured by the Medical Center Property, with an outstanding balance as of the Closing Date of approximately \$28,180,000 (the “Existing Loan”), and (ii) financing from the Seller in the amount of \$22,550,000 (the “Seller Loan”). See Item 2.03 of this Current Report on Form 8-K for an additional discussion of the Existing Loan and the Seller Loan. In connection with the acquisition of the Medical Center Property, the Company’s advisor earned an aggregate acquisition fee of \$2,002,000 (inclusive of a \$1,222,000 contingent acquisition fee paid to reimburse the advisor for upfront selling commissions and dealer manager fees paid by the advisor) and a financing coordination fee of \$290,000.

The Medical Center Property is a select-service hotel consisting of 182 guest rooms with a four and a half story parking garage.

Leasing and Management of the Property

Houston Holding leases the Medical Center Property to Moody National Kirby-Houston MT, LLC (the “Master Tenant”), an indirect, wholly-owned subsidiary of Moody National Operating Partnership II, LP, the Company’s operating partnership (“Moody OP”), pursuant to a Hotel Lease Agreement between Houston Holding and the Master Tenant (the “Hotel Lease”). The Hotel Lease provides for a ten-year lease term; provided, however, that Houston Holding may terminate the Hotel Lease upon 45 days prior written notice to the Master Tenant in the event that Houston Holding contracts to sell the Medical Center Property to a non-affiliated entity, effective upon the consummation of such a sale of the Medical Center Property. Pursuant to the Hotel Lease, the Master Tenant will pay an annual base rent of \$4,400,000 per year for the first five years of the term of the Hotel Lease. The annual base rent paid by the Master Tenant will be adjusted as set forth in the Hotel Lease beginning in year six of the lease term. In addition, the Master Tenant will pay an annual percentage rent, to the extent that such percentage rent is greater than the base rent due for such period, in an amount equal to (1) a percentage of the Medical Center Property’s gross revenues for the previous year (as set forth in the Hotel Lease), minus (2) the amount of the annual base rent paid for the previous year. The annual percentage rent will be adjusted as set forth in the Hotel Lease beginning in year six of the lease term.

Moody National Hospitality Management, LLC, an affiliate of the Company (the “Property Manager”), manages the Medical Center Property pursuant to a Hotel Management Agreement between the Property Manager and the Master Tenant (the “Management Agreement”), which Management Agreement was assigned to Master Tenant by Seller on the Closing Date. Pursuant to the Management Agreement, the Master Tenant pays the Property Manager a monthly base management fee in an amount equal to 4.0% of the Medical Center Property’s gross operating revenues (as defined in the Management Agreement) for the previous month. Each month during the term of the Management Agreement and for one month following the termination of the Management Agreement, the Property Manager will also receive a \$2,500 fee for providing centralized accounting services, which accounting services fee will be subject to annual increases based upon increases in the consumer price index. In addition, the Property Manager will receive a monthly revenue management services fee of \$1,200. The Property Manager will also be eligible to receive additional fees for technical, procurement or other services provided by the Property Manager at the request of the Master Tenant. The Management Agreement has an initial ten-year term, and thereafter will automatically renew for four consecutive five-year terms unless the Property Manager or the Master Tenant provides written notice of termination at least 180 days prior to the end of the then-current term.

The foregoing descriptions of the terms of the Purchase Agreement, the Hotel Lease and the Management Agreement are subject to, and qualified in their entirety by, the terms of the Purchase Agreement, the Hotel Lease and the Management Agreement, copies of which are filed herewith as Exhibit 10.1, 10.3 and 10.4, respectively, and are incorporated by reference herein.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

Existing Loan

On the Closing Date, pursuant to an Assignment and Assumption Agreement, Houston Holding assumed all of the Seller’s rights, duties and obligations under and with respect to the Existing Loan and all loan documents associated therewith, including, without

limitation, (i) a Promissory Note, dated September 13, 2017, in the original principal amount of \$29,100,000, evidencing the Existing Loan and payable to the Lender (the “Note”), (ii) the Construction Loan Agreement, dated September 13, 2017, between the Seller and the Lender (the “Loan Agreement”), and (iii) the Deed of Trust, Security Agreement and Financing Statement, dated September 13, 2017, for the benefit of Lender, securing payment of the Note (the “Deed of Trust”).

The Existing Loan bears interest at a rate of 5% per annum. Payments of interest only will be due on the Existing Loan on a monthly basis through October 1, 2019, and thereafter equal monthly payments of principal and interest in the amount of \$170,115.70 will be due. Upon and during any event of default by Houston Holdings under the Note, the Loan Agreement or any other loan document relating to the Existing Loan, the Existing Loan will bear interest at a rate per annum equal to the lesser of the maximum rate permitted by applicable law and 17%. The entire outstanding principal balance of the Existing Loan and all accrued interest thereon and all other amounts payable under the Note is due and payable in full on October 1, 2014. Houston Holding may not prepay the Existing Loan, in whole or in part, prior to November 1, 2021. Thereafter, upon at least 30 but not more than 90 days prior written notice to the Lender, Houston Holding may prepay the outstanding principal balance, plus all accrued interest and other amounts due, in full (but not in part), provided that such prepayment will be subject to certain additional prepayment fees as set forth in the Note.

The Note provides for customary events of default, including failure by Houston Holding to pay when due and payable any amounts payable under the terms of the Note. Upon any event of default by Houston Holding, Lender may accelerate the maturity date of the Loan and declare the entire unpaid principal balance of the Existing Loan and all accrued and unpaid interest thereon due and payable in full immediately, and exercise any other rights available to it under law or equity.

The performance of the obligations of Houston Holding under the Existing Loan is secured by, among other things, a security interest in the Medical Center Property and other collateral granted to the Lender pursuant to the Deed of Trust. Pursuant to payment and completion guaranties in favor of the Lender, Brett C. Moody has agreed to irrevocably and unconditionally guarantee the prompt and unconditional payment to the Lender and its successors and assigns of all obligations and liabilities of Houston Holding for which Houston Holding may be personally liable with respect to the Existing Loan.

The foregoing descriptions of the terms of the Assignment and Assumption Agreement, the Note, the Loan Agreement and the Deed of Trust are subject to, and qualified in their entirety by, the terms of the Assignment and Assumption Agreement, the Note, the Loan Agreement and the Deed of Trust, copies of which are filed herewith as Exhibit 10.6, 10.7, 10.8 and 10.9, respectively, and are incorporated by reference herein.

Seller Loan

On the Closing Date, Moody OP issued a promissory note payable to Seller in the original principal amount of \$22,550,000, evidencing the Seller Loan (the “Seller Note”). The Seller Loan bears interest at a rate per annum equal to the lesser of the maximum rate permitted by applicable law and 3%. Any amounts payable under the Seller Note which are not paid by Moody OP when due will bear interest at a past due rate equal to the lesser of the maximum rate permitted by applicable law and 18%. On the Closing Date, Moody OP made a principal payment of \$7,824,082, and beginning on May 15, 2019 and ending on October 15, 2019, Moody OP will make a monthly principal payment of \$2,000,000. The entire outstanding principal balance of the Seller Loan, together with all accrued interest thereon and all other amounts payable under the Seller Note, is due and payable in full on December 15, 2019. If Moody OP fails to make when due any payment under the Seller Note, Moody OP will pay to Seller on demand a late fee equal to 5% of the amount of such payment. Upon at least five days prior written notice to the Seller, Moody OP may prepay the outstanding principal balance, plus all accrued interest and other amounts due, in whole or in part, without penalty.

The Seller Note provides for customary events of default, including failure by Moody OP to pay when due and payable any amounts payable under the terms of the Seller Note. Upon any event of default by the Moody OP, Seller may accelerate the maturity date of the Seller Loan and declare the entire unpaid principal balance of the Seller Loan and all accrued and unpaid interest thereon due and payable in full immediately, and exercise any other rights available to it under law or equity.

The foregoing descriptions of the terms of the Seller Note is subject to, and qualified in its entirety by, the terms of the Seller Note, a copy of which is filed herewith as Exhibit 10.10, and is incorporated by reference herein.

Item 9.01. Financial Statements and Exhibits.

(a) Financial Statements.

It is not practical at this time to provide the required financial statements for the acquired real property described in this Current Report on Form 8-K, and no financial statements (audited or unaudited) are available at this time. The required financial statements will be filed as an amendment to this Current Report on Form 8-K no later than 71 days after the latest date on which this Current Report on Form 8-K could have been timely filed.

(b) Pro Forma Financial Information.

See paragraph (a) above.

(d) Exhibits.

Exhibit No.	Description
10.1	Agreement of Purchase and Sale, effective as of March 29, 2019, by and among Moody National REIT II, Inc. and RI II MC-HOU, LLC
10.2	Assignment and Assumption of Agreement and Purchase of Sale, dated April 29, 2019, by and between Moody National REIT II, Inc. and Moody National Kirby-Houston Holding, LLC
10.3	Hotel Lease Agreement, dated April 29, 2019 by and between Moody National Kirby-Houston Holding, LLC and Moody National Kirby-Houston MT, LLC
10.4	Hotel Management Agreement, dated February 20, 2019, by and between RI II MC-HOU, LLC and Moody National Hospitality Management, LLC
10.5	Assignment and Assumption of Hotel Management Agreement, dated April 29, 2019, by and between RI II MC-HOU, LLC and Moody National Kirby-Houston MT, LLC
10.6	Assignment and Assumption Agreement, dated April 29, 2019, by and among RI II MC-HOU, LLC, Moody National Kirby-Houston Holding, LLC, Brett C. Moody, Moody National Kirby-Houston MT, LLC, and American National Insurance Company
10.7	Promissory Note, dated September 13, 2017, by RI II MC-HOU, LLC in favor of American National Insurance Company
10.8	Construction Loan Agreement, dated September 13, 2017, by and between RI II MC-HOU, LLC and American National Insurance Company
10.9	Deed of Trust, Security Agreement and Financing Statement, dated September 13, 2017, by RI II MC-HOU, LLC for the benefit of American National Insurance Company
10.10	Promissory Note, dated April 29, 2019, by Moody National Operating Partnership II, LP in favor of RI IIMC-HOU, LLC

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

Date: May 3, 2019

MOODY NATIONAL REIT II, INC.

By: /s/ Brett C. Moody

Brett C. Moody

Chief Executive Officer and President

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE (this “Agreement”) is made as of the Effective Date, by and between **RI II MC-HOU, LLC**, a Delaware limited liability company (the “Seller”), and **MOODY NATIONAL REIT II, INC.**, a Maryland corporation (the “Purchaser”).

RECITATIONS:

A. Seller is the owner of that certain tract of land located at 7807 Kirby Street, Houston, Texas 77030, more particularly described on Exhibit A attached hereto and made a part hereof, and the improvements situated thereon, commonly known as the “Residence Inn by Marriott Houston Medical Center/ NRG Park” (the “Hotel”).

B. Purchaser desires to purchase the above described property from Seller, and Seller desires to sell the above described property to Purchaser, for the Purchase Price (as defined below) and upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of premises and in consideration of the mutual covenants, promises and undertakings of the parties hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, it is agreed:

ARTICLE I
DEFINITIONS

The following terms shall have the indicated meanings:

1.1 “Accounts Receivable” shall mean all accounts receivable of the Hotel which are shown on the city ledger or other applicable records of the Hotel.

1.2 “Advance Bookings” shall mean reservations and agreements made or entered into by Seller or Manager prior to Closing and assumed by Purchaser for Hotel rooms or meeting rooms to be utilized after Closing, or for catering services or other Hotel services to be provided after Closing, in the ordinary course of business.

1.3 “Affiliate” shall mean any Person that is directly or indirectly (through one or more intermediaries) controlled by, under common control with, or controlling another Person. For the purposes of this definition, “control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any Person or the power to veto major policy decisions of any Person, whether through the ownership of voting securities, by contract or otherwise.

1.4 “Agreement” shall have the meaning ascribed to such term in the Preamble.

1.5 “Assignment and Assumption Agreement” shall mean an assignment and assumption agreement between Seller and Purchaser in substantially the form attached hereto as Exhibit E, whereby Seller assigns and Purchaser assumes all of the Seller’s rights, title and interest in and to the Hotel Agreements, related to the applicable Property.

1.6 “Authorizations” shall mean all certificates of occupancy, licenses, permits, authorizations and approvals required by any governmental or quasi-governmental agency, body, department, commission, board, bureau, instrumentality or officer, or otherwise appropriate with respect to the construction, ownership, operation, leasing, maintenance, or use of the Property or any part thereof.

1.7 “Bill of Sale and General Assignment” shall mean a bill of sale and general assignment between the Seller and Purchaser substantially in the form attached hereto as Exhibit D, conveying title to the Personal Property (other than Leased Property) from Seller to Purchaser, together with any Warranties and Guaranties related thereto.

1.8 “Closing” shall mean the consummation of the sale and purchase of the Property pursuant to this Agreement.

1.9 “Closing Date” shall mean the date on which the Closing shall occur, which shall be on the date that is seven (7) days following the later of: (a) the expiration of the Study Period, and (b) Lender’s approval of the Loan Assumption and final approval of the Loan Assumption Documents, subject to Purchaser’s right to extend the Closing Date in accordance with Section 7.1.

1.10 “Closing Documents” shall mean the documents defined as such in Article VII.

1.11 “Code” shall have the meaning ascribed to such term in Section 10.20.

1.12 “Deed” shall mean a special warranty deed substantially in the form attached hereto as Exhibit B, conveying fee title to the Real Property from the Seller to Purchaser, subject to all permitted title exceptions.

1.13 “Earnest Money” shall have the meaning ascribed to such term in Section 2.3.

1.14 “Effective Date” (or other similar phrases such as “date of this Agreement” or “date hereof”) shall mean the first date on which the Escrow Agent shall have acknowledged receipt of this Agreement fully executed by Seller and Purchaser.

1.15 “Environmental Conditions” shall have the meaning ascribed to such term in Section 4.6.

1.16 “Environmental Laws” shall mean any present or future federal, state or local laws, statutes, codes, ordinances, rules, regulations, standards, policies, court orders, decrees, administrative orders, guidelines or other governmental directives, as well as common law, relating to protection of human health or safety or the environment or relating to Hazardous Materials, including without limitation, the Water Pollution Control Act (33 U.S.C. § 1251 et seq.), Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), Safe Drinking Water Act (42 U.S.C. § 3000(f) et seq.), Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), Clean Air Act (42 U.S.C. § 7401 et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), and any law, statute, regulation, rule or ordinance of the state in which one or more of the Properties is located and any other governmental entity with actual or asserted jurisdiction over the Property or part thereof, concerning such hazardous, special or toxic materials, wastes or substances or any judicial, administrative, or otherwise binding and applicable interpretation of any such laws, rules or regulations.

1.17 “Escrow Agent” shall mean the Title Company.

1.18 “Existing Financing” shall mean that certain Loan Agreement dated on or around September 13, 2017 by and between Seller and Lender, which Seller anticipates on the Closing Date, will have an outstanding balance of approximately \$29,100,000.00 which is secured by a Deed of Trust, Security Agreement and Financing Statement.

1.19 “Extension Deposit” shall have the meaning ascribed to such term in Section 7.1.

1.20 “Final Rooms Revenue” shall mean the final nights room revenue for the Hotel (revenue from rooms occupied as of 11:59 p.m. on day prior to the Closing Date, exclusive of food, beverage, telephone and similar charges which shall be retained by the Seller), including any sales taxes, room taxes or other taxes thereon.

1.21 “FIRPTA Certificate” shall mean the affidavit of Seller under Section 1445 of the Internal Revenue Code, as amended.

1.22 “First Deposit” shall have the meaning ascribed to such term in Section 2.3.

1.23 “Governmental Authority” shall mean any federal, state, county, municipal or other government or governmental or quasi-governmental agency, department, commission, board, bureau, office or instrumentality, foreign or domestic, or any of the them.

1.24 “Hotel” shall have the definition ascribed to such term in the Recitations.

1.25 “Hotel Agreements” shall mean collectively the Operating Agreements, Leased Property Agreements, Off-Site Facility Agreements and the Occupancy Agreements.

1.26 “Improvements” shall mean the Hotel and all other buildings, structures, improvements, and all fixtures, systems, facilities and all other items of real estate located on the Land.

1.27 “Independent Contract Consideration” shall mean One Hundred and No/100 Dollars (\$100.00) of the Earnest Money which shall be paid by the Escrow Agent to Seller in the event that Purchaser elects to terminate this Agreement.

1.28 “Insurance Policies” shall mean all policies of insurance maintained by or on behalf of Seller pertaining to the Property, its operation, or any part thereof.

1.29 “Intangible Personal Property” shall mean, to the extent assignable, Seller’s right, title and interest in and to all intangible personal property owned or possessed by Seller and used in connection with the ownership or operation of the Property, including, without limitation, (1) Authorizations, (2) utility and development rights and privileges, general intangibles, business records, plans and specifications pertaining to the Real Property and the Personal Property, (3) any unpaid award for taking by condemnation or any damage to the Land by reason of a change of grade or location of or access to any street or highway, (4) the share of the Final Rooms Revenue determined under Section 7.6(h) hereof, and (5) Advance Bookings, excluding Seller’s cash on hand, in the bank accounts and invested with financial or other institutions.

1.30 “Inventory” shall mean all inventories of food, beverage and consumable items in opened or unopened cases and all in-use reserve stock of linens, towels, paper goods, soaps, cleaning supplies, office supplies, engineering supplies, maintenance supplies, parts and tools and other “inventories of merchandise” and “inventories of supplies” as such terms are defined in the Uniform System of Accounts for Hotels used in connection with the operation and maintenance of the Hotel.

- 1.31 “Knowledge” shall mean the actual knowledge of Manager. For the purposes of this definition, the term “actual knowledge” means, with respect to any person, the conscious awareness of such person at the time in questions, and expressly excludes any constructive or implied knowledge of such person.
- 1.32 “Land” shall mean that certain parcel of real estate described on Exhibit A hereof, together with all rights, titles, benefits, easements, privileges, remainders, tenements, hereditaments, interests, reversions and appurtenances thereunto belonging or in any way appertaining, and all of the estate, right, title, interest, claim or demand whatsoever of Seller therein, in and to adjacent strips and gores, if any, between the Land and abutting properties, and in and to adjacent streets, highways, roads, alleys or rights-of-way, and the beds thereof, either at law or in equity, in possession or expectancy, now or hereafter acquired; provided, however, Seller reserves and excepts from the conveyance all oil, gas, liquid, or gaseous hydrocarbons, and other minerals, in, on, under or that may be produced from the Land.
- 1.33 “Lender” shall mean American National Insurance Company, a Texas insurance company.
- 1.34 “Leased Property” shall mean all leased items of Tangible Personal Property, including items subject to any capital lease, operating lease, financing lease, or any similar agreement (if any).
- 1.35 “Leased Property Agreements” shall mean all lease agreements pertaining to the Leased Property (if any).
- 1.36 “License Agreement” shall mean the license or franchise agreement from Licensor with respect to the Hotel.
- 1.37 “Licensor” shall mean Marriott International, Inc.
- 1.38 “Loan Assumption Documents” shall mean all documents required by Lender to effectuate Purchaser’s assumption of the Existing Financing.
- 1.39 “Management Agreement” shall mean the management agreement between Seller and the Manager for the management or operation of the Hotel.
- 1.40 “Manager” shall mean Moody National Hospitality Management, LLC, a Texas limited liability company.
- 1.41 “Occupancy Agreements” shall mean all leases, concession or occupancy agreements in effect with respect to the Real Property under which any tenants (other than Hotel guests) or concessionaires have the right to occupy space upon the Real Property.
- 1.42 “Off-Site Facility Agreements” shall mean any leases, contracts and agreements, if any, pertaining to facilities not located on the Property but which are required and presently used for the operation of the Hotel including, without limitation, use agreements for local golf courses, and parking or garage contracts or leases.
- 1.43 “Operating Agreements” shall mean all service, supply, maintenance and repair, and other similar contracts in effect with respect to the Property, including the Management Agreement (other than the Occupancy Agreements, Leased Property Agreements, Management Agreement, and Off-Site Facility Agreements), related to construction, operation, or maintenance of the Property and the business conducted thereon.
- 1.44 “Owner’s Title Policy” shall mean an owner’s policy of title insurance issued to Purchaser by the Title Company, pursuant to which the Title Company (or any applicable underwriter) insures Purchaser’s ownership of fee simple title to the Real Property.
- 1.45 “Person” shall mean an individual, a partnership, a limited liability company, a corporation, an association, a joint stock company, a trust, a joint venture, an unincorporated organization, or a Governmental Authority.
- 1.46 “Personal Property” shall mean collectively the Tangible Personal Property and the Intangible Personal Property.
- 1.47 “Property” shall mean collectively the Real Property and Personal Property.
- 1.48 “Purchase Price” shall mean the amount of FIFTY-TWO MILLION AND NO/DOLLARS (\$52,000,000.00) payable in the manner described in Section 2.2 hereof, which amount shall include the Inventory.
- 1.49 “Real Property” shall mean the Land and the Improvements.
- 1.50 “Second Deposit” shall have the meaning ascribed to such term in Section 2.3.
- 1.51 “Study Period” shall mean the period ending at 5:00 p.m. on the date which is twenty-one (21) days following the Effective Date. Except as expressly noted herein to the contrary, times referred to in this Agreement shall mean the times as in effect, from time to time, in Los Angeles, California.

1.52 “Submission Matters” shall mean the definition ascribed to such term in Section 2.4(b) hereof.

1.53 “Tangible Personal Property” shall mean the items of tangible personal property consisting of all furniture, fixtures, equipment, machinery, Inventory, all vehicles used in operation of Property and the Hotel and other tangible personal property of every kind and nature (which does not include cash-on-hand and petty cash) located at the Hotel and owned or leased by Seller, including, without limitation, Seller’s interest as lessee with respect to any such leased Tangible Personal Property.

1.54 “Title Commitment” shall mean the title commitment and exception documents defined as such in Section 2.5(e).

1.55 “Title Company” shall mean Moody National Title Company, L.P., 6363 Woodway, Suite 250, Houston, Texas 77057, or other title insurance underwriter selected by Purchaser and reasonably acceptable to Seller.

1.56 “Warranties and Guaranties” shall mean, to the extent assignable, all of Seller’s interest in any existing warranties and guaranties relating to the development, construction, ownership and operation of the Improvements, the Tangible Personal Property, the Hotel or any part thereof.

ARTICLE II

PURCHASE AND SALE; DEPOSIT; PAYMENT OF PURCHASE PRICE; STUDY PERIOD

2.1 Purchase and Sale. Seller agrees to sell and Purchaser agrees to purchase the Property for the Purchase Price and in accordance with and subject to the other terms and conditions set forth herein.

2.2 Payment of Purchase Price. Purchaser shall pay the Purchase Price, as adjusted in the manner specified in Article VII and as set forth below, to Seller (or other party designated by Seller) at Closing by making a wire transfer of immediately available federal funds to the account of Seller (or other party designated by Seller).

2.3 Earnest Money. Within one (1) business day following the Effective Date, Purchaser will deliver to the Escrow Agent the sum of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) (the “First Deposit”). Within one (1) business day following the expiration of the Study Period, assuming Purchaser has not previously elected to terminate this Agreement, Purchaser shall deliver to the Escrow Agent the additional sum of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) (the “Second Deposit”) (the First Deposit the Second Deposit, if any, and the Extension Deposit, if any, and all interest earned thereon are hereinafter collectively referred to as the “Earnest Money”). The Earnest Money shall be invested by the Escrow Agent in short term interest bearing accounts at banks or other financial institutions, which accounts must be insured by the Federal Deposit Insurance Corporation. All interest earned on such deposits shall belong to the party (as between Seller and Purchaser) who is entitled to receive the Earnest Money under the applicable provisions of this Agreement. In the event the transactions contemplated herein are not closed in accordance with the provisions hereof, the Earnest Money shall be disbursed to either Seller or Purchaser as provided in this Agreement.

2.4 Existing Financing. At the Closing, Purchaser shall assume the Existing Financing. With respect to Purchaser’s assumption of Existing Financing, (a) no later than five (5) business days after the Effective Date, Purchaser shall commence its efforts to process the assumption of the Existing Financing by Purchaser (“Loan Assumption”), including but not limited to providing all reasonable information concerning the transfer of the Property to Lender (“Assumption Application”), (b) Purchaser and Seller shall cooperate and use all reasonable and diligent efforts to cause the Lender (or its loan servicer, as applicable) to consent to the Loan Assumption and to cause Seller and all applicable guarantors, if any, to be released from any and all liability under the Existing Financing; provided, however, Seller’s cooperation shall be at no cost or expense to Seller, (c) the Existing Financing shall be credited towards the Purchase Price, (d) for purposes of determining the amount of the Existing Financing to be credited toward the Purchase Price, the aggregate of the outstanding principal balance of the Existing Financing and all accrued and unpaid interest and late charges or other similar fees, if any, as of the Closing Date (but expressly excluding the Assumption Fee (defined below)) shall be aggregated and determined and shall be credited to the Purchase Price and (e) Purchaser shall be exclusively liable for and shall pay as the same are incurred (i) the assumption fees and/or costs required by the Lender (or the loan servicer) and (ii) all fees, expenses and/or costs required by the Lender to process the Assumption Application and the Loan Assumption (collectively, the “Assumption Fee”).

2.5 Due Diligence.

(a) Purchaser shall have the right, until 5:00 p.m. the last day of the Study Period, and thereafter if Purchaser does not notify Seller in writing prior to the expiration of the Study Period that Purchaser has elected to terminate this Agreement, to enter upon the Real Property upon not less than one (1) business day prior notice to Seller, and to perform at Purchaser’s expense, and subject to terms and conditions set forth in Section 2.5(d) below, such economic, surveying, engineering, topographic, environmental, marketing and other test, studies and investigations as Purchaser may deem appropriate. If such tests, studies and investigations warrant, in Purchaser’s sole, absolute and unreviewable discretion, the purchase of the Property for the purposes contemplated by Purchaser, then Purchaser shall proceed with this transaction in accordance with and subject to the terms of this Agreement; provided, however, if, prior to the expiration of the Study Period, Purchaser provides written notice to Seller and Escrow Agent that it has determined in its sole,

absolute and unreviewable discretion, to terminate this Agreement, this Agreement shall automatically terminate, and Seller and Purchaser shall be released from all further liability or obligation hereunder except those which expressly survive a termination of this Agreement. In the event of such termination, the Earnest Money, less the Independent Contract Consideration, shall be refunded by the Escrow Agent to Purchaser without any further notice to Escrow Agent and despite any objection or potential objection by Seller.

(b) Seller and Purchaser hereby agree and acknowledge that prior to the Effective Date, Seller has made available to Purchaser for inspections and/or copying at the Purchaser's expense, the Seller's and the Manager's books, records, and correspondence specifically relating to the Property which are in the Seller's or the Manager's possession at the Hotel (collectively, the "Submission Matters").

(c) If for any reason whatsoever Purchaser does not purchase the Property, Purchaser shall promptly deliver to Seller, (i) copies of the due diligence materials delivered to or copied by Purchaser or Purchaser Parties, and (ii) copies of all third-party reports prepared by or for Purchaser or Purchaser Parties with respect to the Property; provided, however, that Purchaser shall not be obligated to deliver to Seller any materials of a proprietary nature (such as, for the purposes of example only, any financial forecast or market repositioning plans) prepared for Purchaser or Purchaser Parties in connection with the Property, and Seller acknowledges that any such materials delivered to Seller pursuant to the provisions of clause (ii) shall be without cost to Purchaser and without warranty, representation or recourse whatsoever other than that such materials have been fully paid for and may be delivered to Seller. The terms of this Section 2.4(c) shall survive the termination of this Agreement.

(d) Purchaser shall indemnify, hold harmless and defend Seller against any loss, damage, liability or claim for personal injury or property damage and any other loss, damage, liability, claim or lien to the extent arising from the acts upon the Real Property by Purchaser or Purchaser Parties or any agents, contractors or employees of Purchaser or Purchaser Parties. Purchaser understands and accepts that any on-site inspections of the Property shall occur at reasonable times agreed upon by Seller and Purchaser after not less than one (1) business day prior notice to Seller and shall be conducted so as not to interfere unreasonably with the operation of the Property and the use of the Property by the tenants and the guests of the Hotel. Seller shall have the right to have a representative present during any such inspections. If Purchaser desires to do any invasive testing at the Property, Purchaser shall do so only after obtaining the prior written consent of Seller, which approval may be subject to reasonable terms and conditions as may be proposed by Seller. Purchaser shall not permit any liens to attach to the Property by reason of such inspections. Purchaser shall (i) restore the Property, at its own expense, to substantially the same condition which existed prior to any inspections or other activities of Purchaser thereon; and (ii) be responsible for and pay any and all liens by contractors, subcontractors, materialmen, or laborers performing the inspections or any work for Purchaser or Purchaser Parties on or related to the Property. The provisions of this Section 2.4(d) shall survive any termination of this Agreement and a closing of the transaction contemplated hereby and are not subject to any liquidated damage limitation on remedies, notwithstanding anything to the contrary in this Agreement.

(e) Promptly following the Effective Date, Seller shall cause the Title Company to furnish to Purchaser, (i) a title insurance commitment bearing an effective date not earlier than thirty (30) days prior to the Effective Date issued by the Title Company covering the Real Property, binding the Title Company to issue the Owner's Title Policy together with legible copies (to the extent such legible copies are available) of all documents identified in such title insurance commitment as exceptions to title (collectively, the "Title Commitment") with respect to the state of title to the Property.

ARTICLE III SELLER'S REPRESENTATIONS AND WARRANTIES

In order to induce Purchaser to enter into this Agreement and to purchase the Property, and to pay the Purchase Price therefore and except for and subject to the information contained in the Submission Matters, Seller hereby makes, to Seller's Knowledge, the representations and warranties set forth below. Each such representation shall be materially true and correct on the Effective Date and shall be materially true and correct on the Closing Date, provided that Seller shall have no liability if, as a result of any changes in facts or circumstances beyond Seller's reasonable control, such representations and warranties are not true as of the Closing Date.

3.1 Organization and Power. Each Seller is a limited liability company duly organized, validly existing and in good standing under the laws of Delaware and has all requisite power and authority to enter into and perform its obligations hereunder and under any document or instrument required to be executed and delivered on behalf of Seller hereunder.

3.2 Authorization and Execution. This Agreement (and all documents contemplated hereby) has been duly authorized by all necessary action on the part of Seller, has been duly executed and delivered by Seller, constitutes the valid and binding agreement of Seller and is enforceable against Seller in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally or by the principles governing the availability of equitable remedies. The Person executing this Agreement on behalf of Seller, for and on behalf of Seller, has the authority to do so.

3.3 Non-contravention. Subject to any consent to the assignment of any particular Hotel Agreement required by the terms thereof or by applicable laws, Lender's approval of the Loan Assumption and final approval of the Loan Assumption Documents, and to the payment in full at Closing of any Monetary Encumbrances, the execution and delivery of, and the performance

by Seller of its obligations under, this Agreement do not and will not contravene, or constitute a default under, any provision of any Applicable Law or regulation, Seller's organizational documents or any agreement, judgment, injunction, order, decree or other instrument binding upon Seller or to which the Property is subject, or result in the creation of any lien or other encumbrance on any asset of Seller.

3.4 Litigation. There is no action, suit or proceeding, pending or known to be threatened, against or affecting any Seller in any court or before any arbitrator or before any Governmental Authority which would materially and adversely affect the ability of Seller to perform its obligations hereunder, or under any document to be delivered pursuant hereto.

3.5 Seller Is Not a "Foreign Person". Seller is not a "foreign person" or a "disregarded entity" within the meaning of Section 1445 of the Internal Revenue Code, as amended (i.e., Seller is not a foreign corporation, foreign partnership, foreign trust, foreign estate or foreign person as those terms are defined in the Internal Revenue code and regulations promulgated thereunder).

3.6 Labor and Employment Matters. There are no employees of the Hotel other than those employees who are employed by Manager with respect to the Hotel (collectively, the "Employees").

3.7 Insurance. All insurance policies held with respect to the Property by Seller are valid and in full force and effect.

3.8 Right to Purchase. Seller has not granted to any Person other than Purchaser, any right to purchase the Property or any portion thereof or interest therein.

3.9 Condemnation. There is no any pending or threatened condemnation or similar proceedings affecting the Property.

The representations and warranties in this Article III shall survive the Closing for a period of one (1) year following the Closing Date ("Survival Period"). Notwithstanding anything to the contrary contained in this Agreement, any claim that Purchaser may have during the Survival Period against Seller for any breach of the representations and warranties contained in this Article III will not be valid or effective, and Seller shall have no liability with respect thereto, unless the aggregate of all valid claims exceed \$50,000.00. Seller's liability for damages resulting from valid claims during the Survival Period shall in no event exceed two and one-half percent (2.5%) of the Purchase Price in the aggregate. Purchaser agrees that, with respect to any alleged breach of representations in this Agreement discovered after the Survival Period, the maximum liability of Seller for all such alleged breaches is limited to \$100. In the event Purchaser obtains actual knowledge on or before Closing of any material inaccuracy in any of the representations and warranties contained in this Article III, Purchaser may as Purchaser's sole and exclusive remedy either: (i) terminate this Agreement whereupon the Earnest Money less the Independent Contract Consideration shall be refunded to Purchaser, and neither party shall have any further rights or obligations pursuant to this Agreement, other than as set forth herein with respect to rights or obligations that survive termination; or (ii) waive any and all claims against Seller on account of such inaccuracy and close the transaction. In the event Purchaser obtains knowledge on or before the expiration of the Study Period of any inaccuracy in any of the representations and warranties contained in this Article III, and Purchaser does not terminate this Agreement on or before the expiration of the Study Period, Purchaser shall be deemed to have waived any and all claims against Seller on account of such inaccuracy (including the right to terminate this Agreement following the expiration of the Study Period). The provisions of this Article III shall survive the Closing.

ARTICLE IV PURCHASER'S REPRESENTATIONS AND WARRANTIES

In order to induce Seller to enter into this Agreement and to sell the Property, Purchaser hereby makes the following representations and warranties, each of which is made to Purchaser's knowledge:

4.1 Organization and Power. Purchaser is a corporation duly organized, validly existing and in good standing under the laws of the State of Maryland and has all requisite power and authority to enter into and perform its obligations under this Agreement and any document or instrument required to be executed and delivered on behalf of Purchaser hereunder.

4.2 Authorization and Execution. This Agreement has been duly authorized by all necessary action on the part of Purchaser, has been duly executed and delivered by Purchaser, constitutes the valid and binding agreement of Purchaser and is enforceable against Purchaser in accordance with its terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium or other similar laws affecting creditors' rights generally or by the principles governing the availability of equitable remedies. The Person executing this Agreement on behalf of Purchaser has the authority to do so.

4.3 Non-contravention. The execution and delivery of this Agreement and the performance by Purchaser of its obligations hereunder do not and will not contravene, or constitute a default under, any provisions of applicable law or regulation, Purchaser's organizational documents, or any agreement, judgment, injunction, order, decree or other instrument binding upon Purchaser or result in the creation of any lien or other encumbrance on any asset of Purchaser.

4.4 Litigation. There is no action, suit or proceeding, pending or known to be threatened, against or affecting Purchaser in any court or before any arbitrator or before any Governmental Authority which would materially and adversely affect the ability of Purchaser to perform its obligations hereunder, or under any document to be delivered pursuant hereto.

4.5 OFAC. Purchaser represents and warrants to Seller that neither Purchaser nor any affiliate of Purchaser is subject to sanctions of the United States government or in violation of any federal, state, municipal or local laws, statutes, codes, ordinances, orders, decrees, rules or regulations relating to terrorism or money laundering, including, without limitation, Executive Order No. 13224, 66 Fed. Reg. 49079 (published September 25, 2001) (the “Terrorism Executive Order”) or is similarly designated under any related enabling legislation or any other similar Executive Orders (collectively with the Terrorism Executive Order, the “Executive Orders”), the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56), any sanctions and regulations promulgated under authority granted by the Trading with the Enemy Act, 50 U.S.C. App. 1-44, as amended from time to time, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701-06, as amended from time to time, the Iraqi Sanctions Act, Publ. L. No. 101-513; United Nations Participation Act, 22 U.S.C. § 287c, as amended from time to time, the International Security and Development Cooperation Act, 22 U.S.C. § 2349 aa-9, as amended from time to time, The Cuban Democracy Act, 22 U.S.C. §§ 6001-10, as amended from time to time, The Cuban Liberty and Democratic Solidarity Act, 18 U.S.C. §§ 2332d and 2339b, as amended from time to time, and The Foreign Narcotics Kingpin Designation Act, Publ. L. No. 106-120, as amended from time to time.

4.6 AS IS, WHERE IS. PURCHASER EXPRESSLY ACKNOWLEDGES AND AGREES THAT, AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT, THE PROPERTY IS BEING SOLD TO PURCHASER AND PURCHASER AGREES TO PURCHASE AND ACCEPT THE PROPERTY, AND EACH AND EVERY PART AND COMPONENT THEREOF, IN AN “AS IS, WHERE IS” CONDITION AS OF THE CLOSING WITH NO REPRESENTATIONS OR WARRANTIES FROM SELLER, EITHER EXPRESS OR IMPLIED EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. PURCHASER AGREES THAT PURCHASER IS NOT RELYING UPON, AND HAS NOT RECEIVED OR BEEN GIVEN, ANY REPRESENTATIONS (EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT), STATEMENTS OR WARRANTIES (ORAL OR WRITTEN, IMPLIED OR EXPRESS) OF OR BY ANY OFFICER, EMPLOYEE, AGENT OR REPRESENTATIVE OF SELLER, OR ANY SALESPERSON OR BROKER (IF ANY) INVOLVED IN THIS TRANSACTION, AS TO THE PROPERTY OR ANY PART OR COMPONENT THEREOF IN ANY RESPECT, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATIONS, STATEMENTS OR WARRANTIES AS TO THE PHYSICAL OR ENVIRONMENTAL CONDITION OF THE PROPERTY, THE FITNESS OF THE PROPERTY FOR USE AS A HOTEL, THE FINANCIAL PERFORMANCE OR POTENTIAL OF THE PROPERTY, THE COMPLIANCE OF THE PROPERTY WITH APPLICABLE BUILDING, ZONING, SUBDIVISION, ENVIRONMENTAL, LIFE SAFETY OR LAND USE LAWS, CODES, ORDINANCES, RULES, ORDERS, OR REGULATIONS, OR THE STATE OF REPAIR OF THE PROPERTY, AND PURCHASER, FOR ITSELF AND ITS HEIRS, LEGAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS, WAIVES ANY RIGHT TO ASSERT ANY CLAIM OR DEMAND AGAINST SELLER AT LAW OR IN EQUITY RELATING TO ANY SUCH MATTER, WHETHER LATENT OR PATENT, DISCLOSED OR UNDISCLOSED, KNOWN OR UNKNOWN, NOW EXISTING OR HEREAFTER ARISING. EXCEPT FOR ANY TITLE OR SURVEY MATTERS CREATED SOLELY BY SELLER IN VIOLATION OF THIS AGREEMENT, PURCHASER AGREES THAT IT SHALL HAVE NO RECOURSE WHATSOEVER AGAINST SELLER, AT LAW OR IN EQUITY, SHOULD THE SURVEY OR THE TITLE INSURANCE COMMITMENTS OR THE TITLE POLICIES FAIL TO DISCLOSE ANY MATTER AFFECTING THE PROPERTY OR REVEAL ANY SUCH MATTER IN AN INACCURATE, MISLEADING OR INCOMPLETE FASHION OR OTHERWISE BE IN ERROR. PURCHASER ACKNOWLEDGES THAT IT SHALL REVIEW THE SURVEY AND THE TITLE INSURANCE COMMITMENTS (AS SAME MAY BE MARKED AT CLOSING) AND TO DISCUSS THEIR CONTENTS WITH THE INDEPENDENT CONTRACTORS WHO PREPARED OR ISSUED EACH OF THEM. PURCHASER ACCORDINGLY AGREES TO LOOK SOLELY TO THE PREPARER OF THE SURVEY AND THE ISSUER OF THE TITLE INSURANCE COMMITMENTS AND TITLE POLICIES FOR ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH SUCH INSTRUMENTS AND HEREBY RELEASES SELLER FROM ANY SUCH CLAIM (EXCEPT FOR ANY CLAIM THAT SELLER AGREES TO CURE AS SET FORTH IN THIS AGREEMENT).

Except with respect to those representations set forth in Article III, it is specifically understood and agreed by Seller and Purchaser that Seller does not make, and shall not be deemed to have made, any representation, warranty or covenant with respect to (i) any Environmental Laws that may affect any of the Property or (ii) the presence or absence of any Hazardous or Toxic Substances in, on, above, under or about any of the Property (“Environmental Conditions”). From and after Closing, Purchaser agrees for itself and for its heirs, successors and assigns, to waive all of its rights under this Agreement, if any, and any Environmental Laws to require Seller to remediate or “clean up” the Property and releases Seller from any liability of any kind or nature arising with respect to any Environmental Conditions at the Property.

It is understood and agreed by Seller and Purchaser that in the event of any conflict between the terms and provisions of this Section 4.5 and any other term or provision to this Agreement, the relevant term or provision of this Section 4.5 shall control and govern. The provisions of this Article IV shall survive Closing.

ARTICLE V CONDITIONS PRECEDENT

5.1 As to Purchaser's Obligations. Subject to the provisions of Section 8.1, Purchaser's obligations hereunder are subject to the timely satisfaction of the following conditions precedent on or before the Closing Date or such earlier date as is set forth below.

(a) Seller's Deliveries. The Seller shall have delivered to or for the benefit of Purchaser, on or before the Closing Date, all of the documents required of the Seller pursuant to Sections 7.2 and 7.4 hereof.

(b) Representations, Warranties and Covenants; Obligations of the Seller; Certificate. All of the Seller's representations and warranties made in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date as if then made; and the Seller shall have performed in all material respects all of its covenants and other obligations under this Agreement.

(c) Title. Title Company shall unconditionally be prepared to deliver to Purchaser Owner's Title Policy (subject to the premiums therefor and delivery of the documents specified in Section 7.2 below and Purchaser's authority documents).

(d) License Agreement. Licensor shall have approved of Purchaser or its designee as a franchisee of the Hotel and shall have entered into a new license agreement with Purchaser or shall have agreed with Purchaser on the terms of an assignment of the License Agreement.

(e) Litigation. There shall be no actions, suits, arbitrations, governmental investigations or other proceedings pending or, to Seller's Knowledge, threatened against Seller or affecting the Property before any court or governmental authority, an adverse determination of which might materially and adversely affect (a) the financial condition or operations of Seller or the Hotel, (b) Seller's ability to enter into or perform this Agreement or (c) Seller's title to the Property.

(f) REIT Audit. Purchaser shall have completed the REIT Audit as contemplated under Section 2.4(f).

Each of the conditions contained in this Section are intended for the benefit of the Purchaser and may be waived in whole or in part, by the Purchaser. If the conditions precedent set forth above are neither satisfied nor waived by Purchaser by the Closing Date, Purchaser shall have the right to terminate this Agreement, obtain a refund of the Earnest Money and Seller and Purchaser shall be released from all further liability or obligation hereunder except those which expressly survive the termination of this Agreement; provided however that if Seller is in default hereof at the time of such termination, Section 9.1 shall additionally apply.

5.2 As to Seller's Obligations. Subject to the provisions of Section 9.2, Seller's obligations hereunder are subject to the satisfaction of the following conditions precedent:

(a) Purchaser's Deliveries. Purchaser shall have delivered to or for the benefit of Seller, on or before the Closing Date, all of the documents and payments required of the Purchaser pursuant to Sections 7.3 and 7.4 hereof.

(b) Representations, Warranties and Covenants; Obligations of Purchaser; Certificate. All of Purchaser's representations and warranties made in this Agreement shall be true and correct in all material respects as of the date hereof and as of the Closing Date as if then made; and Purchaser shall have performed in all material respects all of its covenants and other obligations under this Agreement.

(c) License Agreement. The License Agreement between Seller and the Licensor shall have been either assigned to Purchaser or terminated and Purchaser shall bear the cost of, and hereby agrees to pay, any and all fees and expenses related thereto, if any. Seller, the Manager, if applicable, any guarantor, and each of their respective Affiliates, shall have been released from all future duties, liabilities and obligations under the License Agreement and any guarantee(s) thereof, in such form and to such an extent that Licensor customarily provides, if any.

(d) Loan Assumption. Purchaser shall have obtained written approval from Lender for the assumption of the Existing Financing by Purchaser. Seller shall have approved, in its reasonable discretion, the form of the Loan Assumption Documents, which shall include a release of Seller and all applicable guarantors, if any, from any and all liability under the Existing Financing.

Each of the conditions contained in this Section are intended for the benefit of Seller and may be waived in whole or in part, by Seller. If the conditions precedent set forth above are neither satisfied nor waived by Seller by the Closing Date, Seller shall have the right to terminate this Agreement, and Seller and Purchaser shall be released from all further liability or obligation hereunder except those which expressly survive the termination of this Agreement; provided however that if Purchaser is in default hereof at the time of such termination, Section 8.2 shall additionally apply.

ARTICLE VI
PRE-CLOSING (AND CERTAIN POST CLOSING)
COVENANTS OF SELLER AND PURCHASER

6.1 Operating Agreements/Occupancy Agreements/Leased Property Agreements/Off-Site Facility Agreements. Seller shall not enter into any new agreement affecting the Property (except to address an emergency), or modify any existing agreement affecting the Property (but may terminate any Service Contract that is in default), which will be binding on the Property after Closing, without first obtaining Purchaser's approval of the proposed action, which approval or disapproval shall be in Purchaser's sole discretion. Should Purchaser fail to notify Seller in writing of any objections to a new agreement within five (5) Business Days after receipt of Seller's written request for approval, then Purchaser shall be deemed to have approved such new agreement.

6.2 Warranties. The Seller shall not, before or after Closing, release or modify any Warranties and Guaranties, if any, except with the prior written consent of the Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed.

6.3 Insurance. The Seller shall pay, all premiums on, and shall not cancel or voluntarily allow to expire, any of the Seller's Insurance Policies unless such policy is replaced, without any lapse of coverage, by another policy or policies providing coverage at least as extensive as the policy or policies being replaced.

6.4 Operation of Property Prior to Closing. The Seller covenants and agrees with the Purchaser that, to the extent it is legally entitled to do so, between the date of this Agreement and the date of Closing:

(a) Subject to the restrictions contained herein, the Seller shall instruct the Manager to operate and maintain the Property in substantially the same manner in which it operated and maintained the Property prior to the execution of this Agreement and with the operations of other similarly situated hospitality properties of similar size and quality. Seller shall cause the Property to be maintained in its present order and condition, normal wear and tear excepted, so that the Property shall, except for normal wear and tear, be in substantially the same condition on the Closing Date as on the Effective Date.

(b) The Seller shall instruct the Manager to maintain its books of account and records in the usual, regular and ordinary manner, in accordance with accounting principles and applied on a basis, both consistent with that used in keeping its books in prior years.

(c) The Seller shall instruct the Manager to pay (subject to legal rights of appeal and protest) prior to delinquency all ad valorem, occupancy and sales taxes due and payable with respect to the Property or the operation of the Hotel.

(d) The Seller shall instruct the Manager to continue to take guest room reservations and to book functions and meetings and otherwise to promote the business of the Property in generally the same manner as it did prior to the execution of this Agreement; and all advance room bookings and reservations and all meetings and function bookings shall be booked at rates, prices and charges charged by the Seller for such purposes in the ordinary course of business consistent with past practices. The Seller acknowledges that the Purchase Price includes the transfer of Advance Bookings.

(e) The Seller shall not enter into any employment agreements with any Hotel employee which would be binding on the Purchaser with respect to the Property.

(f) The Seller shall promptly advise the Purchaser of any litigation, arbitration or administrative hearing concerning the Property of which the Seller obtains knowledge.

(g) The Seller shall instruct the Manager to refrain from removing or causing or permitting to be removed any material part or portion of the Real Property or the Tangible Personal Property owned by the Seller other than in the normal course of business without the prior written consent of the Purchaser, unless the same is replaced, prior to Closing, with similar items of at least equal suitability, quality and value, free and clear of any liens or security interests.

(h) The Seller shall cause Manager to keep the Inventory adequately stocked, consistent with the standards for hotel properties of similar size, quality and location as the Hotel and as otherwise set forth in the License Agreement, as if the sale of the Hotel were not to occur.

(i) Seller will not take or cause to be taken any action or fail to perform any obligation which would cause any of the representations or warranties contained in this Agreement to be untrue as of the Closing Date. Seller shall promptly notify Purchaser, in writing, of any event or condition known to Seller which occurs prior to the Closing Date hereunder, which causes a change in the facts relating to, or the truth of, any of the representations or warranties.

6.5 Hotel Employees. Seller acknowledges that Purchaser does not intend to hire or otherwise engage any of the Hotel Employees subsequent to the Closing.

6.6 Reasonable Inspection After Closing.

(a) After Closing, the Seller and Manager shall afford the Purchaser and its agents reasonable access to their books of account, financial and other records, information, employees and auditors to the extent such items and contact with such persons relate solely to the Property and to the extent necessary in connection with any audit or any other reasonable business purpose relating to the Property (other than litigation or investigation of any claim or action against the Seller or the Manager), including, but not limited to a 3-05 Audit or any other audit which may be required by the Securities Exchange Commission; provided that: (i) any such access by the Purchaser or its agents shall not unreasonably interfere with the conduct of the Seller's or the Manager's business; and (ii) Purchaser or its agents shall keep the information contained in such records confidential; provided, however, that any such information compiled in a report and distributed in accordance with Securities and Exchange Commission Regulation S-X and Rule 3-05 and/or Rule 3-14 shall not be prohibited.

(b) After Closing, the Purchaser shall afford the Seller and the Manager and their agents reasonable access to its books of account, financial and other records, information, employees and auditors to the extent such items and contact with such persons relate solely to the Property prior to the Closing and to the extent necessary in connection with any audit or any other reasonable business purpose relating to the Property (other than litigation or investigation of any claim or action against the Purchaser); provided that (i) any such access by the Seller, the Manager or their agents shall not unreasonably interfere with the conduct of the Purchaser's business; and (ii) the Seller, Manager or their agents shall keep the information contained in such records confidential. The provisions of this Section 6.6(a) and (b) shall survive the Closing.

6.7 Condition of Property. Except as otherwise provided herein, the Seller shall not, after the date of this Agreement, sell, mortgage, encumber, hypothecate or otherwise transfer or dispose of the Property or any interest therein, or subject the Property to any, covenants, conditions, restrictions, easements or other title matters or seek any zoning changes without the Purchaser's prior written consent, which consent shall be given or withheld in Purchaser's sole discretion.

6.8 Access to Financial Information. Purchaser's representatives shall have access to, and the Seller and Seller's Manager shall cooperate with Purchaser and furnish upon request, all financial and other information relating to the Property to the extent necessary to enable Purchaser's representatives to complete the REIT Audit and prepare audited financial statements in conformity with Regulation S-X of the Securities and Exchange Commission (the "SEC") and other applicable rules and regulations of the SEC and to enable them to prepare a registration statement, report or disclosure statement for filing with the SEC on behalf of Purchaser or its affiliates, whether before or after Closing and regardless of whether such information is included in the records to be transferred to Purchaser hereunder. Seller shall also provide to Purchaser's representative a signed representation letter in form and substance reasonably acceptable to Seller sufficient to enable an independent public accountant to render an opinion on the financial statements related to the Property. Seller shall maintain its records for use under this Section for a period of not less than one (1) year after the Closing Date. The provisions of this Section shall survive Closing or termination of this Agreement.

ARTICLE VII CLOSING

7.1 Closing. The Closing shall occur on the Closing Date; provided, however, in the event that Purchaser delivers to the Escrow Agent the sum of FIFTY THOUSAND AND NO/100 DOLLARS (\$50,000.00) (the "Extension Deposit") on or before the originally scheduled Closing Date, the Closing Date may be extended for an additional thirty (30) day period. As more particularly described below, at the Closing the parties hereto will (a) execute or cause to be executed (and acknowledged where appropriate) all of the documents required to be delivered in connection with the transactions contemplated hereby (the "Closing Documents"), (b) deliver or cause to be delivered the same to the Escrow Agent, and (c) take or cause to be taken all other action required to be taken in respect of the transactions contemplated hereby. The Closing will occur through escrow at the Title Company, or at any such other place as Seller and Purchaser may mutually agree. At the Closing, Purchaser shall deliver the balance of the Purchase Price to Escrow Agent as provided herein. As provided herein, the parties hereto will agree upon adjustments and prorations to certain items which cannot be exactly determined at the Closing and will make the appropriate adjustments with respect thereto. Possession of the Property shall be delivered to Purchaser at the Closing, subject to permitted title exceptions and guests in possession.

7.2 Seller's Deliveries. At the Closing, Seller shall deliver (or cause to be delivered) to the Escrow Agent all of the following instruments, each of which shall have been duly executed and, where applicable, acknowledged and/or sworn, on behalf of Seller, and shall be dated to be effective as of the Closing Date:

- (a) The Deed.
- (b) The Bill of Sale and General Assignment.
- (c) The Assignment and Assumption Agreement.

(d) A bills paid affidavit verifying that there are no unpaid bills or claims for labor performed or materials furnished to the Property prior to the Closing, and by which Seller indemnifies and holds Purchaser and Title Company harmless from any loss,

liability, cost or expense of Purchaser resulting from or incident to claims against the Property. Certificate(s)/Registration of Title for any vehicle owned by Seller and used in connection with the Property (if any).

- (e) The FIRPTA Certificate.
- (f) The “bring-down certificate” specified in Section 5.1(b).
- (g) The Loan Assumption Documents.
- (h) Any other document or instrument specifically required by this Agreement.

Seller shall also cause the Manager to deliver to Purchaser or make available to Purchaser at the Property:

- (i) all original Warranties, Guarantees, and Hotel Agreements to be assigned to and assumed by Purchaser and in Seller’s or the Manager’s possession,

7.3 Purchaser’s Deliveries. At the Closing, Purchaser shall deliver to Escrow Agent the following, duly executed and, where applicable, acknowledged and/or sworn on behalf of Purchaser, and dated as of the Closing Date:

- (a) The Assignment and Assumption Agreement.
- (b) The Bill of Sale and General Assignment.
- (c) The “bring-down certificate” specified in Section 5.2(b).
- (d) The Loan Assumption Documents.
- (e) Any other document or instrument specifically required by this Agreement.

- (f) At the Closing, Purchaser shall deliver to Escrow Agent the Purchase Price (less the Earnest Money and any interest thereon and the outstanding balance on the Existing Financing) as described in Section 2.2 hereof.

7.4 Mutual Deliveries. At the Closing, Purchaser and Seller shall mutually execute and deliver each to the other:

- (a) A closing statement reflecting the Purchase Price and the adjustments and prorations required hereunder and the allocation of income and expenses required hereby.

- (b) Subject to the provisions of Section 6.4 hereof, such other documents, instruments and undertakings as may be required by the liquor authorities of the State where the Property is located, or of any county or municipality or governmental entity having jurisdiction with respect to the transfer or issue of liquor licenses or alcoholic beverage licenses or permits for the Hotel, to the extent not theretofore executed and delivered.

- (c) Such other and further documents, papers and instruments as may be reasonably required by the parties hereto or their respective counsel or the Title Company to consummate the transactions contemplated by this Agreement and which are not inconsistent with the Agreement or the other Closing Documents.

7.5 Closing Costs. The Seller and Purchaser shall equally divide any escrow fee, recording fees or other expenses or similar charges charged by the Title Company and all transfer taxes. The Seller shall pay for the cost of the Title Commitment and for the premium for the basic Owner Title Policy. The Purchaser shall pay for the cost of any endorsements or other “extended coverage” to the Owner’s Title Policy, the cost of any survey obtained by Purchaser, and the cost of and any of all inspections or tests undertaken by Purchaser. Purchaser shall pay the Loan Assumption Fee and all costs associated with the assignment of the License Agreement (or issuance of a new License Agreement), including, without limitation, all application fees, inspection fees, transfer fees, and all expenses of Licensors, including, without limitation, legal fees and expenses, incurred in connection therewith, provided, however, that Seller shall pay all fees, costs and expenses under the License Agreement which have accrued prior to the Closing. Unless the payment of any other cost is specifically provided for in this Agreement, all other costs shall be apportioned between the parties by the Title Company in the manner customary in the location of the Hotel, for properties of a similar nature. Except as otherwise provided in Section 9.3, each party shall be responsible for the payment of its own attorney’s fees incurred in connection with transaction which is the subject of this Agreement.

7.6 Revenue and Expense Allocations. All revenues and expenses with respect to the Property, and applicable to the period of time before and after Closing, determined in accordance with sound accounting principles consistently applied, shall be allocated between Seller and Purchaser as provided herein. Seller shall be entitled to all revenue and shall be responsible for all expenses for the period of time up to but not including the Closing Date, and Purchaser shall be entitled to all revenue and shall be responsible for all expenses for the period of time from, after and including the Closing Date provided that the housekeeping costs and the Final Rooms Revenue for the Closing Date shall be shared equally between Seller and Purchaser. Such adjustments shall be shown on the closing statement (with such supporting documentation as the parties hereto may reasonably require being attached

as exhibits to the closing statements) and shall increase or decrease (as the case may be) the cash amount payable by Purchaser pursuant to Section 2.2 hereof. All prorations shall be made on the basis of the actual number of days in the year and month in which the Closing occurs or in the period of computation. Without limiting the generality of the foregoing, the following items of revenue and expense shall be allocated and prorated at Closing:

- (a) Current rents.
- (b) Real estate and personal property taxes (with maximum allowable discounts for early or prompt payment).
- (c) Revenue and expenses under the Operating Agreements, Leased Property Agreements and Off-Site Facility Agreements to be assigned to and assumed by Purchaser.
- (d) Utility charges (including, but not limited to, charges for phone service, cable television, gas, water, sewer and electricity).
- (e) Municipal or other governmental improvement liens and special assessments, which shall be paid by Seller at Closing where the work has been assessed, and which shall be assumed by Purchaser at Closing where the work has not been assessed; provided, however, that if such liens or assessments are payable in installments, Seller shall be responsible for the payment of such installments relating to periods prior to the Closing Date and Purchaser shall be responsible for the payments of such installments relating to periods on and subsequent to the Closing Date.
- (f) License and permit fees, where transferable.
- (g) All other revenues and expenses of the Property, including, but not limited to, such things as restaurant, bar and meeting room income and expenses and the like.
- (h) The Final Rooms Revenue and housekeeping costs for the Closing Date (to be apportioned equally between Seller and Purchaser).
- (h) Insurance premiums.
- (i) Such other items as are usually and customarily prorated between purchasers and sellers of hotel properties in the area where the Property is located.

7.7 The Seller shall receive a credit for any prepaid expenses accruing to periods on or after the Closing Date. The Purchaser shall receive a credit against the Purchase Price for the total of (a) prepaid rents, (b) prepaid room receipts and deposits, function receipts and deposits and other reservation receipts and deposits, and (c) unforfeited security deposits together with any interest payable to a tenant thereon held by the Seller under Occupancy Agreements. At 11:59 p.m. the day prior to Closing, Seller shall check-out those hotel guests who are in occupancy at the Hotel, so as to directly bill and collect all revenues generated prior to the Closing Date, and then immediately check those hotel guests back into the Hotel so they can be included in the Final Rooms Revenue for the Closing Date. At Closing, the Seller shall sell to the Purchaser in connection with the Hotel, and Purchaser shall purchase from the Seller at face value all petty cash funds in connection with the hotel guest operations at the Property, which shall be an amount equal to the total of all petty cash funds on hand and transferred to the Purchaser. In addition, the Seller shall provide a credit to the Purchaser in an amount equal to one-half (1/2) of the Final Rooms Revenue from the night prior to the Closing Date. The procedure and method of making the proration adjustments set forth in this Section 7.6 is attached to this Agreement as Exhibit C.

7.8 The Purchaser shall receive a credit for all retail sales (as distinguished from any tax on the sale of any personal property effected pursuant to this Agreement), occupancy and liquor taxes and like impositions up to but not including the date of Closing. Any such taxes applicable to the Final Rooms Revenue shall be apportioned equally between the Seller and the Purchaser. The Seller shall cooperate reasonably with the Purchaser to permit the Purchaser to obtain, if desired by the Purchaser, sale and occupancy tax clearance certificates from the State in which the Real Property is located.

7.9 It is anticipated that all employees of the Hotel will remain employed by the Manager (or its affiliate) any payroll costs will for such employees will be prorated at Closing.

7.10 If accurate allocations cannot be made at Closing because current bills are not obtainable (as, for example, in the case of utility bills and/or real estate or personal property taxes), the parties shall allocate such revenue or expenses at Closing on the best available information, subject to adjustment upon receipt of the final bill or other evidence of the applicable revenue or expense. The obligation to make the adjustment shall survive the Closing of the transaction contemplated by this Agreement. Any revenue received or expense incurred by the Seller or by the Purchaser with respect to the Property after the date of Closing shall be promptly allocated in the manner described herein and the parties shall promptly pay or reimburse any amount due. With respect to any closing statements amounts or issues relating to prorations that are not agreed upon at Closing, the Seller and the Purchaser shall thereafter work in good faith to resolve such amounts or issues; provided that if such amounts or issues are not fully agreed

upon and paid within one hundred twenty (120) days after the Closing, then, in such event, such amounts or issues shall be submitted to an independent certified public accountant with a hospitality practice (reasonably acceptable to the Seller and the Purchaser) for final resolution, and the Seller and the Purchaser agree to be bound by the determination of such accountant. The costs and expenses incurred in connection with the services of such accountant shall be borne equally by the Seller and the Purchaser. The provisions of this Section 7.6 shall survive the Closing.

7.11 Safe Deposit Boxes. On the Closing Date, Seller shall cause the Manager to make available to Purchaser at the Hotel all receipts and agreements in the Manager's possession relating to all safe deposit boxes in use at the Hotel, other than safes or lockboxes, if any, located inside individual guest rooms in Hotel. During the Study Period, Seller and Purchaser shall mutually agree upon a procedure to provide notice to each Hotel guest utilizing a safe deposit box on the Closing Date about the sale of the Property and to cause each such Hotel guest to adhere to the procedure set forth in the notice so that a proper inventory can be prepared and an orderly transition made. From and after the Closing, Seller and the Manager shall be relieved of any and all responsibility in connection with each said box, and Purchaser shall indemnify, defend and hold Seller and the Manager and harmless from and against any claim, liability, cost or expense (including reasonable attorneys' fees) with respect to such safety deposit box arising after the Closing. Seller hereby agrees to hold Purchaser harmless from any other liability or claims with respect to such safe deposit boxes arising prior to the Closing Date. The provisions of this Section 6.7 shall survive the Closing.

7.12 Inventory of Baggage. The representatives of Seller and/or the Manager, and of Purchaser shall prepare an inventory of baggage at the Hotel as of 12:00 noon on the Closing Date (which inventory of baggage shall be binding on all parties thereto) of (a) all luggage, valises and trunks checked or left in the care of the Hotel by guests then or formerly in the Hotel, (b) parcels, laundry, valet packages and other property of guests checked or left in the care of the Hotel by guests then or formerly in the Hotel (excluding, however, property in Hotel safe deposit boxes), (c) all luggage or other property of guests retained by Seller as security for any unpaid accounts receivable, and (d) all items contained in the Hotel lost and found. Purchaser shall be responsible from and after the Closing Date for all baggage and other items listed in such inventory of baggage, and Purchaser shall indemnify, defend and hold Seller and the Manager harmless from and against any claim liability, cost or expense (including reasonable attorneys' fees) incurred by Seller or the Manager or any Affiliate thereof with respect thereto arising after the Closing Date. Seller hereby agrees to hold Purchaser harmless from any other liability or claims with respect to such inventory of baggage arising prior to the Closing Date. The provisions of this Section 6.8 shall survive the Closing.

7.13 Accounts Receivable. It is expressly agreed by and between Purchaser and Seller that Seller is not hereby agreeing to sell to Purchaser, and Purchaser is not hereby agreeing to purchase from Seller, any of Seller's accounts receivable. All of Seller's accounts receivable shall be and remain the property of Seller. At the Closing, Seller shall prepare a list of its outstanding accounts receivable as of midnight on the date prior to the Closing, specifying the name of each account and the amount due to Seller. Purchaser shall hold any funds received by Purchaser explicitly designated as payment of such accounts receivable, in trust, if Purchaser actually collects any such amounts, and shall pay the monies collected in respect thereof to Seller at the end of each calendar month, accompanied by a statement showing the amount collected on each such account. Other than the foregoing, Purchaser shall have no obligation with respect to any such account, and Purchaser shall not be required to take any legal proceeding or action to effect collection on behalf of Seller. It is generally the intention of Purchaser and Seller that although all of Seller's accounts receivable shall be and remain the property of Seller, if any such accounts are paid to Purchaser, then Purchaser shall collect same and remit to Seller in the manner above provided. Nothing herein contained shall be construed as requiring Purchaser to remit to Seller any funds collected by Purchaser on account of Purchaser's accounts receivable generated from Hotel operations after the Closing, even if the person or entity paying same is also indebted to Seller.

7.14 Accounts Payable. Purchaser shall receive a credit for any and all accounts payable owed by Seller in connection with the Property as of the Closing Date.

ARTICLE VIII GENERAL PROVISIONS

8.1 Fire or Other Casualty. Seller agrees to give Purchaser prompt notice of any fire or other casualty to the Property costing more than One Hundred Thousand Dollars (\$100,000.00) to repair and occurring between the Effective Date and the Closing Date of which Seller has knowledge. If, prior to Closing, the Property is damaged by fire or other casualty which is fully insured (without regard to deductibles) and would cost less than Five Hundred Thousand Dollars (\$500,000.00) and require less than 180 days to repair, then neither party shall have the right to terminate this Agreement by reason thereof and the Closing shall take place without abatement of the Purchase Price, but Seller shall assign to Purchaser at the Closing all of Seller's interest in any insurance proceeds (except use and occupancy insurance, rent loss and business interruption insurance, and any similar insurance, attributable to the period preceding the Closing Date) that may be payable to Seller on account of any such fire or other casualty, to the extent such proceeds have not been previously expended or are otherwise required to reimburse Seller for actual expenditures of restoration made prior to the Closing Date, plus Seller shall credit the amount of any deductibles under any policies related to such proceeds to the Purchase Price together with any amount not covered by insurance. If any such damage due to fire or other casualty is insured and would cost in excess of Five Hundred Thousand Dollars (\$500,000.00) or require more than 180 days to repair, then Purchaser may terminate this Agreement by written notice given to Seller within ten (10) days after Seller has given Purchaser the notice of

damage or casualty referred to in this Section 7.1, or on the Closing Date, whichever is earlier, in which case the parties hereto shall be released of all further obligations hereunder with respect to the Property except those which expressly survive a termination of this Agreement. Should Purchaser elect to proceed to Closing notwithstanding the amount of the insured loss or the time required for repairs, the Closing shall take place without abatement of the Purchase Price and at Closing Seller shall assign to Purchaser the insurance proceeds and grant to Purchaser a credit against the Purchase Price equal to the amount of the applicable deductible plus any amount not covered by insurance. If, prior to Closing, any Property is damaged by fire or casualty which is uninsured and would cost Five Hundred Thousand Dollars (\$500,000.00) or more to repair, then Purchaser may terminate this Agreement by written notice given to Seller within ten (10) days after Seller has given Purchaser the notice of damage or casualty or on the Closing Date, whichever is earlier, in which case the parties hereto shall be released of all further obligations hereunder, except those which expressly survive a termination of this Agreement. If Purchaser does not elect to terminate its obligations under this Agreement pursuant to the immediately preceding sentence, or if any uninsured fire or casualty would cost less than Five Hundred Thousand Dollars (\$500,000.00) to repair, then the Closing shall take place as provided herein, and the Purchase Price shall be reduced by the estimated amount to repair such casualty, not to exceed Five Hundred Thousand Dollars (\$500,000.00).

8.2 Condemnation. After the Effective Date, Seller agrees to give Purchaser prompt written notice of any knowledge of or notice of any taking by condemnation of any part of or rights appurtenant to the Real Property. If taking will materially interfere with the operation or use of any Hotel which constitutes a part of such Real Property, Purchaser may terminate this Agreement by written notice to Seller within ten (10) days after Seller has given Purchaser the notice of taking referred to in this Section 7.2, or on the Closing Date, whichever is earlier. If Purchaser exercises its option to terminate its obligations to purchase the Property pursuant to this Section 7.2, the parties hereto shall be released from all further obligations hereunder with respect to the Property, except those which expressly survive a termination of the Agreement. If Purchaser does not so elect to terminate this Agreement, then the Closing shall take place as provided herein, and Seller shall assign to Purchaser at the Closing all of Seller's interest in any condemnation award which may be payable to Seller on account of any such condemnation and, at Closing, Seller shall credit to the amount of the Purchase Price payable by Purchaser the amount, if any, of condemnation proceeds received by Seller between the Effective Date and Closing less (a) any amounts reasonably expended by Seller in collecting such sums and (b) any amounts reasonably used by Seller to repair the Property as a result of such condemnation. If, prior to Closing, there shall occur a taking by condemnation of any part of or rights appurtenant to the Property that does not materially interfere with the operation or use of the Hotel which constitutes a part of the Property, Purchaser shall not have the right to terminate this Agreement by reason thereof and the Closing shall take place without abatement of the Purchase Price, but Seller shall assign to Purchaser at Closing all of Seller's interest in any condemnation award which may be payable to Seller on account of any such condemnation and, at Closing, Seller shall credit to the amount of the Purchase Price payable by Purchaser the amount, if any, of condemnation proceeds received by Seller between the Effective Date and Closing less (a) any amounts reasonably expended by Seller in collecting such sums and (b) any amounts reasonably used by Seller to repair the Property as a result of such condemnation. Provided Purchaser has not exercised its right to terminate this Agreement pursuant to Section 7.2, Seller shall notify Purchaser in advance regarding any proceeding or negotiation with respect to the condemnation and Purchaser shall have a reasonable right, at its own cost and expense, to appear and participate in any such proceeding or negotiation. For purposes of Sections 7.1 and 7.2 if this Agreement, estimates of costs and time required for restoration or repair shall be made by an architect or engineer, as appropriate, designated by Seller and reasonably acceptable to Purchaser.

8.3 Broker. Seller and Purchaser each represent and warrant to the other that they have not employed any real estate sales representatives or brokers regarding the transaction contemplated by this Agreement. Seller shall indemnify, defend and hold Purchaser harmless from any commission or fee claimed to be owing due to the acts of Seller. Purchaser shall indemnify, defend and hold Seller harmless from any commission or fee claimed to be owing due to the acts of Purchaser. This section relates solely to the transaction contemplated by this Agreement between Seller and Purchaser and shall not create any third party right or obligation in favor of either or any broker. The provisions of this Section 8.3 shall survive the Closing and any termination of this Agreement.

ARTICLE IX DEFAULT; TERMINATION RIGHTS

9.1 Default by Seller. If any condition set forth herein for the benefit of Purchaser cannot or will not be satisfied prior to Closing, or upon the occurrence of any other event that would entitle Purchaser to terminate this Agreement and its obligations hereunder, and if Seller fails to cure any such matter or satisfy such condition by the earlier of the Closing Date or ten (10) days after notice thereof from Purchaser (or such other time periods as may be explicitly provided for herein), unless otherwise provided for in this Agreement, Purchaser, as its sole and exclusive remedy shall elect either (a) to terminate this Agreement, in which event all other rights and obligations of Seller and Purchaser hereunder (except those set forth herein which expressly survive a termination of this Agreement) shall terminate immediately; or (b) to waive such matter or condition and proceed to Closing, with no reduction in the Purchase Price. In the event of such termination, the Earnest Money shall be refunded by the Escrow Agent to Purchaser. Notwithstanding the preceding sentence, if, at Closing, Seller fails to comply in any material respect with any of its obligations contained in Section 6.2 or Section 6.4 (the "Closing Obligations"), and if all conditions precedent to Seller's obligations hereunder have been satisfied and Purchaser has fully performed all of its obligations under the Agreement, Purchaser shall have, in addition

to Purchaser's remedies contained in the preceding sentence, the option to waive all other actions, rights, or claims for damages for such failure, other than costs and expenses incurred in enforcing this Agreement, and to bring an equitable action to enforce the Closing Obligations by specific performance; provided, (a) Purchaser shall provide written notice of Purchaser's intention to enforce the Closing Obligations by specific performance, and (b) Purchaser's suit for specific performance shall be filed against Seller in a court having jurisdiction in the county and state in which the Property is located, on or before sixty (60) days following the Closing Date, failing which, Purchaser shall be barred from enforcing the Closing Obligations by specific performance and shall be deemed to have elected to terminate this Agreement as provided herein. In the event that a court prohibits specific performance or if Seller intentionally refuses to close such transaction, Purchaser may pursue a claim for monetary damages in an amount not to exceed Purchaser's actual and verifiable expenses in connection with this transaction.

9.2 Default by Purchaser. If the sale contemplated hereby is not consummated because of a default by Purchaser in its obligation to purchase the Property in accordance with this Agreement after Seller has performed or tendered performance of all of its material obligations in accordance with this Agreement, unless otherwise provided for in this Agreement, Seller, as its sole and exclusive remedy, shall be permitted to terminate this Agreement in which event the parties hereto shall be released from all further obligations hereunder except those which expressly survive a termination of this Agreement. In the event of such termination, Seller shall be entitled to receive the Earnest Money from the Escrow Agent as liquidated damages and not as penalty, in full satisfaction of its claims against Purchaser hereunder. SELLER AND PURCHASER AGREE THAT SELLER'S DAMAGES RESULTING FROM PURCHASER'S DEFAULT ARE DIFFICULT, IF NOT IMPOSSIBLE, TO DETERMINE AND THE EARNEST MONEY IS A FAIR ESTIMATE OF THOSE DAMAGES WHICH HAS BEEN AGREED TO IN AN EFFORT TO CAUSE THE AMOUNT OF SAID DAMAGES TO BE CERTAIN.

9.3 Costs and Attorneys' Fees. In the event of any litigation or dispute between the parties arising out of or in any way connected with this Agreement, resulting in any litigation, then the prevailing party in such shall be entitled to recover its costs of prosecuting and/or defending same, including, without limitation, reasonable attorneys' fees at trial and all appellate levels. The provisions of this Section 8.3 shall survive the termination of this Agreement.

9.4 Limitation of Liability. Notwithstanding anything herein to the contrary, the liability of each party hereto resulting from the breach or default by such party shall be limited to direct actual damages incurred by the injured party and each party hereto hereby waives its rights to recover from the other party consequential, punitive, exemplary, and speculative damages. The provisions of this Section 9.4 shall survive the termination of this Agreement.

ARTICLE X MISCELLANEOUS PROVISIONS

10.1 Completeness; Modification. This Agreement constitutes the entire agreement between the parties hereto with respect to the transactions contemplated hereby and supersedes all prior discussions, understandings, agreements and negotiations between the parties hereto. This Agreement may be modified only by a written instrument duly executed by the parties hereto.

10.2 Successors and Assigns. This Agreement shall bind and inure to the benefit of the parties hereto and their permitted respective successors and assigns.

10.3 Days. If any action is required to be performed, or if any notice, consent or other communication is given, on a day that is a Saturday or Sunday or a legal holiday in the jurisdiction in which the action is required to be performed or in which is located the intended recipient of such notice, consent or other communication, such performance shall be deemed to be required, and such notice, consent or other communication shall be deemed to be given, on the first business day following such Saturday, Sunday or legal holiday. Unless otherwise specified herein, all references herein to a "day" or "days" shall refer to calendar days and not business days.

10.4 Governing Law. This Agreement and all documents referred to herein shall be governed by and construed and interpreted in accordance with the laws of the state in which the Property is located without regard to its principle of conflicts of law.

10.5 Counterparts. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of both parties hereto appear on each counterpart hereof. All counterparts hereto shall collectively constitute a single agreement. Telecopied signatures shall have the same valid and binding effect as original signatures.

10.6 Severability. If any term, covenant or condition of this Agreement, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant or condition to other persons or circumstances, shall not be affected thereby, and each term, covenant or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

10.7 Costs. Regardless of whether Closing occurs hereunder, and except as otherwise expressly provided herein, each party hereto shall be responsible for its own costs in connection with this Agreement and the transactions contemplated hereby, including, without limitation, fees of attorneys, engineers and accountants.

10.8 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be delivered by hand, sent prepaid for next-day delivery by Federal Express (or a comparable overnight delivery service) or sent by the United States mail, certified, postage prepaid, return receipt requested, at the addresses and with such copies as designated below. Any notice, request, demand or other communication delivered or sent in the manner aforesaid may be given by the party required to give such notice, etc., or its attorney, and shall be deemed given or made (as the case may be) when actually delivered to or refused by the intended recipient.

If to Seller:

RI II MC-HOU, LLC
6363 Woodway, Suite 110
Houston, Texas 77057
Attn: Alex Sims
Telephone: (713) 977-7500
Facsimile: (713) 977-7505
asims@moodynational.com

If to Purchaser:

Moody National REIT II, Inc.
6363 Woodway, Suite 110
Houston, Texas 77057
Attn: Mary Smith
Telephone: (713) 977-7500
Facsimile: (713) 977-7505
msmith@moodynational.com

If to Escrow Agent:

Moody National Title Company, L. P.
6363 Woodway, Suite 250
Houston, Texas 77057
Telephone: (713)977-1700 (Main)
(713)273-6680 (Direct)
Facsimile: (713)977-0117(Fax)

or to such other address as the intended recipient may have specified in a notice to the other party. Any party hereto may change its address or designate different or other persons or entities to receive copies by notifying the other party and Escrow Agent in a manner described in this Section.

10.9 Escrow Agent. Escrow Agent has agreed to act as such for the convenience of the parties without fee or other charges for such services as Escrow Agent. Escrow Agent shall not be liable: (a) to any of the parties for any act or omission to act except for its own willful misconduct; (b) for any legal effect, insufficiency, or undesirability or any instrument deposited with or delivered by Escrow Agent or exchanged by the parties hereunder, whether or not Escrow Agent prepared such instrument; (c) for any loss or impairment of funds that have been deposited in escrow while those funds are in the course of collection, or while those funds are on deposit in a financial institution, if such loss or impairment results from the failure, insolvency or suspension of a financial institution; (d) for the expiration of any time limit or other consequences of delay, unless a properly executed written instruction, accepted by Escrow Agent, has instructed Escrow Agent to comply with said time limit; (e) for the default, error, action or omission of either party to the escrow. Escrow Agent, in its capacity as escrow agent, shall be entitled to rely on any document or paper received by it, believed by such Escrow Agent, in good faith, to be bona fide and genuine. In the event of any dispute as to the disposition of any monies held in escrow, or of any documents held in escrow, Escrow Agent may, if such Escrow Agent so elects, interplead the matter by filing an interpleader action in a court of competent jurisdiction in the county or circuit where the Real Property is located (to the jurisdiction of which both parties do hereby consent), and pay into the registry of the court such monies held by Escrow Agent, or deposit any such documents with respect to which there is a dispute in the registry of such court, whereupon such Escrow Agent shall be relieved and released from any further liability as Escrow Agent hereunder. Escrow Agent shall not be liable for Escrow Agent's compliance with any legal process, subpoena, writ, order, judgment and decree of any court, whether issued with or without jurisdiction, and whether or not subsequently vacated, modified, set aside or reversed.

10.10 Incorporation by Reference. All of the exhibits and schedules attached hereto are by this reference incorporated and made a part hereof.

10.11 Further Assurances. Seller and Purchaser each covenant and agree to sign, execute and deliver, or cause to be signed, executed and delivered, and to do or make, or cause to be done or made, upon the written request of the other party, any and all agreements, instruments, papers, deeds, acts or things, supplemental, confirmatory or otherwise, as may be reasonably required by either party hereto for the purpose of or in connection with consummating the transactions described herein provided that compliance with the provision of this Section shall not increase the liability of the complying party.

10.12 No Partnership. This Agreement does not and shall not be construed to create a partnership, joint venture or any other relationship between the parties hereto except the relationship of seller and purchaser specifically established hereby.

10.13 Time of Essence. Time is of the essence with respect to every provision hereof.

10.14 Signatory Exculpation. The signatory(ies) for Seller and Purchaser is/are executing this Agreement in his/their capacity as representative of such party and not individually and, therefore, shall have no personal or individual liability of any kind in connection with this Agreement and the transactions contemplated by it.

10.15 Rules of Construction. The following rules shall apply to the construction and interpretation of this Agreement:

(a) Singular words shall connote the plural number as well as the singular and vice versa, and the masculine shall include the feminine and the neuter.

(b) All references herein to particular articles, sections, subsections, clauses or exhibits are references to articles, sections, subsections, clauses or exhibits of this Agreement.

(c) The headings contained herein are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

(d) Each party hereto and its counsel have reviewed and revised (or requested revisions of) this Agreement and have participated in the preparation of this Agreement, and therefore any usual rules of construction requiring that ambiguities are to be resolved against a particular party shall not be applicable in the construction and interpretation of this Agreement or any exhibits hereto.

10.16 No Recording. Neither this Agreement nor any memorandum hereof, or any other instrument intended to give notice hereof (or which actually gives notice hereof) shall be recorded.

10.17 Facsimile Signatures. The execution of this Agreement and all notices given hereunder and all amendments hereto, may be effected by facsimile signatures, all of which shall be treated as originals; provided, however, that the party receiving a document with a facsimile signature may, by notice to the other, require the prompt delivery of an original signature to evidence and confirm the delivery of the facsimile signature.

10.18 Assignment by Purchaser. Other than to an Affiliate of Purchaser, Purchaser may not assign its rights hereunder without the prior consent of Seller; however, any such assignment (including one to Purchaser's Affiliate) shall not relieve Purchaser of its pre-Closing obligations under this Agreement.

10.19 Waiver. The excuse or waiver of the performance by a party of any obligation of the other party under this Agreement shall only be effective if evidenced by a written statement signed by the party so excusing or waiving. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by Seller or Purchaser of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

10.20 Section 1031 Exchange. Either party may consummate the purchase or sale of the Property as part of a so-called like kind exchange (an "Exchange") pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended (the "Code"), provided that (i) the Closing shall not be delayed or affected by reason of an Exchange nor shall the consummation or accomplishment of any Exchange be a condition precedent or condition subsequent to a party's obligations under this Agreement; (ii) any party desiring an Exchange shall effect its Exchange through an assignment of this Agreement, or its rights under this Agreement, to a qualified intermediary and the other party shall not be required to take an assignment of the purchase agreement for the relinquished or replacement property or be required to acquire or hold title to any real property for purposes of consummating such Exchange; and (iii) the party desiring an Exchange shall be responsible for all costs and expenses, including reasonable attorney's fees, that would not otherwise have been incurred by Purchaser or Seller had such party not consummated its purchase or sale through an Exchange. Neither party shall by this agreement or acquiescence to an Exchange desired by the other party (1) have its rights under this Agreement affected or diminished in any manner or (2) be responsible for compliance with or be deemed to have warranted to the other party that such party's Exchange in fact complies with Section 1031 of the Code. In connection with such cooperation, Seller agrees, upon request of Purchaser to "direct deed" for actual interests in the property to designees of Purchaser.

10.21 Public Announcements. Except as otherwise expressly provided herein, neither Seller nor Purchaser shall make any public statement or issue any press release prior to the Closing with respect to this Agreement or the transactions contemplated hereby without the prior written consent of the other party. Seller hereby expressly acknowledges that Purchaser is a wholly-owned subsidiary of a publicly-traded company and that Seller is aware and will advise its owners, employees and agents that federal and state securities laws prohibit any person who has material, non-public information about a company from purchasing or selling securities of such a company or from communicating such information to any other person under circumstances in which it is reasonably foreseeable that such person is likely to purchase or sell such securities. Seller further agrees that Purchaser shall have the right to disclose the fact that it is contemplating the purchase of the Property and such other details of the transaction to the extent Purchaser reasonably deems necessary to comply with applicable federal or state securities laws, rules or regulations.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, Seller and Purchaser have caused this Agreement to be executed in their names by their respective duly authorized representatives.

SELLER:

RI II MC-HOU, LLC,
a Delaware limited liability company

By: /s/ Brett C. Moody
Brett C. Moody, President

PURCHASER:

MOODY NATIONAL REIT II, INC.,
a Maryland corporation

By: /s/ Brett C. Moody
Brett C. Moody, President

RECEIPT OF THIS AGREEMENT IS ACKNOWLEDGED BY MOODY NATIONAL TITLE COMPANY, L.P.,
EFFECTIVE AS OF MARCH _____, 2019.

MOODY NATIONAL TITLE COMPANY, L.P.

By: _____
Name: _____
Title: _____

EXHIBIT A
LEGAL DESCRIPTION

FORM OF SPECIAL WARRANTY DEED

SPECIAL WARRANTY DEED

EXHIBIT "B"

EXECUTED to be effective the _____ day of _____, 2019.

GRANTOR:

RI II MC-HOU, LLC,
a Delaware limited liability company

By: _____
Brett C. Moody, President

(Corporate Acknowledgment)

STATE OF TEXAS §
 §
COUNTY OF _____ §

This instrument was acknowledge before me on this ____ day of _____, 2019, by Brett C. Mood, President of RI II MC-HOU, LLC, a Delaware limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas
Notary's Printed
Name: _____
Commission expires: _____

EXHIBIT C

PROCEDURE AND METHOD OF PRORATION AND OTHER ADJUSTMENTS

Prior to the Closing, Seller and Purchaser shall jointly prepare a proposed closing statement containing the parties' reasonable estimate of the items requiring proration and adjustment under Section 7.6 and other applicable Sections of this Agreement. Subsequent to the Closing, final adjustments and resulting payments between the parties ("true-ups") shall be made in cash or immediately available funds as soon as practical, but not later than one hundred twenty (120) days following the Closing Date.

EXHIBIT D

FORM OF BILL OF SALE

BILL OF SALE AND GENERAL ASSIGNMENT

THIS BILL OF SALE AND GENERAL ASSIGNMENT (this "Bill of Sale") is made as of _____, 2019, by and between **RI II MC-HOU, LLC**, a Delaware limited liability company ("Assignor") and _____ ("Assignee").

WHEREAS, Assignor and Assignee are parties to that certain Agreement of Purchase and Sale dated as of _____, 2019, ("Agreement") for the sale of the land and the improvements as more particularly described in the Agreement as the Residence Inn by Marriott Houston Medical Center/ NRG Park ("Property") and the related personal property. Capitalized terms used, but not defined herein, shall have the meaning ascribed to such term in the Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties agree as follows:

1. Seller has GRANTED, CONVEYED, SOLD, TRANSFERRED, SET-OVER, and DELIVERED, and by these presents does hereby GRANT, CONVEY, SELL, TRANSFER, SET-OVER, and DELIVER unto Assignee, all of its right, title and interest (if any), all items personal property of every kind and nature located on, attached to or used in the operation of the Property, including, but not limited to, Seller's rights and interest, in, to: (a) all Tangible Personal Property; (b) all Intangible Personal Property; (c) Warranties and Guaranties; and (d) Advanced Bookings.

2. This Bill of Sale and the provisions herein contained shall be binding upon and inure to the benefit of Assignee and Seller and their respective successors and assigns.

3. This Bill of Sale may be executed in several counterparts and all counterparts so executed shall constitute one Assignment, binding on all the parties hereto and thereto, notwithstanding that all the parties are not signatories to the same counterpart.

THE PERSONAL PROPERTY IS BEING SOLD TO ASSIGNEE IN AN "AS IS, WHERE IS" CONDITION AS OF THE CLOSING WITH NO REPRESENTATIONS OR WARRANTIES FROM SELLER, EITHER EXPRESS OR IMPLIED.

[Signature page follows.]

IN WITNESS WHEREOF, Assignor has executed and delivered this Bill of Sale the day and year first above written.

ASSIGNOR:

RI II MC-HOU, LLC,
a Delaware limited liability company

By: _____
Brett C. Moody, President

EXHIBIT E

FORM OF ASSIGNMENT AND ASSUMPTION

ASSIGNMENT AND ASSUMPTION OF AGREEMENTS

THIS ASSIGNMENT AND ASSUMPTION OF AGREEMENTS (this "Assignment") is made as of _____, 2019 (the "Effective Date"), by and between **RI II MC-HOU, LLC**, a Delaware limited liability company ("Seller") and _____ ("Purchaser").

WHEREAS, Seller and Purchaser are parties to that certain Agreement of Purchase and Sale dated as of _____, 2019, ("Agreement") for the sale of the land and the improvements known as the Residence Inn by Marriott Houston Medical Center/ NRG Park as more particularly described in the Agreement ("Property") and the related personal property. Capitalized terms used, but not defined herein, shall have the meaning ascribed to such term in the Agreement.

WHEREAS, in connection with the contribution of the Property, Seller desires to assign, and Purchaser desires to assume, all of Seller's right, title, interest and obligations, if any, in all currently effective hotel agreements related to the Property.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be bound, the parties agree as follows:

1. As of the Effective Date, Seller does hereby assign and convey to Purchaser, its successors and assigns, all of the right, title and interest of Seller, and of any Named Party (as defined below), in and to the hotel agreements and related unforfeited security deposits, and Purchaser does hereby assume such right, title and interest in and to the hotel agreements and related unforfeited security deposits. For purposes hereof, "Named Party" shall mean any person or entity that has executed as agent or under apparent authority, on behalf of Seller or its managing agent, any of the hotel agreements.

2. Seller agrees to indemnify and save harmless Purchaser from any loss or damage, including court costs and reasonable attorneys' fees, actually incurred relating to any default or other liabilities of Seller relating to the hotel agreements occurring prior to the Effective Date. Purchaser agrees to indemnify and hold harmless Seller from any loss or damage, including court costs and reasonable attorneys' fees, actually incurred relating to any default or other liabilities of Purchaser relating to the hotel agreements occurring from and subsequent to the Effective Date, but not of the nature of a continuing default or breach of Seller under the hotel agreements which predates the Effective Date.

3. This Assignment and the provisions herein contained shall be binding upon and inure to the benefit of Purchaser and Seller and their respective successors and assigns.

4. This Assignment may be executed in several counterparts and all counterparts so executed shall constitute one Assignment, binding on all the parties hereto and thereto, notwithstanding that all the parties are not signatories to the same counterpart.

IN WITNESS WHEREOF, Seller and Purchaser have executed and delivered this Assignment the day and year first above written.

SELLER:

PURCHASER

ASSIGNMENT AND ASSUMPTION OF AGREEMENT OF PURCHASE AND SALE

THIS ASSIGNMENT AND ASSUMPTION OF AGREEMENT OF PURCHASE AND SALE (this "Assignment"), is made and entered into as of the 29th day of April, 2019, by and between MOODY NATIONAL REIT II, INC., a Maryland corporation ("Assignor") and MOODY NATIONAL KIRBY-HOUSTON HOLDING, LLC, a Delaware limited liability company ("Assignee").

W I T N E S S E T H :

WHEREAS, Assignor, as Purchaser, entered into that certain Agreement of Purchase and Sale dated March 29, 2019, for the purchase and sale of the land and the improvements located at 7807 Kirby Street, Houston, Texas 77030 (as amended, modified, or supplemented, the "Agreement"). Any terms not defined herein shall have the meaning as set forth in the Agreement.

WHEREAS, Assignor now wishes to assign all of its right, title and interest as Purchaser under the Agreement to Assignor and Assignee desires to assume and perform the obligations of the Assignor as Purchaser under the Agreement.

WHEREAS, an affiliate of Assignor is a manager of Assignee.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Assignor does hereby SELL, GRANT, ASSIGN, TRANSFER, CONVEY, RELINQUISH AND SET OVER unto Assignee all of Assignor's right, title and interest in and to the Agreement.

2. Assumption by Assignee. Assignee, hereby accepts the foregoing assignment, agrees to assume and perform all the duties and obligations to be performed by the Purchaser under the Agreement therein mentioned to the same extent as if Assignee had originally been named as the Purchaser in that Agreement, and to indemnify and hold Assignor harmless for any liability for performance or nonperformance of the duties and obligations assumed by Assignee.

3. Governing Law. This Assignment shall be governed by, and be construed in accordance with, the laws of the State of Texas.

4. Counterparts. To facilitate execution, this Assignment may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of both parties hereto appear on each counterpart hereof. All counterparts hereof shall collectively constitute a single Agreement.

5. Entire Contract. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Assignment as of the date and year first above written.

ASSIGNOR:

MOODY NATIONAL REIT II, INC.,
a Maryland corporation

By: /s/ Brett C. Moody

Brett C. Moody, President

ASSIGNEE:

MOODY NATIONAL KIRBY-HOUSTON HOLDING, LLC, a
Delaware limited liability company

By: /s/ Brett C. Moody

Brett C. Moody, President

**HOTEL LEASE AGREEMENT
EFFECTIVE April 29, 2019**

BETWEEN

**Moody National Kirby-Houston Holding, LLC, a
Delaware limited liability company**

AS LESSOR

AND

**Moody National Kirby-Houston MT, LLC, a
Delaware limited liability company**

AS LESSEE

HOTEL LEASE AGREEMENT

THIS HOTEL LEASE AGREEMENT (hereinafter called "*Lease*"), effective as of the 29 day of April, 2019, by and between Moody National Kirby-Houston Holding, LLC, a Delaware limited liability company (hereinafter called "*Lessor*"), and Moody National Kirby-Houston MT, LLC, a Delaware limited liability company (hereinafter called "*Lessee*"), provides as follows:

AGREEMENT:

Lessor, for and in consideration of the payment of rent by Lessee to Lessor, the covenants and agreements to be performed by Lessee, and upon the terms and conditions hereinafter stated, does hereby rent and lease unto Lessee, and Lessee does hereby rent and lease from Lessor, the Leased Property.

ARTICLE 1 LEASED PROPERTY; TERM

1.1 Leased Property. The Leased Property shall mean and is comprised of Lessor's interest in the following:

(a) the land described in Exhibit A attached hereto and by reference incorporated herein (the "*Land*");

(b) all buildings, structures and other improvements of every kind including, but not limited to, alleyways and connecting tunnels, sidewalks, utility pipes, conduits and lines (on-site and offsite), parking areas and roadways appurtenant to such buildings and structures presently situated upon the Land (collectively, the "*Leased Improvements*");

(c) all easements, rights and appurtenances relating to the Land and the Leased Improvements;

(d) all equipment, machinery, fixtures, and other items of property required for or incidental to the use of the Leased Improvements as a hotel, including all components thereof, now and hereafter permanently affixed to or incorporated into the Leased Improvements, including, without limitation, all furnaces, boilers, heaters, electrical equipment, heating, plumbing, lighting, ventilating, refrigerating, incineration, air and water pollution control, waste disposal, air-cooling and air-conditioning systems and apparatus, sprinkler systems and fire and theft protection equipment, all of which to the greatest extent permitted by law are hereby deemed by the parties hereto to constitute real estate, together with all replacements, modifications, alterations and additions thereto (collectively, the "*Fixtures*");

(e) all furniture and furnishings and all other items of personal property (excluding Inventory and personal property owned by Lessee, if any) located on, and used in connection with, the operation of the Leased Improvements as a hotel, together with all replacements, modifications, alterations and additions thereto.

THE LEASED PROPERTY IS DEMISED IN ITS PRESENT CONDITION WITHOUT REPRESENTATION OR WARRANTY (EXPRESSED OR IMPLIED) BY LESSOR AND SUBJECT TO THE RIGHTS OF PARTIES IN POSSESSION, AND TO THE EXISTING STATE OF TITLE INCLUDING ALL COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND OTHER MATTERS OF RECORD INCLUDING ALL APPLICABLE LEGAL REQUIREMENTS AND OTHER MATTERS WHICH WOULD BE DISCLOSED BY AN INSPECTION OF THE LEASED PROPERTY OR BY AN ACCURATE SURVEY THEREOF.

1.2 Term. The term of this Lease (the "*Term*") shall commence on the date hereof (the "*Commencement Date*") and shall end on the tenth (10th) anniversary of the last day of the month in which the Commencement Date occurs, unless sooner terminated in accordance with the provisions hereof.

(a) Option to Terminate Lease. In the event Lessor enters into a contract to sell the Leased Property to a non-Affiliate, Lessor may terminate the Lease by giving not less than forty-five (45) days' prior written notice of the election to terminate the Lease effective upon the consummation of such transaction. Effective upon such termination date, the Lease shall terminate and be of no further force and effect as to any obligations of the parties existing as of such date that survive termination of this Lease. Lessor shall pay to Lessee, or reimburse Lessee for any assignment or termination fees or other liabilities arising under the Management Agreement or any Franchise Agreement solely as a result of the termination or assignment of such agreements in connection with a termination of the Lease under this Section 1.2(a).

1.3 Transition Procedures. Upon the expiration or termination of the Term of this Lease, Lessor and Lessee shall do the following (and the provisions of this Section 1.3 shall survive the expiration or termination of this Lease until they have been fully performed) and, in general, shall cooperate in good faith to effect an orderly transition of the management and/or lease of the Hotel:

(a) Transfer of Licenses. Lessee shall use reasonable efforts (i) to transfer to Lessor or Lessor's nominee all licenses, operating permits and other governmental authorizations and all contracts, including contracts with governmental or quasi-governmental entities, that may be necessary for the operation of the Hotel (collectively, "*Licenses*"), or (ii) if such transfer is prohibited by law or Lessor otherwise elects, to cooperate with Lessor or Lessor's nominee in connection with the processing by Lessor or Lessor's nominee

of any applications for, all Licenses; provided, in either case, that the costs and expenses of any such transfer or the processing of any such application shall be paid by Lessor or Lessor's nominee.

(b) Leases and Concessions. Lessee shall assign to Lessor or Lessor's nominee simultaneously with the termination of this Lease, and the assignee shall assume, all leases and concession agreements in effect with respect to the Hotel then in Lessee's name.

(c) Books and Records. All books and records for the Hotel kept by Lessee pursuant to Section 4.2 shall be delivered promptly to Lessor or Lessor's nominee, simultaneously with the termination of this Lease, but such books and records shall thereafter be available to Lessee at all reasonable times for inspection, audit, examination, and transcription for a period of one (1) year and Lessee may retain (on a confidential basis) copies or computer records thereof.

(d) Receivables and Payables. Lessee shall be entitled to retain all cash, bank accounts and house banks, and to collect all Gross Revenues and accounts receivable accrued through the termination date. In addition, Lessee shall be entitled to retain any amounts remaining of the monthly furniture and equipment funded by Lessee as required by the Loan Documents and/or the Management Agreement. Lessee shall be responsible for the payment of Rent, all Gross Operating Expenses and all other obligations of Lessee accrued under this Lease as of the termination date, and Lessor or Lessor's nominee shall be responsible for all Gross Operating Expenses of the Hotel accruing after the termination date.

(e) Final Accounting. Lessee shall, within forty five (45) days after the expiration or termination of the Term, prepare and deliver to Lessor a final accounting statement, dated as of the date of the expiration or termination, along with a statement of any sums due from Lessee to Lessor pursuant hereto and payment of such funds.

(f) Inventory. Lessee shall insure that the Leased Property, at the date of such termination or expiration, has Inventory of a substantially equivalent nature and amount as exists at the Leased Property on the Commencement Date, and Lessor or its designee shall acquire such Inventory from Lessee for a sale price equal to the fair market value of such Inventory to the extent that such Inventory is the personal property of the Lessee.

(g) Surrender. Lessee will, upon the expiration or prior termination of the Term, vacate and surrender the Leased Property to Lessor in the condition in which the Leased Property was originally received from Lessor, except as repaired, rebuilt, restored, altered or added to as permitted or required by the provisions of this Lease and except for ordinary wear and tear (subject to the obligation of Lessee to maintain the Leased Property in good order and repair, as would a prudent owner, during the entire Term of the Lease), or damage by casualty or Condemnation (subject to the obligations of Lessee to restore or repair as set forth in the Lease)

The provisions of this Section 1.3 shall survive the expiration or termination of this Lease until they have been fully performed. Nothing contained herein shall limit Lessor's rights and remedies.

1.4 Holding Over. If Lessee for any reason remains in possession of the Leased Property after the expiration or earlier termination of the Term, such possession shall be as a tenant at sufferance during which time Lessee shall pay as rental each month 125% of the aggregate of (a) one-twelfth of the aggregate Base Rent and Percentage Rent payable with respect to the last Fiscal Year of the Term, (b) all Additional Charges accruing during the applicable month and (c) all other sums, if any, payable by Lessee under this Lease with respect to the Leased Property. During such period, Lessee shall be obligated to perform and observe all of the terms, covenants and conditions of this Lease, but shall have no rights hereunder other than the right, to the extent given by law to tenancies at sufferance, to continue its occupancy and use of the Leased Property. Nothing contained herein shall constitute the consent, express or implied, of Lessor to the holding over of Lessee after the expiration or earlier termination of this Lease.

1.5 Forfeiture. In the event that any of Lessee's Personal Property is retained by Lender in a foreclosure or otherwise due to Lessor's failure to satisfy amounts due under the Loan Documents that are not an obligation of the Lessee pursuant to the terms of this Lease, Lessor shall pay to Lessee a fee in the amount of \$100,000.

ARTICLE 2

DEFINITIONS

2.1 Definitions. For all purposes of this Lease, except as otherwise expressly provided or unless the context otherwise requires, (a) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular, (b) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as are at the time applicable, (c) all references in this Lease to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Lease and (d) the words "herein," "hereof" and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular Article, Section or other subdivision:

Additional Charges: As defined in Section 3.3.

Affiliate: The term “*Affiliate*” of a Person shall mean (a) any Person that, directly or indirectly, controls or is controlled by or is under common control with such Person, (b) any other Person that owns, beneficially, directly or indirectly, ten percent (10%) or more of the outstanding capital stock, shares or equity interests of such Person, or (c) any officer, director, employee, partner, manager or trustee of such Person or any Person controlling, controlled by or under common control with such Person or any Person that owns, beneficially, directly or indirectly, ten percent (10%) or more of the outstanding capital stock, shares or equity interests of such Person (excluding trustees and Persons serving in similar capacities who are not otherwise an Affiliate of such Person). For the purposes of this definition, “*control*” (including the correlative meanings of the terms “*controlled by*” and “*under common control with*”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, through the ownership of voting securities, partnership interests or other equity interests.

Annual Budget: The operating and capital budget prepared by Lessee and delivered to Lessor in accordance with Section 4.1.

Annual Revenues Computation: As defined in Subsection 3.1(b) and set forth on Exhibit C.

Base Rate: The rate of interest announced publicly by Citibank, N.A., in New York, New York, from time to time, as such bank’s base rate. If no such rate is announced or if such rate becomes discontinued, then such other rate as Lessor may reasonably designate.

Base Rent: As defined in Section 3.1(a).

Business Day: Each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which national banks in the City of Houston, Texas are closed.

CERCLA: The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

Change of Control: The sale, conveyance, assignment, encumbering, pledging, hypothecation, granting a security interest in, granting of options with respect to, or other disposition of (directly or indirectly, voluntarily or involuntarily, by operation of law or otherwise, and whether or not for consideration) of any class stock or other equity interests in a Person (other than among existing holders of interests in such Person on the Commencement Date and/or family members of such holders and/or trusts for the benefit of any of the foregoing) that, upon a transfer of any portion thereof, will create in the transferee thereof, directly or indirectly, a majority of any class of stock or other equity interests of such Person.

Claims: As defined in Section 12.2.

COBRA: As defined in Subsection 8.2(b).

Code: The Internal Revenue Code of 1986, as amended.

Commencement Date: As defined in Section 1.2.

Condemnation Proceeding: Any action or proceeding brought by competent authority for the purpose of any taking of the fee of the Leased Property or any part thereof or estate therein as a result of the exercise of the power of eminent domain, including, but not limited to, a voluntary conveyance to such authority under either threat of or in lieu of condemnation or while such action or proceeding is pending.

Consolidated Financials: For any fiscal year or other accounting period for Lessee and its consolidated subsidiaries, if any, statements of earnings and retained earnings and of changes in financial position for such period and for the period from the beginning of the respective fiscal year to the end of such period and the related balance sheet as at the end of such period, together with the notes thereto, all in reasonable detail and setting forth in comparative form the corresponding figures for the corresponding period in the preceding fiscal year, and prepared in accordance with generally accepted accounting principles and audited by independent certified public accountants acceptable to Lessor in its sole discretion.

Encumbrance: As defined in Section 22.1.

Environmental Audit: As defined in Subsection 8.3(b).

Environmental Authority: Any department, agency or other body or component of any Government that exercises any form of jurisdiction or authority under any Environmental Law.

Environmental Authorization: Any license, permit, order, approval, consent, notice, registration, filing or other form of permission or authorization required under any Environmental Law.

Environmental Laws: All applicable federal, state, local and foreign laws and regulations relating to pollution of the environment (including without limitation, ambient air, surface water, ground water, land surface or subsurface strata), including without limitation laws and regulations relating to emissions, discharges, Releases or threatened Releases of Hazardous Materials or otherwise

relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials. Environmental Laws include but are not limited to CERCLA, FIFRA, RCRA, SARA and TSCA.

Environmental Liabilities: Any and all obligations to pay the amount of any judgment or settlement, the cost of complying with any settlement, judgment or order for injunctive or other equitable relief, the cost of compliance or corrective action in response to any notice, demand or request from an Environmental Authority, the amount of any civil penalty or criminal fine, and any court costs and reasonable amounts for attorney's fees, fees for witnesses and experts, and costs of investigation and preparation for defense of any claim or any Proceeding, regardless of whether such Proceeding is threatened, pending or completed, that may be or have been asserted against or imposed upon Lessor, Lessee, any Predecessor, the Leased Property or any property used therein and arising out of:

(a) Failure of Lessee, Lessor, any Predecessor or the Leased Property to comply at any time with all Environmental Laws;

(b) Presence of any Hazardous Materials on, in, under, at or in any way affecting the Leased Property;

(c) A Release at any time of any Hazardous Materials on, in, at, under or in any way affecting the Leased Property;

(d) Identification of Lessee, Lessor or any Predecessor as a potentially responsible party under CERCLA or under any Environmental Law similar to CERCLA;

(e) Presence at any time of any above-ground and/or underground storage tanks, as defined in RCRA or in any applicable Environmental Law on, in, at or under the Leased Property or any adjacent site or facility; or

(f) Any and all claims for injury or damage to Persons or property arising out of exposure to Hazardous Materials originating or located at the Leased Property, or resulting from operation thereof or any adjoining property.

Event of Default: As defined in Section 16.1.

FIFRA: The Federal Insecticide, Fungicide, and Rodenticide Act, as amended.

Fiscal Year: The twelve (12) month period from January 1 to December 31, or any shorter period at the beginning or end of the Term.

Fixtures: As defined in Section 1.1.

Force Majeure: An Unavoidable Occurrence, generally affecting travel and/or the hotel or lodging business in the market and/or submarket in which the Hotel is located.

Franchise Agreement: any franchise agreement or license agreement with a franchisor (such as Marriott) under which the Hotel is operated.

Furniture and Equipment: For purposes of this Lease, the terms "*furniture and equipment*" shall mean collectively all furniture, furnishings, wall coverings, fixtures and hotel equipment and systems located at, or used in connection with, the Hotel, together with all replacements therefor and additions thereto, including, without limitation, (i) all equipment and systems required for the operation of kitchens and bars, laundry and dry cleaning facilities, (ii) office equipment, (iii) material handling equipment, cleaning and engineering equipment, (iv) telephone and computerized accounting systems, and (v) vehicles.

Government: The United States of America, any state, district or territory thereof, any foreign nation, any state, district, department, territory or other political division thereof, or any agency or political subdivision of any of the foregoing.

Gross Operating Expenses: The term "*Gross Operating Expenses*" shall include (i) all costs and expenses of operating the Hotel included within the meaning of the term "*Total Costs and Expenses*" contained in the Uniform System and, (ii) without duplication, the following: all salaries and employee expense and payroll taxes (including salaries, wages, bonuses and other compensation of all employees of the Hotel, and benefits including life, medical and disability insurance and retirement benefits), expenditures described in Section 9.1, operational supplies, utilities, insurance to be provided by Lessee under the terms of this Lease, governmental fees and assessments, common area maintenance costs and other common area fees and assessments, food, beverages, laundry service expense, the cost of Inventories, license fees, advertising, marketing, reservation systems and any and all other operating expenses as are reasonably necessary for the proper and efficient operation of the Hotel and the Leased Property incurred by Lessee in accordance with the provisions hereof (excluding, however, (i) federal, state and municipal excise, sales and use taxes collected directly from patrons and guests or as a part of the sales price of any goods, services or displays, such as gross receipts, admissions, cabaret or similar or equivalent taxes paid over to federal, state or municipal governments, (ii) the cost of insurance to be provided under Article 13, (iii) expenditures by Lessor pursuant to Article 13 and (iv) payments on any Mortgage or other mortgage or security instrument on the Hotel); all determined in accordance with generally accepted accounting principles. No part of Lessee's central office overhead or general or administrative expense (as opposed to that of the Hotel), shall be deemed to be a part of Gross Operating Expenses, as herein provided. Reasonable out-of-pocket expenses of Lessee incurred for the account of or in connection with the Hotel operations, including

but not limited to postage, telephone charges and reasonable travel expenses of employees, officers and other representatives and consultants of Lessee and its Affiliates, shall be deemed to be a part of Gross Operating Expenses and such Persons shall be afforded reasonable accommodations, food, beverages, laundry, valet and other such services by and at the Hotel without charge to such Persons or Lessee.

Gross Operating Profit: For any Fiscal Year, the excess of Gross Revenues for such Fiscal Year over Gross Operating Expenses for such Fiscal Year.

Gross Revenues: All revenues, receipts, and income of any kind derived directly or indirectly by Lessee from or in connection with the Hotel (including rentals or other payments from tenants, lessees, licensees or concessionaires but not including their gross receipts) whether on a cash basis or credit, paid or collected, determined in accordance with generally accepted accounting principles, excluding, however: (i) funds furnished by Lessor, (ii) federal, state and municipal excise, sales, and use taxes collected directly from patrons and guests or as a part of the sales price of any goods, services or displays, such as gross receipts, admissions, cabaret or similar or equivalent taxes and paid over to federal, state or municipal governments, (iii) the amount of all credits, rebates or refunds to customers, guests or patrons, and all service charges, finance charges, interest and discounts attributable to charge accounts and credit cards, to the extent the same are paid to Lessee by its customers, guests or patrons, or to the extent the same are paid for by Lessee to, or charged to Lessee by, credit card companies, (iv) gratuities or service charges actually paid to employees, (v) proceeds of insurance and condemnation, (vi) proceeds from sales other than sales in the ordinary course of business, (vii) all loan proceeds from financing or refinancings of the Hotel or interests therein or components thereof, (viii) judgments and awards, except any portion thereof arising from normal business operations of the Hotel, and (ix) items constituting “allowances” under the Uniform System.

Hazardous Materials: All chemicals, pollutants, contaminants, wastes and toxic substances, including without limitation:

- (a) Solid or hazardous waste, as defined in RCRA or any other Environmental Law;
- (b) Hazardous substances, as defined in CERCLA or any other Environmental Law;
- (c) Toxic substances, as defined in TSCA or any other Environmental Law;
- (d) Insecticides, fungicides, or rodenticides, as defined in FIFRA or any other Environmental Law; and
- (e) Gasoline or any other petroleum product or byproduct, polychlorinated biphenyl, asbestos and urea formaldehyde.

Hotel: The hotel and/or other facility offering lodging and other services or amenities being operated or proposed to be operated on the Leased Property.

Impositions: Collectively, all taxes (including, without limitation, all ad valorem, sales and use, single business, gross receipts, transaction, privilege, rent or similar taxes as the same relate to or are imposed upon Lessee or its business conducted upon the Leased Property), assessments (including, without limitation, all assessments for public improvements or benefit, whether or not commenced or completed prior to the date hereof and whether or not to be completed within the Term), ground rents, water, sewer or other rents and charges, excises, tax inspection, authorization and similar fees and all other governmental charges, in each case whether general or special, ordinary or extraordinary, or foreseen or unforeseen, of every character in respect of the Leased Property or the business conducted thereon by Lessee (including all interest and penalties thereon caused by any failure in payment by Lessee), which at any time prior to, during or with respect to the Term hereof may be assessed or imposed on or with respect to or be a lien upon (a) Lessor's interest in the Leased Property, (b) the Leased Property, or any part thereof or any rent therefrom or any estate, right, title or interest therein, or (c) any occupancy, operation, use or possession of, or sales from, or activity conducted on or in connection with the Leased Property, or the leasing or use of the Leased Property or any part thereof by Lessee. Nothing contained in this definition of Impositions shall be construed to require Lessee to pay (1) any tax based on net income (whether denominated as a franchise or capita] stock or other tax) imposed on Lessor or any other Person, or (2) any net revenue tax of Lessor or any other Person, or (3) any tax imposed with respect to the sale, exchange or other disposition by Lessor of any Leased Property or the proceeds thereof, or (4) any single business, gross receipts (other than a tax on any rent received by Lessor from Lessee), transaction, privilege or similar taxes as the same relate to or are imposed upon Lessor, except to the extent that any tax, assessment, tax levy or charge that Lessee is obligated to pay pursuant to the first sentence of this definition and that is in effect at any time during the Term hereof is totally or partially repealed, and a tax, assessment, tax levy or charge set forth in clause (1) or (2) is levied, assessed or imposed expressly in lieu thereof. Notwithstanding anything contained herein to the contrary, Lessor shall fund all tax escrows required to be reserved pursuant to the Loan Documents and Lessee shall not be responsible for the payment of such amounts.

Indemnified Party: Either of a Lessee Indemnified Party or a Lessor Indemnified Party.

Indemnifying Party: Any party obligated to indemnify an Indemnified Party pursuant to Sections 8.3 or 18.1.

Insurance Requirements: All terms of any insurance policy required by this Lease and all requirements of the issuer of any such policy.

Initial Lender: American National Insurance Company, a Texas insurance company, and its successors and assigns.

Initial Loan: The loan in the original principal amount of \$29,100,000 made by the Initial Lender and assumed by Lessor concurrently herewith.

Initial Loan Documents: The (a) (i) Promissory Note, (ii) Deed of Trust, Security Agreement and Financing Statement, (iii) Absolute Assignment of Leases and Rents, (iv) Certificate and Indemnity Regarding Hazardous Substances, (v) Construction Loan Agreement, (vi) Assignment and Assumption Agreement, (vii) Closing Certificate, and (viii) Master Lease Subordination and Attornment Agreement; and (b) any other documents executed by, or assumed by, as applicable, Lessor, Lessee (where applicable) and Initial Lender evidencing the Initial Loan.

Inventory: All “*Inventories of Merchandise*” and “*Inventories of Supplies*” as defined in the Uniform System, including without limitation linens, china, silver, glassware and other non-depreciable personal property, and including any property of the type described in Section 1221(1) of the Code.

Land: As defined in Section 1.1.

Lease: This Lease by and between the Lessor and Lessee.

Leased Improvements; Leased Property: Each as defined in Section 1.1.

Legal Requirements: All federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions affecting either the Leased Property or the maintenance, construction, use or alteration thereof (whether by Lessee or otherwise), whether now in force or hereafter enacted and in force, including (a) all laws, rules or regulations pertaining to the environment, occupational health and safety and public health, safety or welfare, and (b) any laws, rules or regulations that may (1) require repairs, modifications or alterations in or to the Leased Property or (2) in any way adversely affect the use and enjoyment thereof; and all permits, licenses and authorizations and regulations relating thereto and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Lessee (other than encumbrances created by Lessor without the consent of Lessee), at any time in force affecting the Leased Property.

Lender: The Initial Lender or any lender under a Permitted Mortgage.

Lessee: The Lessee designated in this Lease and its respective permitted successors and assigns.

Lessee Indemnified Party: Lessee, any Affiliate of Lessee, any other Person against whom any claim for indemnification may be asserted hereunder as a result of a direct or indirect ownership interest (including a stockholder’s or member’s interest) in Lessee, the officers, directors, stockholders, members, managers, employees, agents and representatives of Lessee, and the respective heirs, personal representatives, successors and assigns of any such officer, director, stockholder, member, manager, employee, agent or representative.

Lessee’s Personal Property: As defined in Section 6.2.

Lessor: The Lessor designated in this Lease and its respective successors and assigns.

Lessor Capital Improvements: All capital expenditures attributable to the foundation, structural walls and the roof of the Leased Property, but excluding windows and plate glass, mechanical, electrical and plumbing systems and equipment, including conduit and ductware, and non-load bearing walls and parking lot surfaces.

Lessor Indemnified Party: Lessor, any Affiliate of Lessor, any other Person against whom any claim for indemnification may be asserted hereunder as a result of a direct or indirect ownership interest (including a stockholder’s or partnership interest) in Lessor, the officers, directors, stockholders, members, managers, employees, agents and representatives of the general partner of Lessor and any partner, agent, or representative of Lessor, and the respective heirs, personal representatives, successors and assigns of any such officer, director, stockholder, partner, member, manager, employee, agent or representative.

Licenses: As defined in Subsection 1.3(a).

Loan Documents: The Initial Loan Documents or any documents comprising a Permitted Mortgage.

Management Agreement: That certain Hotel Management Agreement assumed concurrently herewith to which Moody National Hospitality Management, LLC and the Lessee are the current parties (as amended and assigned) or any agreement pursuant to which a successor manager operates the Hotel.

Manager: Moody National Hospitality Management, LLC, or any successor manager that is retained by Lessee to operate the Hotel pursuant to this Lease and any Franchise Agreement

Notice: As defined in Article 26.

Officer's Certificate: A certificate of Lessee reasonably acceptable to Lessor, signed by the chief financial officer or another officer authorized so to sign by the board of directors or other governing body of Lessee, or bylaws or limited liability company agreement of Lessee, or any other Person whose power and authority to act has been authorized by delegation in writing by any such officer.

Overdue Rate: On any date, a rate equal to the Base Rate plus 1.25% per annum, but in no event greater than the maximum rate then permitted under applicable law.

Payment Date: Any due date for the payment of any installment of Base Rent.

Percentage Rent: As defined in Subsection 3.1(b).

Permitted Mortgage: The mortgage, deed of trust or other similar documents ("Mortgage") securing the Initial Loan or any subsequent mortgage placed on the Leased Property by Lessor and Lessee in compliance with the terms of this Lease.

Person: Any Government, natural person, corporation, general or limited partnership, limited liability company, stock company or association, joint venture, association, company, trust, bank, trust company, land trust, business trust, or other entity.

Personal Property Taxes: All personal property taxes imposed on the furniture, furnishings or other items of personal property located on, and used in connection with, the operation of the Leased Improvements as a hotel (other than such Inventory and other personal property that is owned by Lessee), together with all replacement, modifications, alterations and additions thereto.

Predecessor: Any Person whose liabilities arising under any Environmental Law have or may have been retained or assumed by Lessor or Lessee, either contractually or by operation of law, relating to the Leased Property.

Primary Intended Use: As defined in Subsection 7.2(b).

Proceeding: Any judicial action, suit or proceeding (whether civil or criminal), any administrative proceeding (whether formal or informal), any investigation by a governmental authority or entity (including a grand jury), and any arbitration, mediation or other non-judicial process for dispute resolution.

RCRA: The Resource Conservation and Recovery Act, as amended.

Real Estate Taxes: All real estate taxes, including general and special assessments, if any, which are imposed upon the Land, and any improvements thereon.

Release: A "Release" as defined in CERCLA or in any Environmental Law, unless such Release has been properly authorized and permitted in writing by all applicable Environmental Authorities or is allowed by such Environmental Law without authorizations or permits.

Rent: Base Rent, Percentage Rent and Additional Charges, collectively.

Repositioning: As defined in Section 3.6.

Restoration: The restoration, repair, replacement, rebuilding or alteration of the Leased Property following a casualty or a partial Taking (including, without limitation, the cost of all temporary repairs for the protection of property pending the completion of permanent restoration, repair, replacement, rebuilding or alteration), to a complete architectural unit of as nearly as possible the same value, condition and character that existed immediately prior to such casualty or Taking, to the extent permissible under applicable Legal Requirements, including without limitation, all zoning and use requirements and regulations.

SARA: The Superfund Amendments and Reauthorization Act of 1986, as amended.

Solvent: As to any Person, (a) the sum of the assets of such Person exceeds its liabilities and (b) such Person has sufficient capital with which to conduct its business as presently conducted and as proposed to be conducted.

State: The state or commonwealth in which the Hotel is located, namely Texas.

Subsidiaries: Persons in which Lessee owns, directly or indirectly, more than fifty percent (50%) of the voting stock or control, as applicable.

Surplus: As defined in Section 15.2(c).

Taking: The event of vesting of title to the Project or any part thereof or estate therein in the condemning authority as the result of any Condemnation Proceeding.

Term: As defined in Section 1.2.

TSCA: The Toxic Substances Control Act, as amended.

Unavoidable Occurrence. The occurrence of strikes, lockouts, labor unrest, gasoline and other energy shortages, widespread disruption of air, auto or other travel, inability to procure materials or services, power or other utility failure, acts of God (such as hurricanes, tornadoes, earthquakes, floods and mud slides), governmental restrictions, war or other enemy or terrorist action, civil commotion, fire, casualty, condemnation or other similar causes, in each case, if such cause is beyond the reasonable control of Lessee; provided that (i) lack of funds shall not be deemed a cause beyond the reasonable control of either party hereto unless such lack of funds is caused by the failure of the other party hereto to perform any obligations of such party under this Lease or any guaranty of this Lease, and (ii) any such occurrence is an extraordinary, as opposed to a routine or cyclical, material event that was not reasonably foreseeable when the then-applicable Annual Budget was prepared.

Uniform System: The Uniform System of Accounts for Hotels (9th Revised Edition, 1996) as published by the American Hotel and Lodging Association, with such later revisions as may be agreed to by both Lessor and Lessee.

Unsuitable for its Primary Intended Use: A state or condition of the Hotel such that, in the good faith judgment of Lessee, reasonably exercised and evidenced by the resolution of the board of directors or other governing body of Lessee, due to casualty damage or loss through Condemnation, the Hotel cannot function as an integrated hotel facility consistent with standards applicable to a well maintained and operated hotel.

Vesting Date. The date of any Taking.

WARN Act: As defined in Subsection 8.2(b).

Working Capital: Funds reasonably necessary for the day-to-day operation of the Hotel's business for a thirty (30) day period, including, without limitation, amounts sufficient for the maintenance of change and petty cash funds, operating bank accounts, payrolls, accounts payable, accrued current liabilities, and funds required to maintain inventories.

ARTICLE 3 RENT; RENT ADJUSTMENTS

3.1 Rent. Lessee will pay to Lessor in lawful money of the United States of America, in immediately available funds, at Lessor's address set forth in Article 26 hereof or at such other place or to such other Person as Lessor from time to time may designate in a Notice, all Base Rent, Percentage Rent and Additional Charges, during the Term, as follows:

(a) Base Rent: The annual sum specified in Exhibit B, as adjusted pursuant to Subsection 3.1(e) hereof, payable in advance in equal, consecutive monthly installments, on or before the tenth day of each calendar month of the Term ("*Base Rent*"); provided, however, that the first monthly payment of Base Rent shall be payable during the second calendar month of the Term, and that the first and last monthly payments of Base Rent shall be pro rated as to any partial month (subject to adjustment as provided in Sections 14.4 and 15.3). Within thirty (30) days prior to the fifth (5th) anniversary of the Commencement Date, Lessor and Lessee shall determine the Base Rent for the next five (5) years at a market rate mutually agreed upon by the parties. If the parties cannot, within thirty (30) days, agree on the new Base Rent, either party may require that the matter be submitted to binding arbitration as set forth in Section 25.1. On each subsequent five (5) year anniversary, Base Rent shall be determined as set forth in this Section 3.1(a).

(b) Percentage Rent: For each year of the Term commencing with the Commencement Date, Lessee shall pay percentage rent ("*Percentage Rent*"), to the extent that such Percentage Rent is greater than the Base Rent due for such period.

Percentage Rent shall be an amount equal to the applicable Annual Revenues Computation (as set forth on Exhibit C) less an amount equal to the Base Rent paid with respect to such year. The Annual Revenues Computation shall be adjusted beginning on the fifth (5th) anniversary of the Commencement Date, and each 5 year anniversary thereafter, in the same manner as Base Rent is adjusted pursuant to Section 3.1(a). During the first year of the Lease, the Percentage Rent shall be calculated in November and May, and to the extent that any Percentage Rent is due, shall be payable within 15 days following the end of November and May. Beginning on the first anniversary of the Commencement Date, Percentage Rent shall be payable each calendar month on or before the last day of the calendar month in an amount equal to the excess, if any, of the budgeted Percentage Rent payable with respect to the then current calendar month (which budgeted amount shall be equal to one-twelfth (1/12) of the annual estimate of Percentage Rent included in the Annual Budget for the year in which the calendar month occurs) over Base Rent for such calendar month. In November and May of each year, the actual Percentage Rent due shall be calculated.

There shall be no reduction in the Base Rent regardless of the result of any Annual Revenues Computation.

(c) Reserved.

(d) Officer's Certificates. In May and November of each year of the Lease term, Lessee shall deliver to Lessor an Officer's Certificate reasonably acceptable to Lessor setting forth the computation of the Percentage Rent that accrued for the specified semi-annual period. If the Percentage Rent due and payable for such period exceeds the amount actually paid by Lessee for such year, Lessee

shall pay such excess to Lessor at the time the Officer's Certificate is delivered. If the actual Percentage Rent due and payable is less than the amount actually paid for such period, Lessor, at its option, shall reimburse such amount to Lessee or credit such amount against subsequent months' Base Rent. Any credit to Base Rent shall not be applied for purposes of calculating Percentage Rent payable for any subsequent month.

The obligation to pay Percentage Rent shall survive the expiration or earlier termination of the Term, and a final reconciliation, taking into account, among other relevant adjustments, any adjustments which are accrued after such expiration or termination date but which related to Percentage Rent accrued prior to such termination date, and Lessee's good faith best estimate of the amount of any unresolved contractual allowances, shall be made not later than two (2) years after such expiration or termination date, but Lessee shall advise Lessor within sixty (60) days after such expiration or termination date of Lessee's best estimate at that time of the approximate amount of such adjustments, which estimate shall not be binding on Lessee or have any legal effect whatsoever.

(e) Allocation of Rent. The parties hereto acknowledge and agree that the Base Rent paid or payable by Lessee to Lessor hereunder shall, to the extent relevant, be allocated between the personal property and real property constituting Leased Property hereunder in direct proportion to the then recognizable fair market value of such personal property and real property. Percentage Rent in excess of Base Rent shall be allocated solely to real property.

3.2 Confirmation of Percentage Rent. Lessee shall utilize, or cause to be utilized, an accounting system for the Leased Property in accordance with its usual and customary practices, and in accordance with generally accepted accounting principles, that will accurately record all data necessary to compute Percentage Rent, and Lessee shall retain, for at least four (4) years after the expiration of each semi-annual period (and in any event until the reconciliation described in Subsection 3.1(d) for such period has been made), reasonably adequate records conforming to such accounting system showing all data necessary to compute Percentage Rent for the applicable period. Lessor, at its expense (except as provided hereinbelow), shall have the right from time to time, upon prior written notice to Lessee and Manager, by its accountants or representatives to audit the information that formed the basis for the data set forth in any Officer's Certificate provided under Subsection 3.1(d) and, in connection with such audits, to examine all Lessee's records (including supporting data and sales and excise tax returns) reasonably required to verify Percentage Rent, subject to any prohibitions or limitations on disclosure of any such data under Legal Requirements; provided, however that Lessor may only inspect or audit records in Manager's possession subject to the terms of Lessee's access thereto under the Management Agreement. If any such audit discloses a deficiency in the payment of Percentage Rent, and either Lessee agrees with the result of such audit or the matter is otherwise determined or compromised, Lessee shall forthwith pay to Lessor the amount of the deficiency, as finally agreed or determined, together with interest at the Overdue Rate from the date when said payment should have been made to the date of payment thereof; provided, however, that as to any audit that is commenced more than two (2) years after the date Percentage Rent for any period is reported by Lessee to Lessor, the deficiency, if any, with respect to such Percentage Rent shall bear interest at the Overdue Rate only from the date such determination of deficiency is made unless such deficiency is the result of gross negligence or willful misconduct on the part of Lessee, in which case interest at the Overdue Rate will accrue from the date such payment should have been made to the date of payment thereof. If any such audit discloses that the Percentage Rent actually due from Lessee for any Fiscal Year exceed those reported by Lessee by more than three percent (3%), Lessee shall pay the cost of such audit and examination. Any proprietary information obtained by Lessor pursuant to the provisions of this Section shall be treated as confidential, except that such information may be used, subject to appropriate confidentiality safeguards, in any litigation between the parties and except further that Lessor may disclose such information to prospective lenders or as required to comply with applicable Legal Requirements, including without limitation, reporting requirements under state and federal securities laws. The obligations of Lessee contained in this Section shall survive the expiration or earlier termination of this Lease.

3.3 Additional Charges. In addition to the Base Rent and Percentage Rent, (a) Lessee also will pay and discharge as and when due and payable all other amounts, liabilities, obligations and Impositions that Lessee assumes or agrees to pay under this Lease, and (b) in the event of any failure on the part of Lessee to pay any of those items referred to in clause (a) of this Section 3.3, Lessee also will promptly pay and discharge every fine, penalty, interest and cost that may be added for non-payment or late payment of such items (the items referred to in clauses (a) and (b) of this Section 3.3 being additional rent hereunder and being referred to herein collectively as the "Additional Charges"), and Lessor shall have all legal, equitable and contractual rights, powers and remedies provided either in this Lease or by statute or otherwise in the case of non-payment of the Additional Charges as in the case of non-payment of the Base Rent. If any installment of Base Rent and Percentage Rent or Additional Charges (but only as to those Additional Charges that are payable directly to Lessor) shall not be paid on its due date, Lessee will pay Lessor on demand, as Additional Charges, a late charge (to the extent permitted by law) computed at the Overdue Rate on the amount of such installment, from the due date of such installment to the date of payment thereof. To the extent that Lessee pays any Additional Charges to Lessor pursuant to any requirement of this Lease, Lessee shall be relieved of its obligation to pay such Additional Charges to the entity to which they would otherwise be due and Lessor shall pay same from monies received from Lessee.

3.4 Net Lease. The Rent shall be paid absolutely net to Lessor, so that this Lease shall yield to Lessor the full amount of the installments of Base Rent, Percentage Rent and Additional Charges throughout the Term, all as more fully set forth in Article 5, but subject to any other provisions of this Lease that expressly provide for adjustment or abatement of Rent or other charges or expressly provide that certain expenses or maintenance shall be paid or performed by Lessor.

3.5 No Termination or Abatement. Except as otherwise specifically provided in this Lease, and except for loss of the Management Agreement solely by reason of any action or inaction by Lessor, Lessee, to the extent permitted by law, shall remain bound by this Lease in accordance with its terms and shall neither take any action without the written consent of Lessor (which shall not be unreasonably withheld or delayed) to modify, surrender or terminate the same, nor seek nor be entitled to any abatement, deduction, deferment or reduction of the Rent, or setoff against the Rent, nor shall the obligations of Lessee be otherwise affected by reason of (a) any damage to, or destruction of, any Leased Property or any portion thereof from whatever cause or any Taking of the Leased Property or any portion thereof, (b) the lawful or unlawful prohibition of, or restriction upon, Lessee's use of the Leased Property, or any portion thereof, or the interference with such use by any Person other than Lessor, (c) any claim which Lessee has or might have against Lessor by reason of any default or breach of any warranty by Lessor under this Lease or any other agreement between Lessor and Lessee, or to which Lessor and Lessee are parties, (d) any bankruptcy, insolvency, reorganization, composition, readjustment, liquidation, dissolution, winding up or other proceedings affecting Lessor or any assignee or transferee of Lessor, or (e) for any other cause whether similar or dissimilar to any of the foregoing other than a discharge of Lessee from any such obligations as a matter of law. Lessee hereby specifically waives all rights, arising from any occurrence whatsoever, which may now or hereafter be conferred upon it by law to (1) modify, surrender or terminate this Lease or quit or surrender the Leased Property or any portion thereof, or (2) entitle Lessee to any abatement, reduction, suspension or deferment of the Rent or other sums payable by Lessee hereunder, except as otherwise specifically provided in this Lease. The obligations of Lessee hereunder shall be separate and independent covenants and agreements and the Rent and all other sums payable by Lessee hereunder shall continue to be payable in all events unless the obligations to pay the same shall be terminated pursuant to the express provisions of this Lease or by termination of this Lease other than by reason of an Event of Default.

3.6 Rent Adjustment: Change in Franchise Affiliation or Change in Scope of Work. Except to the extent that doing so would cause Lessor to recognize income other than "*rents from real property*" as defined in Section 856(d) of the Code, notwithstanding anything herein (other than Article 19) to the contrary, if (i) the facts and circumstances underlying the documented, basic assumptions upon which both Lessor and Lessee have relied in determining the Base Rent and the Percentage Rent payable hereunder become materially incorrect solely as a result of (A) a decision to re-brand the Hotel that is made after the Commencement Date, (B) the scope or cost of substantial renovations or other capital improvements to the Hotel (that were not planned as of the Commencement Date), or (C) the implementation of any other hotel repositioning strategies (that were not planned as of the Commencement Date) resulting in significant disruption of the operations of the Hotel (collectively, a "*Repositioning*"), and (ii) Lessor and Lessee so agree in writing, then Lessor and Lessee shall, in good faith, negotiate modifications to the Base Rent and Percentage Rent to adjust (i.e., increase, decrease or reallocate among revenue categories) such Base Rent and Percentage Rent to reflect such change in basic assumptions for the affected periods, using the same methodology and other basic assumptions as were initially utilized in determining the Base Rent and Percentage Rent hereunder. If Lessor and Lessee are unable to agree, within thirty (30) days after the date of written certification from either Lessee or Lessor to the other party that a good faith dispute exists, as to the existence of the occurrence of a Repositioning or the adjustments to be made to the amounts or percentages for the Base Rent and Percentage Rent hereunder as a result of any repositioning, the dispute may be submitted by either party to arbitration under Section 25.1 hereof for resolution (during which period Lessee shall continue to pay Base Rent and Percentage Rent as required under Section 3.1 of this Lease).

ARTICLE 4

BUDGETS; BOOKS AND RECORDS

4.1 Annual Budget. Not later than twenty (20) days prior to the commencement of each Fiscal Year, Lessee shall submit the Annual Budget to Lessor. The Annual Budget shall contain the following, to the extent included in the operating budgets and capital budgets provided to Lessee by Manager under the Management Agreement for the Hotel:

(a) Lessee's reasonable estimate of Gross Revenues (including room rates and Room Revenues), Gross Operating Expenses, and Gross Operating Profits for the forthcoming Fiscal Year itemized on schedules on a monthly basis as approved by Lessor and Lessee, as same may be revised or replaced from time to time by Lessee and approved by Lessor, together with the assumptions, forming the basis of such schedules.

(b) An estimate of the amounts to be spent for the repair, replacement, or refurbishment of Furniture and Equipment and/or Fixtures or otherwise.

(c) An estimate of any amounts Lessor will be required to provide for required or desirable capital improvements to the Hotel or any of its components.

(d) A cash flow projection.

(e) A business plan, which shall describe business objectives and strategies for the forthcoming Fiscal Year, and shall include without limitation an analysis of the market area in which the Hotel competes, a comparison of the Hotel and its business with competitive hotels, an analysis of categories of potential guests, and a description of sales and marketing activities designed to achieve and implement identified objectives and strategies.

4.2 Books and Records. Lessee shall keep full and adequate books of account and other records reflecting the results of operation of the Hotel on an accrual basis, all in accordance with generally accepted accounting principles and the obligations of Lessee under

this Lease. The books of account and all other records relating to or reflecting the operation of the Hotel shall be kept either at the Hotel or at Lessee's offices in Houston, Texas or at Manager's central offices, and shall be available to Lessor and its representatives and its auditors or accountants, at all reasonable times, upon prior written notice to Lessee and Manager, for examination, audit, inspection, and transcription; provided, however that Lessor may only inspect or audit records in Manager's possession subject to the terms of Lessee's access thereto under the Management Agreement. All of such books and records pertaining to the Hotel including, without limitation, books of account, guest records and front office records, at all times shall be the property of Lessor and shall not be removed from the Hotel or Lessee's offices or Manager's central offices (but may be moved among any of the foregoing) by Lessee without Lessor approval.

ARTICLE 5 IMPOSITIONS AND OTHER COSTS

5.1 Payment of Impositions. Subject to Article 12 (relating to permitted contests), Lessee will pay, or cause to be paid, all Impositions, provided that such Impositions shall not include any taxes for which Lessor is required to reserve funds pursuant to the Loan Documents, before any fine, penalty, interest or cost may be added for non-payment, such payments to be made directly to the taxing or other authorities where feasible, and will promptly furnish to Lessor copies of official receipts or other satisfactory proof evidencing such payments. Lessee's obligation to pay such Impositions shall be deemed absolutely fixed upon the date such Impositions become a lien upon the Leased Property or any part thereof. If any such Imposition may, at the option of the taxpayer, lawfully be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Lessee may exercise the option to pay the same (and any accrued interest on the unpaid balance of such Imposition) in installments and in such event, shall pay such installments during the Term hereof (subject to Lessee's right of contest pursuant to the provisions of Article 12) as the same respectively become due and before any fine, penalty, premium, further interest or cost may be added thereto. Lessor, at its expense, shall, to the extent required or permitted by applicable law, prepare and file all tax returns in respect of Lessor's net income, gross receipts, sales and use, single business, transaction privilege, rent, ad valorem, franchise taxes, Real Estate Taxes, Personal Property Taxes and taxes on its capital stock, and Lessee, at its expense, shall, to the extent required or permitted by applicable laws and regulations, prepare and file all other tax returns and reports in respect of any Imposition as may be required by governmental authorities. If any refund shall be due from any taxing authority in respect of any Imposition paid by Lessee, the same shall be paid over to or retained by Lessee if no Event of Default shall have occurred hereunder and be continuing. If an Event of Default shall have occurred and be continuing, any such refund shall be paid over to or retained by Lessor. Any such funds retained by Lessor due to an Event of Default shall be applied as provided in Article 16. Lessor and Lessee shall, upon request of the other, provide such data as is maintained by the party to whom the request is made with respect to the Leased Property as may be necessary to prepare any required returns and reports. Lessee shall file all Personal Property Tax returns in such jurisdictions where it is legally required so to file. Lessor, to the extent it possesses the same, and Lessee, to the extent it possesses the same, will provide the other party, upon request, with cost and depreciation records necessary for filing returns for any property classified as personal property. Where Lessor is required to file Personal Property Tax returns, Lessee shall provide Lessor with copies of assessment notices in sufficient time for Lessor to file a protest. Lessor may, upon Notice to Lessee, at Lessor's option and at Lessor's sole expense, protest, appeal, or institute such other proceedings (in its or Lessee's name) as Lessor may deem appropriate to effect a reduction of real estate or personal property assessments for those Impositions to be paid by Lessor, and Lessee, at Lessor's expense as aforesaid, shall fully cooperate with Lessor in such protest, appeal, or other action. Lessor hereby agrees to indemnify, defend, and hold harmless Lessee from and against any claims, obligations, liabilities and loss against or incurred by Lessee in connection with such cooperation. Billings by Lessor to Lessee for reimbursement of any Personal Property Taxes paid by Lessor shall be accompanied by copies of a bill therefor and payments thereof which identify the personal property with respect to which such payments are made. Lessor, however, reserves the right to effect any such protest, appeal or other action and, upon Notice to Lessee, shall control any such activity, which shall then go forward at Lessor's sole expense. Upon such Notice, Lessee, at Lessor's expense, shall cooperate fully with such activities.

5.2 Notice of Impositions. Lessor shall give prompt Notice to Lessee of all Impositions payable by Lessee hereunder of which Lessor at any time has knowledge, provided that Lessor's failure to give any such Notice shall in no way diminish Lessee's obligations hereunder to pay such Impositions, but such failure to provide notice shall obviate any default hereunder for a reasonable time after Lessee receives Notice of any Imposition which it is obligated to pay during the first taxing period applicable thereto.

5.3 Adjustment of Impositions. Impositions imposed in respect of any taxing period during which the Term terminates shall be adjusted and prorated between Lessor and Lessee, whether or not such Imposition is imposed before or after such termination, and Lessee's obligation to pay its prorated share thereof after termination shall survive such termination.

5.4 Utility Charges. Lessee will be solely responsible for obtaining and maintaining utility services to the Leased Property and will pay or cause to be paid all charges for electricity, gas, oil, water, sewer and other utilities used in the Leased Property during the Term.

5.5 Insurance Premiums. Lessee will pay or cause to be paid all premiums for the insurance coverage's required to be maintained by Lessee under Article 13. Lessor will pay all premiums for the insurance coverage's required to be maintained by Lessor under Article 13.

5.6 Management or Franchise Fees. Lessee will maintain in full force and effect, and pay or cause to be paid all fees and other charges payable pursuant to the Franchise Agreement and any Management Agreement with respect to the Hotel.

ARTICLE 6 LEASED PROPERTY; PERSONAL PROPERTY

6.1 Ownership of the Leased Property. Lessee acknowledges that the Leased Property is the property of Lessor and that Lessee has only the right to the possession and use of the Leased Property upon the terms and conditions of this Lease.

6.2 Lessee's Personal Property. Lessee may acquire and maintain throughout the Term such Inventory as is required to operate the Leased Property in the manner contemplated by this Lease, in addition to any Inventory that is part of the Leased Property owned by Lessor or purchased by reserved funds of the Lessor. Lessee may (and shall as provided hereinbelow), at its expense, install, affix or assemble or place on any parcels of the Land or in any of the Leased Improvements, any items of personal property (including Inventory) owned by Lessee. Lessee, at the commencement of the Term, and from time to time thereafter, shall provide Lessor with an accurate list of all such items of Lessee's personal property (collectively, the "*Lessee's Personal Property*"). Lessee may, subject to the first sentence of this Section 6.2 and the conditions set forth below, remove any of Lessee's Personal Property set forth on such list at any time during the Term or upon the expiration or any prior termination of the Term. All of Lessee's Personal Property, other than Inventory, not removed by Lessee within ten (10) days following the expiration or earlier termination of the Term shall be considered abandoned by Lessee and may be appropriated, sold, destroyed or otherwise disposed of by Lessor without first giving Notice thereof to Lessee, without any payment to Lessee and without any obligation to account therefor. Lessee will, at its expense, restore the Leased Property to its original condition (ordinary wear and tear excepted), including repair of all damage to the Leased Property caused by the removal of Lessee's Personal Property, whether effected by Lessee or Lessor. Upon the expiration or earlier termination of the Term, Lessor or its designee shall have the option to purchase all Inventory on hand at the Leased Property at the time of such expiration or termination for a sale price equal to the fair market value of such Inventory. Lessee may make such financing arrangements, title retention agreements, leases or other agreements with respect to Lessee's Personal Property as it sees fit provided that Lessee first advises Lessor of any such arrangement and such arrangement expressly provides that in the event of Lessee's default thereunder, Lessor (or its designee) may assume Lessee's obligations and rights under such arrangement. Notwithstanding anything in this Section 6.2 to the contrary, Lessee shall not remove any of Lessee's Personal Property and/or enter into any financing arrangements, title retention agreements, leases or other agreements with respect to Lessee's Personal Property to the extent such actions violate the Loan Documents.

6.3 Lessor's Option to Purchase Assets of Lessee. Effective on not less than ninety (90) days' prior Notice given at any time within one hundred eighty (180) days before the expiration of the Term, but not later than ninety (90) days prior to such expiration, or upon such shorter Notice period as shall be appropriate if this Lease is terminated prior to its expiration date, Lessor shall have the option to purchase all (but not less than all) of the assets of Lessee, tangible and intangible, relating to the Leased Property (other than this Lease), at the expiration or termination of this Lease for an amount (payable in cash on the expiration date of this Lease) equal to the fair market value thereof. In the event that Lessor and Lessee cannot agree upon the fair market value of such property, the fair market value shall be determined by binding arbitration pursuant to Section 25.1.

ARTICLE 7 CONDITION AND USE OF LEASED PROPERTY

7.1 Condition of the Leased Property. Lessee acknowledges receipt and delivery of possession of the Leased Property. Lessee has examined and otherwise has knowledge of the condition of the Leased Property and has found the same to be satisfactory for its purposes hereunder. Lessee is leasing the Leased Property "*as is*" in its present condition. Lessee waives any claim or action against Lessor in respect of the condition of the Leased Property. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, IN RESPECT OF THE LEASED PROPERTY, OR ANY PART THEREOF, EITHER AS TO ITS FITNESS FOR USE, DESIGN OR CONDITION FOR ANY PARTICULAR USE OR PURPOSE OR OTHERWISE, AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, LATENT OR PATENT, IT BEING AGREED THAT ALL SUCH RISKS ARE TO BE BORNE BY LESSEE. LESSEE ACKNOWLEDGES THAT THE LEASED PROPERTY HAS BEEN INSPECTED BY LESSEE AND IS SATISFACTORY TO IT. Provided, however, to the extent permitted by law, Lessor hereby assigns to Lessee all of Lessor's rights, if any, to proceed against any predecessor in title (other than any Affiliate of Lessee, which conveyed the Leased Property to Lessor) for breaches of warranties or representations or for latent defects in the Leased Property. Lessor shall fully cooperate with Lessee in the prosecution of any such claim, in Lessor's or Lessee's name, all at Lessee's sole cost and expense. Lessee hereby agrees to indemnify, defend and hold harmless Lessor from and against any claims, obligations and liabilities against or incurred by Lessor in connection with such cooperation.

7.2 Use of the Leased Property.

(a) Lessee covenants that it will exercise reasonable efforts to obtain and to maintain all approvals needed to use and operate the Leased Property for its Primary Intended Purpose, as defined in Section 7.2(b) below, and applicable Legal Requirements.

(b) Lessee shall use or cause to be used the Leased Property only as a Residence Inn hotel facility, and for such other uses as may be necessary or incidental to such use or such other use as otherwise approved by Lessor (the "*Primary Intended Use*"). Lessee shall not use the Leased Property or any portion thereof for any other use without the prior written consent of Lessor, which consent may be granted, denied or conditioned in Lessor's sole discretion. No use shall be made or permitted to be made of the Leased Property, and no acts shall be done, which will cause the cancellation or increase the premium of any insurance policy covering the Leased Property or any part thereof (unless another adequate policy satisfactory to Lessor is available and Lessee pays any premium increase), nor shall Lessee sell or permit to be kept, used or sold in or about the Leased Property any article which may be prohibited by law or fire underwriter's regulations. Lessee shall, at its sole cost, comply with all of the requirements pertaining to the Leased Property of any insurance board, association, organization or company necessary for the maintenance of insurance, as herein provided, covering the Leased Property and Lessee's Personal Property.

(c) Subject to the provisions of Articles 14, 15, 18 and 21, Lessee covenants and agrees that during the Term it will (1) operate continuously the Leased Property as a hotel facility, (2) keep in full force and effect and comply with all the provisions of the Franchise Agreement, (3) not terminate or amend the Franchise Agreement without the consent of Lessor (which shall not be unreasonably withheld or delayed), and (4) maintain appropriate certifications and Licenses for such use.

(d) Lessee shall not commit or suffer to be committed any waste on the Leased Property, or in the Hotel, nor shall Lessee cause or permit any nuisance thereon.

(e) Lessee shall neither suffer nor permit the Leased Property or any portion thereof, or Lessee's Personal Property, to be used in such a manner as (1) might reasonably tend to impair Lessor's (or Lessee's, as the case may be) title thereto or to any portion thereof, or (2) may reasonably make possible a claim or claims of adverse usage or adverse possession by the public, as such, or of implied dedication of the Leased Property or any portion thereof, except as necessary in the ordinary and prudent operation of the Hotel on the Leased Property.

7.3 Lessor to Grant Easements, Etc. Subject to the terms of the Loan Documents, Lessor will, from time to time, so long as no Event of Default has occurred and is continuing, at the request of Lessee and at Lessee's cost and expense (but subject to the approval of Lessor, which approval shall not be unreasonably withheld or delayed), (a) grant easements and other rights in the nature of easements with respect to the Leased Property to third parties, (b) release existing easements or other rights in the nature of easements which are for the benefit of the Leased Property, (c) dedicate or transfer unimproved portions of the Leased Property for road, highway or other public purposes, (d) execute petitions to have the Leased Property annexed to any municipal corporation or utility district, (e) execute amendments to any covenants and restrictions affecting the Leased Property and (f) execute and deliver to any Person any instrument appropriate to confirm or effect such grants, releases, dedications, transfers, petitions and amendments (to the extent of its interests in the Leased Property), but only upon delivery to Lessor of an Officer's Certificate stating that such grant, release, dedication, transfer, petition or amendment does not interfere with the proper conduct of the business of Lessee on the Leased Property and does not materially reduce the value of the Leased Property.

7.4 Engagement of a Manager. Lessee shall not engage a Manager for the Leased Property other than a qualified manager without the written consent of the Lessor, which may be given or withheld in Lessor's reasonable discretion. The parties hereby agree that Moody National Hospitality Management, LLC is a qualified manager. Any management contract, agreement or other arrangement entered into by Lessee shall not relieve Lessee of any of Lessee's obligation hereunder and any such agreement shall be expressly subordinate to the terms and conditions of this Lease.

7.5 Change in Franchise Affiliation. Lessee shall not, without the prior written consent of Lessor, which consent may be granted or withheld in Lessor's sole discretion, replace the existing franchise affiliation.

ARTICLE 8

LESSEE'S COMPLIANCE WITH LEGAL REQUIREMENTS AND INSURANCE REQUIREMENTS

8.1 Compliance with Legal and Insurance Requirements, Etc. Subject to Section 8.3(b) below and Section 12.2 (relating to permitted contests), Lessee, at its expense, will promptly (a) comply with all applicable Legal Requirements and Insurance Requirements in respect of the use, operation, maintenance, repair and restoration of the Leased Property, and (b) procure, maintain and comply with all appropriate Licenses and other authorizations required for any use of the Leased Property and Lessee's Personal Property then being made, and for the proper erection, installation, operation and maintenance of the Leased Property or any part thereof.

8.2 Legal Requirement Covenants.

(a) Subject to Section 8.3 below, Lessee covenants and agrees that the Leased Property and Lessee's Personal Property, if any, shall not be used for any unlawful purpose, and that Lessee shall not permit or suffer to exist any unlawful use of the Leased Property by others. Lessee shall acquire and maintain all appropriate licenses, certifications, permits and other authorizations and approvals needed to operate the Leased Property in its customary manner for the Primary Intended Use, and any other lawful use conducted on the Leased Property as may be permitted from time to time hereunder. Lessee further covenants and agrees that Lessee's

use of the Leased Property and maintenance, alteration, and operation of the same, and all parts thereof, shall at all times conform to all Legal Requirements, unless the same are finally determined by a court of competent jurisdiction to be unlawful (and Lessee shall cause all sub-tenants, invitees or others within its control so to comply with all Legal Requirements). Lessee may, however, upon prior Notice to Lessor, contest the legality or applicability of any such Legal Requirement or any licensure or certification decision if Lessee maintains such action in good faith, with due diligence, without prejudice to Lessor's rights hereunder, and at Lessee's sole expense. If by the terms of any such Legal Requirement compliance therewith pending the prosecution of any such proceeding may legally be delayed without the occurrence of any charge or liability of any kind, or the filing of any lien, against the Hotel or Lessee's leasehold interest therein and without subjecting Lessee or Lessor to any liability, civil or criminal, for failure so to comply therewith, Lessee may delay compliance therewith until the final determination of such proceeding. If any lien, charge or civil or criminal liability would be incurred by reason of any such delay, Lessee, on the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed, may nonetheless contest as aforesaid and delay as aforesaid provided that such delay would not subject Lessor to criminal liability and Lessee both (a) furnishes to Lessor security reasonably satisfactory to Lessor against any loss or injury by reason of such contest or delay and (b) prosecutes the contest with due diligence and in good faith.

(b) As between Lessor and Lessee, Lessee is solely responsible for all liabilities or obligations of any kind with respect to employees at the Leased Property during the Term. Without limiting the generality of the foregoing sentence, Lessee is solely responsible for any required compliance with the Worker Adjustment, Retraining and Notification Act of 1988 (the "WARN Act") or any similar state law applicable to the Leased Property; any required compliance with the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended ("COBRA") and all alleged and actual obligations and claims arising from or relating to any employment agreement, collective bargaining agreement or employee benefit plans, any grievances, arbitration's, or unfair labor practice charges, and relating to compliance with any applicable state or federal labor employment law, including but not limited to all laws pertaining to discrimination, workers' compensation, unemployment compensation, occupational safety and health, unfair labor practices, family and medical leave, and wages, hours or employee benefits. Lessee agrees to indemnify and defend and hold harmless Lessor from and against any claims relating to any of the foregoing matters. Lessee further agrees to reimburse Lessor for any and all losses, damages, costs, expenses, liabilities and obligations of any kind, including without limitation reasonable attorney's fees and other legal costs and expenses, incurred by Lessor in connection with any of the foregoing matters.

8.3 Environmental Covenants. Lessor and Lessee additionally covenant and agree as follows:

(a) At all times hereafter until the later of (i) such time as all liabilities, duties or obligations of Lessee to Lessor under the Lease have been satisfied in full and (ii) such time as Lessee completely vacates the Leased Property and surrenders possession of the same to Lessor, Lessee shall fully comply with all Environmental Laws applicable to the Leased Property and the operations thereon. Lessee agrees to give Lessor prompt Notice of (1) all Environmental Liabilities; (2) all pending, threatened or anticipated Proceedings, and all notices, demands, requests or investigations, relating to any Environmental Liability or relating to the issuance, revocation or change in any Environmental Authorization required for operation of the Leased Property; (3) all Releases at, on, in, under or in any way affecting the Leased Property, or any Release known by Lessee at, on, in or under any property adjacent to the Leased Property; and (4) all facts, events or conditions that could reasonably lead to the occurrence of any of the above-referenced matters.

(b) Lessor hereby agrees to defend, indemnify and save harmless any and all Lessee Indemnified Parties from and against any and all Environmental Liabilities other than (i) Environmental Liabilities resulting from conditions disclosed in any environmental audit obtained by Lessor and provided to Lessee prior to the execution of this Lease (the "Environmental Audit"), and (ii) Environmental Liabilities which were caused by the acts or grossly negligent failures to act of Lessee.

(c) Lessee hereby agrees to defend, indemnify and save harmless any and all Lessor Indemnified Parties from and against any and all Environmental Liabilities which were (i) resulting from conditions disclosed in the Environmental Audit, and (ii) caused by the acts or grossly negligent failures to act of Lessee.

(d) If any Proceeding is brought against any Indemnified Party in respect of an Environmental Liability with respect to which such Indemnified Party may claim indemnification under either Subsection 8.3(b) or (c), the Indemnifying Party, upon request, shall at its sole expense resist and defend such Proceeding, or cause the same to be resisted and defended by counsel designated by the Indemnified Party and approved by the Indemnifying Party, which approval shall not be unreasonably withheld or delayed; provided, however, that such approval shall not be required in the case of defense by counsel designated by any insurance company undertaking such defense pursuant to any applicable policy of insurance. Each Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel will be at the sole expense of such Indemnified Party unless such counsel has been approved by the Indemnifying Party, which approval shall not be unreasonably withheld or delayed. The Indemnifying Party shall not be liable for any settlement of any such Proceeding made without its consent, which shall not be unreasonably withheld or delayed, but if settled with the consent of the Indemnifying Party, or if settled without its consent (if its consent shall be unreasonably withheld or delayed), or if there be a final, nonappealable judgment for an adversary party in any such Proceeding, the Indemnifying Party shall indemnify and hold harmless the Indemnified Parties from and against any liabilities and loss incurred by such Indemnified Parties by reason of such settlement or judgment.

(e) At any time any Indemnified Party has reason to believe circumstances exist which could reasonably result in an Environmental Liability, upon reasonable prior Notice to Lessee and Manager stating such Indemnified Party's basis for such belief, an Indemnified Party shall be given immediate access to the Leased Property (including, but not limited to, the right to enter upon, investigate, drill wells, take soil borings, excavate, monitor, test, cap and use available land for the testing of remedial technologies), Lessee's employees, and to all relevant documents and records regarding the matter as to which a responsibility, liability or obligation is asserted or which is the subject of any Proceeding; provided that such access may be conditioned or restricted as may be reasonably necessary to ensure compliance with law and the safety of personnel and facilities or to protect confidential or privileged information. All Indemnified Parties requesting such immediate access and cooperation shall endeavor to coordinate such efforts to result in as minimal interruption of the operation of the Leased Property as practicable.

(f) The indemnification rights and obligations provided for in this Article 8 shall be in addition to any indemnification rights and obligations provided for elsewhere in this Lease.

(g) The indemnification rights and obligations provided for in this Article 8 shall survive the termination of this Lease.

For purposes of this Section 8.3, all amounts for which any Indemnified Party seeks indemnification shall be computed net of (a) any actual income tax benefit resulting therefrom to such Indemnified Party, (b) any insurance proceeds received (net of tax effects) with respect thereto, and (c) any amounts recovered (net of tax effects) from any third parties based on claims the Indemnified Party has against such third parties which reduce the damages that would otherwise be sustained; provided that in all cases, the timing of the receipt or realization of insurance proceeds or income tax benefits or recoveries from third parties shall be taken into account in determining the amount of reduction of damages. Each Indemnified Party agrees to use its reasonable efforts to pursue, or assign to Lessee or Lessor, as the case may be, any claims or rights it may have against any third party that would materially reduce the amount of damages otherwise incurred by such Indemnified Party.

Notwithstanding anything to the contrary contained in this Lease, if Lessor shall become entitled to the possession of the Leased Property by virtue of the termination of the Lease or repossession of the Leased Property, then Lessor may assign its indemnification rights under this Section 8.3 (but not any other rights under this Section 8.3) to any Person to whom Lessor subsequently transfers the Leased Property, subject to the following conditions and limitations, each of which shall be deemed to be incorporated into the terms of such assignment, whether or not specifically referred to therein:

(i) The indemnification rights referred to in this section may be assigned only if a known Environmental Liability then exists or if a Proceeding is then pending or, to the knowledge of Lessee or Lessor, then threatened with respect to the Leased Property;

(ii) Such indemnification rights shall be limited to Environmental Liabilities relating to or specifically affecting the Leased Property; and

(iii) Any assignment of such indemnification rights shall be limited to the immediate transferee of Lessor, and shall not extend to any such transferee's successors or assigns.

ARTICLE 9 MAINTENANCE AND REPAIRS

9.1 Maintenance and Repairs.

(a) Lessee, at its sole expense, will keep the Leased Property, and all private roadways, sidewalks and curbs appurtenant thereto that are under Lessee's control, including windows and plate glass, mechanical, electrical and plumbing systems and equipment (including conduit and ductware), and non-load bearing interior walls, and parking lot surfaces, in good order and repair, except (i) for ordinary wear and tear (whether or not the need for such repairs occurred as a result of Lessee's use, any prior use, the elements or the age of the Leased Property, or any portion thereof) and (ii) to the extent of damage caused by Lessor's gross negligence or willful misconduct or that of its employees or agents, and, except as otherwise provided in Subsection 9.1(b), Article 14 or Article 15, with reasonable promptness, make all necessary and appropriate repairs replacements, and improvements thereto of every kind and nature, whether interior or exterior ordinary or extraordinary, foreseen or unforeseen or arising by reason of a condition existing prior to the commencement of the Term of this Lease (concealed or otherwise), or required by any governmental agency having jurisdiction over the Leased Property, except as to the roof, structural walls or foundation of the Leased Improvements. Lessee will not take or omit to take any action, the taking or omission of which might materially impair the value or the usefulness of the Leased Property or any part thereof for its Primary Intended Use.

(b) Notwithstanding Lessee's obligations under Subsection 9.1(a) above, except to the extent of damage caused by Lessee's negligence or willful misconduct or that of its employees or agents, Lessor shall be required to bear the cost of maintaining any of the roof, structural walls or foundation of the Leased Improvements, but excluding windows and plate glass, mechanical, electrical and plumbing systems and equipment, including conduit and ductware, and non-load bearing walls, and parking lot surfaces. Except as set forth in the preceding sentence and in Section 10.3, Lessor shall not under any circumstances be required to build or rebuild any

improvement on the Leased Property, or to make any repairs, replacements, alterations, restorations or renewals of any nature or description to the Leased Property, whether ordinary or extraordinary, foreseen or unforeseen, or to make any expenditure whatsoever with respect thereto, in connection with this Lease, or to maintain the Leased Property in any way. Lessee hereby waives, to the extent permitted by law, the right to make repairs at the expense of Lessor, pursuant to any law in effect at the time of the execution of this Lease or hereafter enacted, except following default by Lessor under this Lease, to the extent of repairs (for which Lessor is obligated hereunder) required to be made in order for the Hotel, and Lessee's use thereof, to comply with Lessee's obligations under the Management Agreement or any Franchise Agreement, as applicable. Lessor shall have the right to give, record and post, as appropriate, notices of nonresponsibility under any mechanic's lien laws now or hereafter existing.

(c) Nothing contained in this Lease and no action or inaction by Lessor shall be construed as (i) constituting the request of Lessor, expressed or implied, to any contractor, subcontractor, laborer, materialman or vendor to or for the performance of any labor or services or the furnishing of any materials or other property for the construction, alteration, addition, repair or demolition of or to the Leased Property or any part thereof, or (ii) giving Lessee any right, power or permission to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against Lessor in respect thereof or to make any agreement that may create, or in any way be the basis for any right, title, interest, lien, claim or other encumbrance upon the estate of Lessor in the Leased Property, or any portion thereof.

9.2 Encroachments, Restrictions, Etc. Lessor represents and warrants that the Leased Improvements do not materially encroach upon any property, street or right-of-way adjacent to the Leased Property, or violate the agreements or conditions contained in any lawful restrictive covenant or other agreement affecting the Leased Property, or any part thereof, or impair the rights of others under any easement or right-of-way to which the Leased Property is subject. Except to the extent that such representation and warranty is breached by Lessor, if any of the Leased Improvements, at any time hereafter, materially encroach upon any property, street or right-of-way adjacent to the Leased Property, or violate the agreements or conditions contained in any lawful restrictive covenant or other agreement affecting the Leased Property, or any part thereof, or impair the rights of others under any easement or right-of-way to which the Leased Property is subject, then promptly upon the request of Lessor or at the behest of any Person affected by any such encroachment, violation or impairment, Lessee shall, at its expense, subject to its right to contest the existence of any encroachment, violation or impairment and in such case, in the event of an adverse final determination, either (a) obtain valid and effective waivers or settlements of all claims, liabilities and damages resulting from each such encroachment, violation or impairment, whether the same shall affect Lessor or Lessee or (b) make such changes in the Leased Improvements, and take such other actions, as Lessee in the good faith exercise of its judgment deems reasonably practicable to remove such encroachment, and to end such violation or impairment, including, if necessary, the alteration of any of the Leased Improvements, and in any event take all such actions as may be necessary in order to be able to continue the operation of the Leased Improvements for the Primary Intended Use substantially in the manner and to the extent the Leased Improvements were operated prior to the assertion of such violation, impairment or encroachment. Any such alteration shall be made in conformity with the applicable requirements of Article 10. Lessee's obligations under this Section 9.2 shall be in addition to and shall in no way discharge or diminish any obligation of any insurer under any policy of title or other insurance held by Lessor.

ARTICLE 10

ALTERATIONS AND IMPROVEMENTS; FF&E RESERVE

10.1 Alterations. After receiving approval of Lessor, which approval shall not be unreasonably withheld or delayed, Lessee shall have the right to make such additions, modifications or improvements to the Leased Property from time to time as Lessee deems desirable for its permitted uses and purposes, provided that such action will not significantly alter the character or purposes or significantly detract from the value or operating efficiency thereof and will not significantly impair the revenue-producing capability of the Leased Property or adversely affect the ability of Lessee to comply with the provisions of this Lease. The cost of such additions, modifications or improvements to the Leased Property shall be paid by Lessee, and all such additions, modifications and improvements shall, without payment by Lessor at any time, be included under the terms of this Lease and upon expiration or earlier termination of this Lease shall pass to and become the property of Lessor.

10.2 Salvage. All materials which are scrapped or removed in connection with the making of repairs required by Articles 9 or 10 shall be or become the property of Lessor or Lessee depending on which party is paying for or providing the financing for such work.

10.3 Furniture, Fixture and Equipment Allowance. Upon the execution of this Lease, Lessor shall have funded a \$0 reserve ("PIP Reserve") as required under the Initial Loan Documents to meet the requirements for periodic repair, replacement or refurbishing of furniture, fixtures and equipment that constitute Leased Property. Additional monthly reserves for such purpose required to meet the terms of the Loan Documents shall be the obligation of the Lessor. Any requirements in addition to the Loan Documents pursuant to the Management Agreement (or Franchise Agreement, if applicable) shall be the obligation of the Lessee. Subject to any provisions of the Loan Documents, the PIP Reserve shall be made available by Lessor for use by Lessee for replacement or refurbishing of furniture, fixtures and equipment that constitute Leased Property in connection with the Primary Intended Use; provided, however, that no amounts made available under this Article shall be used to purchase property (other than "*real property*" within the meaning of Treasury Regulations Section 1.856-3(d)), to the extent that doing so would cause Lessor to recognize income other than "*rents from*

real property” as defined in Section 856(d) of the Code. Lessor’s obligation shall be cumulative, but not compounded, and any amounts that have accrued hereunder shall be payable in future periods for such uses and in accordance with the procedure set forth herein. Lessee shall have no interest in any accrued obligation of Lessor hereunder after the termination of this Lease.

ARTICLE 11 COMPLIANCE WITH OTHER AGREEMENTS

11.1 Compliance with Franchise Agreement and Management Agreement. To the extent any of the provisions of the Management Agreement or Franchise Agreement, as applicable, impose a greater obligation on Lessee than the corresponding provisions of the Lease, then Lessee shall be obligated to comply with, and to take all reasonable actions necessary to prevent breaches or defaults under, the provisions of the Franchise Agreement and the Management Agreement, as applicable. It is the intent of the parties hereto that Lessee shall comply in every respect with the provisions of the Management Agreement or any Franchise Agreement so as to avoid any material default thereunder during the term of this Lease. Lessee shall not terminate, extend or enter into any material modification of the Management Agreement or Franchise Agreement, as applicable, without in each instance first obtaining Lessor’s prior written consent, which shall not be unreasonably withheld, and consent of the Lender, if required by the Loan Documents. Lessor and Lessee agree to cooperate with each other in the event it becomes necessary to obtain a Management Agreement extension or modification (or, at Lessor’s option, a new franchise) for the Leased Property, and in any transfer of the Management Agreement or any Franchise Agreement to Lessor or any designee of Lessor or any successor to Lessee upon the termination of this Lease. In the event of expiration or termination of the Management Agreement or any Franchise Agreement, for whatever reason, Lessor will have the right, in the exercise of its sole discretion, to approve any new Franchise Agreement or Management Agreement for the Hotel and such new Franchise Agreement or Management Agreement shall also be subject to the consent of the Lender, if required by the Loan Documents.

ARTICLE 12 PERMITTED LIENS AND CONTESTS

12.1 Liens. Subject to the provisions of Section 12.2 relating to permitted contests, Lessee will not directly or indirectly create or allow to remain and will promptly discharge at its expense any lien, encumbrance, attachment, title retention agreement or claim upon the Leased Property or any attachment, levy, claim or encumbrance in respect of the Rent, not including, however, (a) this Lease, (b) the matters included as exceptions in the title policy insuring Lessor’s interest in the Leased Property, (c) restrictions, liens and other encumbrances which are consented to in writing by Lessor or any easements granted pursuant to the provisions of Section 7.3 of this Lease, (d) liens for those taxes upon Lessor or the Leased Property which Lessee is not required to pay hereunder, (e) subleases permitted by Article 20 hereof, (f) liens for Impositions or for sums resulting from noncompliance with Legal Requirements so long as (1) the same are not yet payable or are payable without the addition of any fine or penalty or (2) such liens are in the process of being contested as permitted by Section 12.2, (g) liens of mechanics, laborers, materialmen, suppliers or vendors for sums either disputed or not yet due provided that (1) the payment of such sums shall not be postponed under any related contract for more than sixty (60) days after the completion of the action giving rise to such lien and such reserve or other appropriate provisions as shall be required by law or generally accepted accounting principles shall have been made therefor or (2) any such liens are in the process of being contested as permitted by Section 12.2 hereof, and (h) any liens which are the responsibility of Lessor pursuant to the provisions of Article 22 of this Lease.

12.2 Permitted Contests. Lessee shall have the right to contest the amount or validity of any Imposition to be paid by Lessee or any Legal Requirement or Insurance Requirement or any lien, attachment, levy, encumbrance, charge or claim (“*Claims*”) not otherwise permitted by Section 12.1, by appropriate legal proceedings in good faith and with due diligence (but this shall not be deemed or construed in any way to relieve, modify or extend Lessee’s covenants to pay or its covenants to cause to be paid any such charges at the time and in the manner as in this Section provided), on condition, however, that such legal proceedings shall not operate to relieve Lessee from its obligations hereunder and shall not cause the sale or risk the loss of any portion of the Leased Property, or any part thereof, or cause Lessor or Lessee to be in default under any mortgage, deed of trust, security deed or other agreement encumbering the Leased Property or any interest therein. Upon the request of Lessor, Lessee shall either (a) provide a bond or other assurance reasonably satisfactory to Lessor that all Claims which may be assessed against the Leased Property together with interest and penalties, if any, thereon will be paid, or (b) deposit within the time otherwise required for payment with a bank or trust company as trustee upon terms reasonably satisfactory to Lessor, as security for the payment of such Claims, money in an amount sufficient to pay the same, together with interest and penalties in connection therewith, as to all Claims which may be assessed against or become a Claim on the Leased Property, or any part thereof, in said legal proceedings. Lessee shall furnish Lessor and any lender of Lessor with reasonable evidence of such deposit within five (5) days of the same. Lessor agrees to join in any such proceedings if the same be required legally to prosecute such contest of the validity of such Claims; provided, however, that Lessor shall not thereby be subjected to any liability or loss for the payment of any costs or expenses in connection with any proceedings brought by Lessee; and Lessee covenants to indemnify and save harmless Lessor from any such liabilities, losses, costs or expenses. Lessee shall be entitled to any refund of any Claims and such charges and penalties or interest thereon which have been paid by Lessee or paid by Lessor and for which Lessor has been fully reimbursed. In the event that Lessee fails to pay any Claims when due or to provide the security therefor as provided in this Section and diligently to prosecute any contest of the same, Lessor may, upon ten (10) days’ advance Notice to Lessee, and Lessee’s failure to correct the same within such ten (10) day period, pay such charges together with any interest and penalties and the same shall

be repayable by Lessee to Lessor as Additional Charges at the next Payment Date provided for in this Lease; provided, however, that should Lessor reasonably determine that the giving of such Notice would risk loss to the Leased Property or cause damage to Lessor, then Lessor shall give such Notice as is practical under the circumstances. Lessor reserves the right to contest any of the Claims at its expense not pursued by Lessee. Lessor and Lessee agree to cooperate in coordinating the contest of any Claims.

ARTICLE 13 INSURANCE REQUIREMENTS

13.1 General Insurance Requirements. During the Term of this Lease, Lessee shall at all times keep the Leased Property insured with the kinds and amounts of insurance described below, or such other insurance coverage(s) as may be required by the Management Agreement and the Loan Documents; provided, however, all insurance coverage for which Lessor is required to reserve funds pursuant to the Loan Documents shall be the obligation of the Lessor. This insurance shall be written by companies authorized to issue insurance in the State. The policies must name Lessor and/or Lessee, as applicable, as the insured or as an additional named insured, as the case may be. Losses shall be payable to Lessor or Lessee as provided in this Lease. Any loss adjustment shall require the written consent of Lessor and Lessee, each acting reasonably and in good faith. Evidence of insurance shall be deposited with Lessor. The policies on the Leased Property, including the Leased Improvements, Fixtures and Lessee's Personal Property, if any, shall include the following:

(i) All Risks Property insurance on the Leased Improvements in an amount not less than 100% of the full replacement cost of the Leased Improvements with a Replacement Cost Endorsement. "Full replacement cost" as used herein means the cost of replacing the Leased Improvements (exclusive of the cost of excavations, foundation and footings below the lowest basement floor) without deduction for physical depreciation thereof;

(ii) Boiler and Machinery insurance as may reasonably be required to cover physical damage to the Improvements and to the major components of any central heating, air-conditioning or ventilation systems;

(iii) Provided that the Leased Property, or any portion thereof, is located in an area designated as a flood prone area participating in the National Flood Insurance Program, flood insurance in an amount equal to the full replacement cost or the maximum amount then available, unless neither the Leased Property, nor any portion thereof, is located within a 100 year flood plain as determined by the Federal Insurance Administration;

(iv) During any changes or alternations of the Leased Property or any part thereof and during any Restoration following a Taking or a casualty, all risk builder's risk insurance in an amount not less than 100% of the full replacement cost of the Improvements;

(v) Insurance against loss of profits or rental under a business interruption insurance policy or under a rental value insurance policy covering risk of loss due to the occurrence of any of the hazards covered by the policies described in (i), (ii), and (iii) above, and (to the extent insurance covering hazards is generally obtainable) in (iv) in an amount not less than the aggregate requirements for the period of 12 months following the occurrence of the insured casualty for: (i) Base Rent and Percentage Rent, and (ii) Additional Charges, including premiums on insurance required to be carried pursuant to this Section;

(vi) Comprehensive general liability insurance including contractual liability insurance specifically covering the indemnification obligations of Lessee under this Lease, on an occurrence basis against claims for personal injury, (including, without limitation, elevators and/or escalators) and the sidewalks, driveways and curbs adjacent thereto with limits not less than \$1,000,000 combined single limit and \$2,000,000 in the annual aggregate in the event of bodily injury or death to any number of persons in any accident; and

(vii) Any other insurance or coverages applicable to the Leased Property which are required to be maintained by the owner or operator of the Leased Property pursuant to the terms of any Permitted Mortgage; provided that such insurance shall only be required to be maintained by Lessee during the term of the Permitted Mortgage.

13.2 Reserved.

13.3 Waiver of Subrogation. All insurance policies carried by Lessor or Lessee covering the Leased Property, the Fixtures, the Hotel or Lessee's Personal Property, including, without limitation, contents, fire and casualty insurance, shall expressly waive any right of subrogation on the part of the insurer against the other party. The parties hereto agree that their policies will include such waiver clause or endorsement so long as the same are obtainable without extra cost, and in the event of such an extra charge the other party, at its election, may pay the same, but shall not be obligated to do so. Each party agrees to seek recovery from any applicable insurance coverage prior to seeking recovery against the other.

13.4 Form Satisfactory, Etc.

(a) All of the policies of insurance referred to in this Article 13 to be maintained by Lessee shall be written in a form, with deductibles and by insurance companies satisfactory to Lessor. Lessee shall pay all of the premiums therefor, and deliver such policies or certificates thereof to Lessor prior to their effective date (and, with respect to any renewal policy, thirty (30) days prior to the expiration of the existing policy), and in the event of the failure of Lessee either to effect such insurance as herein called for or to pay the premiums therefor, or to deliver such policies or certificates thereof to Lessor at the times required, Lessor shall be entitled, but shall have no obligation, to effect such insurance and pay the premiums therefor, and Lessee shall reimburse Lessor for any premium or premiums paid by Lessor for the coverages required of Lessee under this Article 13 upon written demand therefor, and Lessee's failure to repay the same within thirty (30) days after Notice of such failure from Lessor shall constitute an Event of Default within the meaning of Section 16.1. Each insurer mentioned in this Article 13 shall agree, by endorsement to the policy or policies issued by it, or by independent instrument furnished to Lessor, that it will give to Lessor thirty (30) days' written notice before the policy or policies in question shall be materially altered, allowed to expire or canceled.

(b) All of the policies of insurance referred to in this Article 13 to be maintained by Lessor shall be written in a form, with deductibles and by insurance companies satisfactory to Lessee. Lessor shall pay all of the premiums therefor, and deliver such policies or certificates thereof to Lessee prior to their effective date (and, with respect to any renewal policy, thirty (30) days prior to the expiration of the existing policy), and in the event of the failure of Lessor either to effect such insurance as herein called for or to pay the premiums therefor, or to deliver such policies or certificates thereof to Lessee at the times required, Lessee shall be entitled, but shall have no obligation, to effect such insurance and pay the premiums therefor, and Lessor shall reimburse Lessee for any premium or premiums paid by Lessee for the coverages required under this Section upon written demand therefor. Each insurer mentioned in this Article 13 shall agree, by endorsement to the policy or policies issued by it, or by independent instrument furnished to Lessee, that it will give to Lessee thirty (30) days' written notice before the policy or policies in question shall be materially altered, allowed to expire or canceled.

13.5 Increase in Limits. If either Lessor or Lessee at any time deems the limits of the personal injury or property damage under the comprehensive public liability insurance then carried to be either excessive or insufficient, Lessor and Lessee shall endeavor in good faith to agree on the proper and reasonable limits for such insurance to be carried and such insurance shall thereafter be carried with the limits thus agreed on until further change pursuant to the provisions of this Article 13.

13.6 Blanket Policy. Notwithstanding anything to the contrary contained in this Article 13, Lessee or Lessor may bring the insurance provided for herein within the coverage of a so-called blanket policy or policies of insurance carried and maintained by Lessee (or Manager) or Lessor; provided, however, that the coverage afforded to Lessor and Lessee will not be reduced or diminished or otherwise be different from that which would exist under a separate policy meeting all other requirements of this Lease by reason of the use of such blanket policy of insurance, and provided further that the requirements of this Article 13 are otherwise satisfied.

13.7 No Separate Insurance. Lessee shall not, on Lessee's own initiative or pursuant to the request or requirement of any third party, take out separate insurance concurrent in form or contributing in the event of loss with that required in this Article to be furnished, or increase the amount of any then existing insurance by securing an additional policy or additional policies, unless all parties having an insurable interest in the subject matter of the insurance, including in all cases Lessor, are included therein as additional insured, and the loss is payable under such additional separate insurance in the same manner as losses are payable under this Lease. Lessee shall immediately notify Lessor of any such separate insurance that Lessee has obtained or of the increase of any of the amounts of the then existing insurance.

13.8 Reports On Insurance Claims. Lessee shall promptly investigate and make a complete and timely written report to the appropriate insurance company as to all accidents, claims for damage relating to the ownership, operation, and maintenance of the Hotel, any damage or destruction to the Hotel and the estimated cost of repair thereof and shall prepare any and all reports required by any insurance company in connection therewith. All such reports shall be timely filed with the insurance company as required under the terms of the insurance policy involved, and a final copy of such report shall be furnished to Lessor. Lessee shall be authorized to adjust, settle, or compromise any insurance loss, or to execute proofs of such loss, in the aggregate amount of \$30,000 or less, with respect to any single casualty or other event.

ARTICLE 14 DAMAGE OR DESTRUCTION

14.1 Insurance Proceeds. Subject to the provisions of Section 14.4, all proceeds payable by reason of any loss or damage to the Leased Property, or any portion thereof, insured under any policy of insurance required by Article 13 of this Lease, shall be paid to Lessor and held in trust by Lessor in an interest-bearing account, shall be made available, if applicable, for reconstruction or repair, as the case may be, of any damage to or destruction of the Leased Property, or any portion thereof, and, if applicable, shall be paid out by Lessor from time to time for the reasonable costs of such reconstruction or repair upon satisfaction of reasonable terms and conditions specified by Lessor; provided, however, if the Initial Loan secured by the Leased Property requires that such funds be held by the Lender, any such proceed shall be held and applied in accordance with the terms of the Loan Documents. Any excess proceeds of insurance (and

accrued interest) remaining after the completion of the restoration or reconstruction of the Leased Property, as hereinafter set forth, shall be paid to Lessee, except for any excess funds attributable to Lessor Capital Improvements which shall be retained by Lessor. If neither Lessor nor Lessee is required or elects to repair and restore, and the Lease is terminated without purchase by Lessee as described in Section 14.2, all such insurance proceeds shall be retained by Lessor. All salvage resulting from any risk covered by insurance shall belong to Lessor.

14.2 Material Casualty. In the event of any material casualty to the Project, Lessee shall promptly give written notice to Lessor thereof. Except as set forth herein, Lessee shall be responsible for the Restoration of the Leased Property and Lessee shall be entitled to the use of all available proceeds from any insurance for purposes of completing the Restoration. In such event this Lease shall continue in full force and effect, without abatement, unless otherwise set forth below. If the proceeds from any casualty insurance are insufficient to complete the Restoration, Lessee shall fund any excess required to complete the Restoration except for funds attributed to Lessor Capital Improvements. Lessor shall provide Lessee with the funds necessary to fund any costs to complete the Restoration for Lessor Capital Improvements. Absent receipt of Lessor's agreement to fund such excess amounts within 30 days, Lessee may elect to terminate this Lease upon notice to Lessor within 20 days after the expiration of the 30 day period.

14.3 Lessee's Property. All insurance proceeds payable by reason of any loss of or damage to any of Lessee's Personal Property shall be paid to Lessee; provided, however, no such payments shall diminish or reduce the insurance payments otherwise payable to or for the benefit of Lessor hereunder.

14.4 Abatement of Rent. In the event that this Lease is terminated pursuant to this Section 14, then the rental payments and other charges due under this Lease shall be prorated to the date of termination. In the event that some or all of the Leased Property cannot be restored, and Lessor and Lessee elect not to terminate this Lease, then the Base Rent and Percentage Rent shall be reduced by an amount reasonably determined by Lessor and Lessee. If Lessor and Lessee cannot, within 30 days, agree on the new Base Rent and Percentage Rent, either may require that the matter be settled by arbitration as set forth in Section 25.1. Except as provided herein, no destruction of or damage to the Leased Property or any part thereof by fire or any other casualty shall permit Lessee to surrender this Lease or shall relieve Lessee from Lessee's liability to pay the full Base Rent and Percentage Rent and other charges due under this Lease or from any of Lessee's other obligations under this Lease.

14.5 Damage Near End of Term. Notwithstanding any other provisions of this Section 14 to the contrary, if damage to or destruction of the Hotel rendering it unsuitable for its Primary Intended Use occurs during the last twenty-four (24) months of the Term, then Lessee shall have the right to terminate this Lease by giving Notice to Lessor within thirty (30) days after the date of damage or destruction, whereupon all accrued Rent shall be paid immediately, and this Lease shall automatically terminate five (5) days after the date of such Notice. Notwithstanding the foregoing, Lessee may not elect to terminate this Lease pursuant to the preceding sentence if such termination would constitute a default under the Initial Loan, or if Restoration is otherwise required by the Loan Documents, Lessee shall complete the Restoration in accordance with the terms of this Section.

14.6 Waiver. Lessee waives any rights now or hereafter conferred upon Lessee by statute or otherwise to quit or surrender this Lease or the Leased Property or any part thereof, or to any suspension, diminution, abatement or reduction of rent on account of any such destruction or damage except as expressly set forth herein.

ARTICLE 15 CONDEMNATION; AWARD ALLOCATION

15.1 Total Taking. Subject to any Loan Documents, in case of a Taking of all of the Leased Property, this Lease shall terminate and expire as of the Vesting Date and the Base Rent, Percentage Rent and Additional Charges under this Lease shall be apportioned and paid to the Vesting Date.

15.2 Partial Taking. Subject to any Loan Documents, in case of a Taking of less than all of the Leased Property, Lessor shall receive the entire award for the Taking and, except as specifically set forth in this Section, no claim or demand of any kind shall be made by Lessee against Lessor or any other party who could, by virtue of a claim against it, make a claim against Lessor by reason of such Taking.

(a) In the case of a Taking of a portion, but less than all, of the Leased Property, Lessee shall determine, in Lessee's reasonable discretion, whether the remaining Project (after Restoration referred to in (c), below (i) can be used for the Primary Intended Use and (ii) will allow Lessee to complete the Restoration for an amount not to exceed the proceeds from the Taking. If it is determined by Lessee that the remaining Leased Property cannot be used for the Primary Intended Use, then and in such event this Lease shall terminate as of the Vesting Date and the Base Rent, Percentage Rent and Additional Charges shall be apportioned and paid to the date of termination and no other claim or demand of any kind shall be made by Lessor against Lessee by reason of such termination. If it is determined that Lessee cannot complete the Restoration for an amount that is less than or equal to the proceeds from the Taking then and in such event Lessee can elect to terminate this Lease as of the Vesting Date and the Base Rent, Percentage Rent and Additional Charges shall be apportioned and paid to the date of termination and no other claim or demand of any kind shall be made by Lessor against Lessee by reason of such termination; provided, however, that if there is at least 24 months remaining in the Term, Lessor may

agree to pay the excess Restoration expenses in which case this Lease shall not terminate and Lessee shall undertake the Restoration of the Project in accordance with the terms of (c), below.

(b) If, in the case of a Taking of less than all of the Leased Property, this Lease is not terminated in accordance with the provisions of (a) above, this Lease shall continue in full force and effect as to the remaining portion of the Leased Property without any reduction in the Base Rent and Percentage Rent, except as expressly provided in Section 15.3. No such partial taking shall operate as or be deemed an eviction of Lessee from that portion of the Leased Property not affected by such partial Taking or in any way terminate, diminish, suspend, abate or impair the obligation of Lessee to observe and perform fully all the covenants of this Lease on the part of Lessee to be performed with respect to the remainder of the Leased property unaffected by the partial Taking, except as to any reduction (if any) in the Base Rent and Percentage Rent as expressly provided in Section 15.3.

(c) If, in the case of a Taking of less than all of the Leased Property, this Lease is not terminated in accordance with the provisions of (a) above, Lessee shall, prior to the expiration of the Term of this Lease, commence and proceed with reasonable diligence to complete the Restoration provided, however, that Lessor shall, in this case, make the award in the Condemnation Proceedings and, in the case of (a) above, such award plus any excess funds due from Lessor, available to Lessee to be utilized for Restoration of the Leased Property in the following manner, and subject to the following conditions and provisions. Lessor shall be entitled to receive and retain the remainder of the award not needed to complete the Restoration (the "Surplus")

15.3 Rent Reduction. In case of a Taking of less than all of the Leased Property and if (i) this Lease shall not terminate as provided in Section 15.2 (a), and (ii) Restoration has been undertaken by Lessee pursuant to the provisions of Section 15.2(e), then commencing as of the Vesting Date, the amount of the Base Rent and Percentage Rent payable by Lessee under this Lease shall be reduced (and Lessee shall be credited for prior overpayments) by an amount reasonably determined by Lessor and Lessee. If Lessor and Lessee cannot, within 30 days, agree on the new Base Rent and Percentage Rent, either may require that the matter be submitted to Binding Arbitration as set forth in Section 25.1. The new Base Rent and Percentage Rent shall be established to provide Lessee and Lessor with the same economic return that each were entitled to prior to the Taking.

15.4 Notice of Condemnation. Each of Lessor and Lessee shall promptly deliver to the other any notices it receives with respect to a Condemnation Proceeding or threatened Condemnation Proceeding.

15.5 Additional Lender Provision. Notwithstanding anything herein to the contrary, Lessee's and Lessor's rights and obligations in and to any Condemnation Proceeding or related proceeds derived therefrom shall, in all cases, be subject to the rights of the holder of any Permitted Mortgage.

ARTICLE 16 LESSEE EVENTS OF DEFAULT; LESSOR REMEDIES

16.1 Events of Default. If any one or more of the following events (individually, an "*Event of Default*") occurs:

- (a) if Lessee fails to make payment of the Base Rent within fifteen (15) days after the same becomes due and payable; or
- (b) if Lessee fails to make payment of Percentage Rent within fifteen (15) days after the same becomes due and payable and such condition continues for a period of thirty (30) days after the end of the applicable period; or
- (c) if Lessee fails to observe or perform any other term, covenant or condition of this Lease and such failure is not cured by Lessee within a period of thirty (30) days after receipt by Lessee of Notice thereof from Lessor, unless such failure cannot with due diligence be cured within a period of thirty (30) days, in which case it shall not be deemed an Event of Default if Lessee proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof provided, however, in no event shall such cure period extend beyond ninety (90) days after such Notice; or
- (d) if Lessee shall file a petition in bankruptcy or reorganization for an arrangement pursuant to any federal or state bankruptcy law or any similar federal or state law, or shall be adjudicated a bankrupt or shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as they become due, or if a petition or answer proposing the adjudication of Lessee as a bankrupt or its reorganization pursuant to any federal or state bankruptcy law or any similar federal or state law shall be filed in any court and Lessee shall be adjudicated a bankrupt and such adjudication shall not be vacated or set aside or stayed within sixty (60) days after the entry of an order in respect thereof, or if a receiver of Lessee or of the whole or substantially all of the assets of Lessee shall be appointed in any proceeding brought by Lessee or if any such receiver, trustee or liquidator shall be appointed in any proceeding brought against Lessee and shall not be vacated or set aside or stayed within sixty (60) days after such appointment; or
- (e) if Lessee is liquidated or dissolved, or begins proceedings toward such liquidation or dissolution, or, in any manner, permits the sale or divestiture of substantially all of its assets; or

(f) if the estate or interest of Lessee in the Leased Property or any part thereof is voluntarily or involuntarily transferred, assigned, conveyed, levied upon or attached in any proceeding (unless Lessee is contesting such lien or attachment in good faith in accordance with Section 12.2 hereof) or there is a Change of Control of Lessee; or

(g) if, except as a result of damage, destruction or a partial or complete Condemnation as contemplated by this Lease, Lessee voluntarily ceases operations on the Leased Property for a period in excess of thirty (30) days; or

(h) if an event of default has been declared by franchisor under any Franchise Agreement with respect to the Hotel as a result of any action or failure to act by Lessee or any Person with whom Lessee contracts for management services at the Hotel, and such default is not cured by the earlier of (A) ten (10) days following notice from Lessor or (B) such earlier date as is required for Lessee to avoid termination of the Franchise Agreement by the franchisor, as applicable;

then, and in any such event, Lessor may exercise one or more remedies available to it herein or at law or in equity, including but not limited to its right to terminate this Lease by giving Lessee not less than ten (10) days' Notice of such termination.

If litigation is commenced with respect to any alleged default under this Lease, the prevailing party in such litigation shall receive, in addition to its damages incurred, such sum as the court shall determine as its reasonable attorneys' fees, and all costs and expenses incurred in connection therewith.

No Event of Default (other than a failure to make a payment of money) shall be deemed to exist under clause (d) during any time the curing thereof is prevented by an Unavoidable Occurrence, provided that upon the cessation of such Unavoidable Occurrence, Lessee remedies such default or Event of Default without further delay.

16.2 Surrender. If an Event of Default occurs (and the event giving rise to such Event of Default has not been cured within the curative period relating thereto as set forth in Section 16.1) and is continuing, whether or not this Lease has been terminated pursuant to Section 16.1, Lessee shall, if requested by Lessor so to do, immediately surrender to Lessor the Leased Property including, without limitation, any and all books, records, files, licenses, permits and keys relating thereto, and quit the same and Lessor may enter upon and repossess the Leased Property by summary proceedings, ejectment or otherwise, and may remove Lessee and all other Persons and any and all personal property from the Leased Property, subject to rights of any hotel guests and to any requirement of law. Lessee hereby waives any and all requirements of applicable laws for service of notice to re-enter the Leased Property. Lessor shall be under no obligation to, but may if it so chooses, relet the Leased Property or otherwise mitigate Lessor's damages.

16.3 Damages. Neither (a) the termination of this Lease, (b) the repossession of the Leased Property, (c) the failure of Lessor to relet the Leased Property, nor (d) the reletting of all or any portion thereof, shall relieve Lessee of its liability and obligations hereunder, all of which shall survive any such termination, repossession or reletting. In the event of any such termination, Lessee shall forthwith pay to Lessor all Rent due and payable with respect to the Leased Property to and including the date of such termination. Damages shall also consist of all reasonable and documented legal expenses and other related reasonable and documented out-of-pocket costs incurred by Lessor following the Event of Default, all reasonable and documented out-of-pocket costs incurred by Lessor in restoring the Leased Property to good order and condition; and any other damages available to Lessor under applicable law.

16.4 Waiver. If this Lease is terminated pursuant to Section 16.1, Lessee waives, to the extent permitted by applicable law, (a) any right to a trial by jury in the event of summary proceedings to enforce the remedies set forth in this Article 16, and (b) the benefit of any laws now or hereafter in force exempting property from liability for rent or for debt.

16.5 Application of Funds. Any payments received by Lessor under any of the provisions of this Lease during the existence or continuance of any Event of Default shall be applied to Lessee's obligations in the order that Lessor may determine or as may be prescribed by the laws of the State.

16.6 Lessor's Right to Cure Lessee's Default. If Lessee fails to make any payment or to perform any act required to be made or performed under this Lease, including, without limitation, Lessee's failure to comply with the terms of the Management Agreement or any Franchise Agreement, and fails to cure the same within the relevant time periods provided in Section 16.1, Lessor, without waiving or releasing any obligation of Lessee, and without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of Lessee, and may, to the extent permitted by law, enter upon the Leased Property for such purpose and, subject to Section 16.4, take all such action thereon as, in Lessor's opinion, may be necessary or appropriate therefor. No such entry shall be deemed an eviction of Lessee. All sums so paid by Lessor and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses, in each case to the extent permitted by law) so incurred, together with a late charge thereon (to the extent permitted by law) at the Overdue Rate from the date on which such sums or expenses are paid or incurred by Lessor, shall be paid by Lessee to Lessor on demand. The obligations of Lessee and rights of Lessor contained in this Article shall survive the expiration or earlier termination of this Lease.

ARTICLE 17
LESSOR EVENTS OF DEFAULT; LESSEE'S REMEDIES

17.1 Breach by Lessor. It shall be a breach of this Lease if Lessor fails to observe or perform any term, covenant or condition of this Lease on its part to be performed and such failure continues for a period of thirty (30) days after Notice thereof from Lessee, unless such failure cannot with due diligence be cured within a period of thirty (30) days, in which case such failure shall not be deemed to continue if Lessor, within such thirty (30) day period, proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof; provided, however, that such default shall be cured by Lessor in any event prior to the date on which the default becomes an event of default under the terms of any Franchise Agreement for the Hotel. The time within which Lessor shall be obligated to cure any such failure also shall be subject to extension of time due to the occurrence of any Unavoidable Occurrence.

17.2 Lessee's Right to Cure. Subject to the provisions of Section 17.1, if Lessor breaches any covenant to be performed by it under this Lease, Lessee, after Notice to and demand upon Lessor, without waiving or releasing any obligation hereunder, and in addition to all other remedies available to Lessee, may (but shall be under no obligation at any time thereafter to) make such payment or perform such act for the account and at the expense of Lessor. All sums so paid by Lessee and all costs and expenses (including, without limitation, reasonable attorneys' fees) so incurred, together with interest thereon at the Overdue Rate from the date on which such sums or expenses are paid or incurred by Lessee, shall be paid by Lessor to Lessee on demand or, following entry of a final, nonappealable judgment against Lessor for such sums, may be offset by Lessee against the Base Rent and/or Percentage Rent payments next accruing or coming due. The rights of Lessee hereunder to cure and to secure payment from Lessor in accordance with this Section 17.2 shall survive the termination of this Lease with respect to the Leased Property.

ARTICLE 18
INDEMNIFICATION

18.1 Indemnification.

(a) Notwithstanding the existence of any insurance, and without regard to the policy limits of any such insurance or self-insurance, but subject to Section 13.3 and Section 8.3, Lessee will protect, indemnify, hold harmless and defend Lessor from and against all liabilities, losses, obligations, claims, damages, penalties, causes of action, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses), to the extent permitted by law, imposed upon or incurred by or asserted against Lessor Indemnified Parties by reason of: (a) any accident, injury to or death of persons or loss of or damage to property occurring on or about the Leased Property or adjoining sidewalks, including without limitation any claims under liquor liability, "dram shop" or similar laws, (b) any use, misuse, non-use, condition, management, maintenance or repair by Lessee or any of its agents, employees or invitees of the Leased Property or Lessee's Personal Property during the Term or any litigation, proceeding or claim by governmental entities or other third parties to which a Lessor Indemnified Party is made a party or participant related to such use, misuse, non-use, condition, management, maintenance, or repair thereof by Lessee or any of its agents, employees or invitees, including any failure of lessee or any of its agents, employees or invitees to perform any obligations under this Lease or imposed by applicable law (other than arising out of Condemnation proceedings), (c) any Impositions that are the obligations of Lessee pursuant to the applicable provisions of this Lease, (d) any failure on the part of Lessee to perform or comply with any of the terms of this Lease, and (e) the non-performance of any of the terms and provisions of any and all existing and future subleases of the Leased Property to be performed by the landlord thereunder.

(b) Notwithstanding the existence of any insurance, and without regard to the policy limits of any such insurance or self-insurance, but subject to Section 13.3 and Section 8.3, Lessor shall indemnify, save harmless and defend Lessee Indemnified Parties from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses imposed upon or incurred by or asserted against Lessee Indemnified Parties as a result of (a) the gross negligence or willful misconduct of Lessor arising in connection with this Lease or (b) any failure on the part of Lessor to perform or comply with any of the terms of this Lease. In addition, to the extent that Lender applies Lessee's funds to the payment of obligations of Lessor under the Loan Documents, such funds, to the extent then owed to Lessor under this Lease, will be deemed paid to Lessor in satisfaction of such obligation of Lessee to Lessor, and Lessor shall indemnify Lessee for any appropriation by Lender of Lessee's funds in excess of amounts then owed to Lessor under this Lease. Any amounts that become payable by an Indemnifying Party under this Section shall be paid within ten (10) days after liability therefor on the part of the Indemnifying Party is determined by litigation or otherwise, and if not timely paid, shall bear a late charge (to the extent permitted by law) at the Overdue Rate from the date of such determination to the date of payment. An Indemnifying Party, at its expense, shall contest, resist and defend any such claim, action or proceeding asserted or instituted against the Indemnified Party. The Indemnified Party, at its expense, shall be entitled to participate in any such claim, action, or proceeding, and the Indemnifying Party may not compromise or otherwise dispose of the same without the consent of the Indemnified Party, which may not be unreasonably withheld or delayed. Nothing herein shall be construed as indemnifying a Lessor Indemnified Party against its own (or Lessor's) grossly negligent acts or omissions or willful misconduct.

(c) Lessee's or Lessor's liability for a breach of the provisions of this Article shall survive any termination of this Lease.

ARTICLE 19

REIT REQUIREMENTS AND RESTRICTIONS

19.1 Personal Property Limitation. Anything contained in this Lease to the contrary notwithstanding, the average of the fair market value of the items of personal property that are leased to Lessee under this Lease at the beginning and at the end of any Fiscal Year shall not exceed fifteen percent (15%) of the average of the aggregate fair market value of the Leased Property at the beginning and at the end of such Fiscal Year ("Personal Property Limitation"). If Lessor anticipates that the Personal Property Limitation will be exceeded with respect to the Leased Property for any Fiscal Year, Lessor shall notify Lessee and Lessee shall purchase at fair market value any personal property anticipated to be in excess of the Personal Property Limitation and the rent obligation shall be equitably adjusted. This Section 19.1 is intended to ensure that the Rent qualifies as "*rents from real property*," within the meaning of Section 856(d) of the Code, or any similar or successor provisions thereto, and shall be interpreted in a manner consistent with such intent.

19.2 Sublease Rent Limitation. Anything contained in this Lease to the contrary notwithstanding, Lessee shall not sublet the Leased Property on any basis such that the rental to be paid by the sublessee thereunder would be based, in whole or in part, on either (a) the income or profits derived by the business activities of the sublessee, or (b) any other formula such that any portion of the Rent would fail to qualify as "*rents from real property*" within the meaning of Section 856(d) of the Code, or any similar or successor provision thereto.

19.3 Sublease Tenant Limitation. Anything contained in this Lease to the contrary notwithstanding, Lessee shall not sublease the Leased Property to any Person in which Lessor owns, directly or indirectly, a ten percent (10%) or more interest, within the meaning of Section 856(d)(2)(B) of the Code, or any similar or successor provisions thereto.

19.4 Lessee Officer and Employee Limitation. If a Person serves as both (a) a director of Lessee (or any Person who furnishes or renders services to the tenants of the Leased Property, or manages or operates the Leased Property) and (b) an officer (or employee) of the Lessor that Person shall not receive any compensation for serving as a director of Lessee (or any Person who furnishes or renders services to the tenants of the Leased Property, or manages or operates the Leased Property). Furthermore, if a Person serves as both (a) a director of the Lessor and (b) an officer (or employee) of Lessee (or any Person who furnishes or renders services to the tenants of the Leased Property, or manages or operates the Leased Property), that Person shall not receive any compensation for serving as a director of the Lessor.

19.5 Payments to Affiliates of Lessee. During the Term, Lessee shall not pay, or become obligated to pay, any fees to any Affiliate of Lessee in connection with the Hotel, other than fees that are subordinated to the payments that are required to be made to Lessor pursuant to this Lease.

19.6 Taxable REIT Subsidiary. Lessee, or the owner of Lessee to the extent Lessee is a disregarded entity for tax purposes, agrees to make an election to be, and to operate as a taxable REIT subsidiary of Moody National REIT I, Inc., within the meaning of Section 856(e) of the Code, or any similar or successor provision thereto.

19.7 Construction of Lease. Both parties agree that no provision of this Lease shall be construed so as to cause Moody National REIT I, Inc. to fail to qualify as a real estate investment trust.

ARTICLE 20

SUBLETTING AND ASSIGNMENT

20.1 Subletting and Assignment. Subject to the provisions of Article 19 and Section 20.2 and any other express conditions or limitations set forth herein, Lessee may (a) assign this Lease or sublet all or any part of the Leased Property to an Affiliate of Lessee, or (b) sublet any retail or restaurant portion of the Leased Improvements in the normal course of the Primary Intended Use; provided that any subletting to any party other than an Affiliate of Lessee shall not individually as to any one such subletting, or in the aggregate, materially diminish the actual or potential Percentage Rent payable under this Lease. In the case of a subletting, the sublessee shall comply with the provisions of Section 20.2, and in the case of an assignment, the assignee shall assume in writing and agree to keep and perform all of the terms of this Lease on the part of Lessee to be kept and performed and shall be, and become, jointly and severally liable with Lessee for the performance thereof. Notwithstanding the above, Lessee may assign the Lease to an Affiliate without the consent of Lessor; provided that any such assignee assumes in writing and agrees to keep and perform all of the terms of the Lease on the part of Lessee to be kept and performed and shall be and become jointly and severally liable with Lessee for the performance thereof. In case of either an assignment or subletting made during the Term, Lessee shall remain primarily liable, as principal rather than as surety, for the prompt payment of the Rent and for the performance and observance of all of the covenants and conditions to be performed by Lessee hereunder. An original counterpart of each such sublease and assignment and assumption, duly executed by Lessee and such sublessee or assignee, as the case may be, in form and substance satisfactory to Lessor, shall be delivered promptly to Lessor. Notwithstanding the foregoing, any such assignment or sublet shall be subject to the terms of the Loan Documents. Any sublet or assignment in violation of the requirements of this Article 20 shall be null and void.

20.2 Attornment. Lessee shall insert in each sublease permitted under Section 20.1 provisions to the effect that (a) such sublease is subject and subordinate to all of the terms and provisions of this Lease and to the rights of Lessor hereunder, (b) if this Lease

terminates before the expiration of such sublease, the sublessee thereunder will, at Lessor's option, attorn to Lessor and waive any right the sublessee may have to terminate the sublease or to surrender possession thereunder as a result of the termination of this Lease, and (c) if the sublessee receives a Notice from Lessor or Lessor's assignees, if any, stating that an uncured Event of Default exists under this Lease, the sublessee shall thereafter be obligated to pay all rentals accruing under said sublease directly to the party giving such Notice, or as such party may direct. All rentals received from the sublessee by Lessor or Lessor's assignees, if any, as the case may be, shall be credited against the amounts owing by Lessee under this Lease.

20.3 Conveyance by Lessor. Lessor may assign this Lease to any purchaser of the Leased Property. If Lessor or any successor owner of the Leased Property conveys the Leased Property in accordance with the terms hereof other than as security for a debt, and the grantee or transferee of the Leased Property expressly assumes all obligations of Lessor hereunder arising or accruing from and after the date of such conveyance or transfer, Lessor or such successor owner, as the case may be, shall thereupon be released from all future liabilities and obligations of Lessor under this Lease arising or accruing from and after the date of such conveyance or other transfer as to the Leased Property and all such future liabilities and obligations shall thereupon be binding upon the new owner.

ARTICLE 21

QUIET ENJOYMENT; RISK OF LOSS

21.1 Quiet Enjoyment. So long as Lessee pays all Rent as the same becomes due and complies with all of the terms of this Lease and performs its obligations hereunder, in each case within the applicable grace periods, if any, Lessee shall peaceably and quietly have, hold and enjoy the Leased Property for the Term hereof, free of any claim or other action by Lessor or anyone claiming by, through or under Lessor, but subject to all liens and encumbrances subject to which the Leased Property was conveyed to Lessor, to the extent not released in connection with the transactions contemplated by this Lease, or hereafter consented to by Lessee or provided for herein. Notwithstanding the foregoing, Lessee shall have the right by separate and independent action to pursue any claim it may have against Lessor as a result of a breach by Lessor of the covenant of quiet enjoyment contained in this Section.

21.2 Risk of Loss. During the Term, the risk of loss or of decrease in the enjoyment and beneficial use of the Leased Property in consequence of the damage or destruction thereof by fire, the elements, casualties, thefts, riots, wars or otherwise, or in consequence of foreclosures, attachments, levies or executions (other than those caused by Lessor and those claiming from, through or under Lessor) is assumed by Lessee, and, in the absence of gross negligence, willful misconduct or breach of this Lease by Lessor pursuant to Section 17.1, Lessor shall in no event be answerable or accountable therefor, nor shall any of the events mentioned in this Section entitle Lessee to any abatement of Rent except as specifically provided in this Lease.

ARTICLE 22

LESSOR MORTGAGES; SUBORDINATION OF LEASE

22.1 Lessor May Grant Liens. Without the consent of Lessee, Lessor may, subject to the terms and conditions set forth below in this Section 22.1, from time to time, directly or indirectly, create or otherwise cause to exist any lien, encumbrance or title retention agreement ("*Encumbrance*") upon the Leased Property, or any portion thereof or interest therein, whether to secure any borrowing or other means of financing or refinancing. Upon the request of Lessor, Lessee shall subordinate this Lease to the lien of a new mortgage on the Leased Property, on the condition that the proposed mortgagee executes a non-disturbance agreement recognizing this Lease in accordance with the provisions of Section 22.2, and agreeing, for itself and its successors and assigns, to comply with the provisions of this Article 22.

22.2 Subordination of Lease. This Lease and Lessee's interest hereunder shall at all times be subject and subordinate to the lien and security title of any deeds to secure debt, deeds of trust, mortgages, or other Encumbrances heretofore or hereafter granted by Lessor or which otherwise encumber or affect the Leased Property (including, for the avoidance of doubt, the Initial Loan Documents) and to any and all advances to be made thereunder and to all renewals, modifications, consolidations, replacements, substitutions, and extensions thereof; provided, however, that with respect to any Mortgage hereafter granted, such subordination is conditioned upon delivery to Lessee of a non-disturbance agreement which provides that Lessee shall not be disturbed in its possession of the Leased Property hereunder following a foreclosure of such Mortgage (or delivery of a deed-in-lieu-of-foreclosure) and that the holder of such Mortgage or the purchaser at a foreclosure sale (or grantee under such deed-in-lieu-of-foreclosure) shall perform all obligations of Lessor under this Lease. In confirmation of such subordination, however, Lessee shall, at Lessor's request, promptly execute, acknowledge and deliver any instrument which may be required to evidence subordination to any Mortgage and to the holder thereof. In the event of Lessee's failure to deliver such subordination and if the Mortgage does not change any term of the Lease, Lessor may, in addition to any other remedies for breach of covenant hereunder, execute, acknowledge, and deliver the instrument as the agent or attorney-in-fact of Lessee, and Lessee hereby irrevocably constitutes Lessor its attorney-in-fact for such purpose, Lessee acknowledging that the appointment is coupled with an interest and is irrevocable.

ARTICLE 23

ESTOPPEL CERTIFICATES; FINANCIAL STATEMENTS; INSPECTION RIGHTS

23.1 Estoppel Certificates; Financial Statements.

(a) At any time and from time to time upon not less than ten (10) days Notice by Lessor, Lessee will furnish to Lessor an Officer's Certificate certifying that this Lease is unmodified and in full force and effect (or that this Lease is in full force and effect as modified and setting forth the modifications), the date to which the Rent has been paid, whether to the knowledge of Lessee there is any existing default or Event of Default exists thereunder by Lessor or Lessee, and such other information as may be reasonably requested by Lessor. Any such certificate furnished pursuant to this Section may be relied upon by Lessor, any lender (including, for the avoidance of doubt, Initial Lender) and any prospective purchaser of the Leased Property.

(b) Lessee will furnish the following statements to Lessor:

(i) with reasonable promptness, such information respecting the financial condition and affairs of Lessee including audited financial statements prepared by the same certified independent accounting firm that prepares the returns for Lessor or such other accounting firm as may be approved by Lessor, as Lessor may request from time to time; and

(ii) the most recent Consolidated Financials of Lessee within forty-five (45) days after each quarter of any Fiscal Year (or, in the case of the final quarter in any Fiscal Year, the most recent audited Consolidated Financials of Lessee within ninety (90) days); and

(iii) on or about the 20th day of each month, a detailed profit and loss statement for the Leased Property for the preceding month, a balance sheet for the Leased Property as of the end of the preceding month, and a detailed accounting of revenues for the Leased Property for the preceding month, each in form acceptable to Lessor.

Lessee will permit the inclusion of such statements in any filings required to be made by Lessor under the Securities Act of 1933 and the Securities Exchange Act of 1934.

(c) At any time and from time to time upon not less than ten (10) days Notice by Lessee, Lessor will furnish to Lessee or to any Person designated by Lessee an estoppel certificate certifying that this Lease is unmodified and in full force and effect (or that this Lease is in full force and effect as modified and setting forth the modifications), the date to which Rent has been paid, whether to the knowledge of Lessor there is any existing default or Event of Default on Lessee's part hereunder, and such other information as may be reasonably requested by Lessee.

23.2 Lessor's Right to Inspect. Lessee shall permit Lessor and its authorized representatives as frequently as reasonably requested by Lessor to inspect the Leased Property and Lessee's accounts and records pertaining thereto and make copies thereof, during usual business hours upon reasonable advance Notice, subject only to any business confidentiality requirements reasonably requested by Lessee.

ARTICLE 24 LEASEHOLD MORTGAGES

24.1 Leasehold Mortgages. To the extent any provision in this Article 24 conflicts or is inconsistent with any other provision of this Lease, the provisions of this Article 24 shall control.

(a) Lessee, and its successors and assigns, shall have the unconditional right to mortgage, pledge and/or assign this Lease without having to obtain the consent of Lessor. Lessee, and its successors and assigns, shall have the unconditional right to sublet all or a portion of the Leased Property without having to obtain the consent of Lessor. Any pledge or assignment of any interests in Lessee shall be permitted without having to obtain the consent of Lessor.

(b) If Lessee, or Lessee's successors or assigns, shall mortgage this Lease in compliance with the provisions of this Section, then so long as any such mortgage shall remain unsatisfied of record, the following provisions shall apply:

(i) Lessor, upon serving Lessee with any notice of default, or any other notice under the provisions of or with respect to this Lease, shall also serve a copy of such notice upon the holder of such mortgage, at the address provided for in clause (vi) of this Section 24.1 (b), and no notice by Lessor to Lessee hereunder shall be deemed to have been duly given unless and until a copy thereof has been so served.

(ii) Any holder of such mortgage, in case Lessee shall be in default hereunder, shall, within the period and otherwise as herein provided, have the right to remedy such default, or cause the same to be remedied, and Lessor shall accept such performance by or at the instance of such holder as if the same had been made by Lessee.

(iii) For the purposes of this Article, no event of default shall be deemed to exist in respect of the performance of work required to be performed, or of acts to be done, or of conditions to be remedied, if steps shall in good faith, have been commenced within the time permitted therefor to rectify the same and shall be prosecuted to completion with diligence and continuity.

(iv) Notwithstanding anything herein contained to the contrary, upon the occurrence of any event of default, Lessor shall take no action to effect a termination of this Lease without first giving to the holder of such mortgage written notice thereof and a reasonable time thereafter within which either (x) to obtain possession of the mortgaged property (including possession by a receiver) or (y) to institute, prosecute and complete foreclosure proceedings or otherwise acquire Lessee's interest under this Lease. Provided, however, that: (x) such holder shall not be obligated to continue such possession or to continue such foreclosure proceedings after such defaults shall have been cured and (y) such holder shall agree with Lessor in writing to comply during the period of such forbearance with such of the terms, conditions and covenants of this Lease as are reasonably susceptible of being complied with by such holder. Any default by Lessee, not reasonably susceptible of being cured by such holder shall be deemed to have been waived by Lessor upon completion of such foreclosure proceedings or upon such acquisition of Lessee's interest in this Lease, except that any of such events of default which are reasonably susceptible of being cured after such completion and acquisition shall then be cured with reasonable diligence. Such holder, or his designee, or other purchaser in foreclosure proceedings may become the legal owner and holder of this Lease through such foreclosure proceedings or by assignment of this Lease in lieu of foreclosure.

(v) In the event of the termination of this Lease prior to the expiration of the Term (including, without limitation, in connection with a rejection of this Lease in the event of a bankruptcy of Lessee), Lessor shall serve upon the holder of such mortgage written notice that the Lease has been terminated together with a statement of any and all sums which would at that time be due under this Lease but for such termination, and of all other defaults, if any, under this Lease then known to Lessor. Such holder shall thereupon have the option to obtain a new Lease in accordance with and upon the following terms and conditions:

(A) Upon the written request of the holder of such mortgage, within thirty (30) days after service of such notice that the Lease has been terminated, Lessor shall enter into a new lease of the Leased Property with such holder, or his designee, as follows:

(B) Such new lease shall be effective as at the date of termination of this Lease, and shall be for the remainder of the term of this Lease and at the rent and upon all the agreements, terms, covenants and conditions hereof, including any applicable rights of renewal. Upon the execution of such new lease, Lessor shall allow to the tenant named therein and such tenant shall be entitled to an adjustment in an amount equal to the net income derived by Lessor from the Leased Property during the period from the date of termination of this Lease to the date of execution of such new lease.

(vi) Any notice or other communication which Lessor shall desire or is required to give to or serve upon the holder of a mortgage on this Lease shall be in writing and shall be served by registered mail, addressed to such holder at his address as set forth in such mortgage. Any notice or other communication which the holder of a mortgage on this Lease shall desire or is required to give to or serve upon Lessor shall be deemed to have been duly given or served if sent in duplicate by registered mail addressed to Lessor at Lessor's address as set forth in this Lease or at such other addresses as shall be designated by Lessor by notice in writing given to such holder by registered mail.

(vii) Effective upon the commencement of the term of any new lease executed pursuant to paragraph (v) of this Section, all subleases shall be assigned and transferred without recourse by Lessor to the tenant under such new lease, and all moneys on deposit with Lessor which Lessee would have been entitled to use but for the termination or expiration of this Lease may be used by the tenant under such new lease for the purposes of and in accordance with the provisions of such new lease. If the holders of more than one such leasehold mortgage shall make written requests upon Lessor for a new lease in accordance with the provisions of this Section, the new lease shall be entered into pursuant to the request of the holder whose leasehold mortgage shall be prior in lien thereto and thereupon the written requests for a new lease of each holder of a leasehold mortgage junior in lien shall be and be deemed to be void and of no force or effect.

(viii) No agreement between Lessor and Lessee modifying, canceling or surrendering this Lease shall be effective without the prior written consent of the leasehold mortgagee.

(ix) The fee title to the Leased Property and the leasehold estate created therein pursuant to the provisions of this Lease shall not merge but shall always be kept separate and distinct, notwithstanding the union of such estates in Lessee, Lessor, or in any other person by purchase, operation of law or otherwise.

(c) If any leasehold mortgagee shall acquire title to Lessee's interest in this Lease, by foreclosure of a mortgage thereon or by assignment in lieu of foreclosure or by an assignment from a designee or wholly owned subsidiary corporation of such mortgagee, or under a new lease pursuant to this Article, such mortgagee may assign such lease and shall thereupon be released from all liability for the performance or observance of the covenants and conditions in such lease contained on tenant's part to be performed and observed from and after the date of such assignment, provided that such assignee assumes the obligations of Lessee hereunder.

(d) Lessor hereby agrees to deliver to Lessee a ground lessor estoppel certificate in the form reasonably required by any leasehold mortgagee of Lessee.

ARTICLE 25 BINDING ARBITRATION

25.1 Binding Arbitration. Any controversy between the parties hereto arising out of or related to this Lease or the breach thereof shall be settled by arbitration in Harris County, Texas, unless otherwise agreed to by the parties thereto, in accordance with the rules of the American Arbitration Association, and judgment entered upon the award rendered may be enforced by appropriate judicial action. The arbitration panel shall consist of one member, which shall be the mediator if mediation has occurred or shall be a person agreed to by each party to the dispute within 30 days following notice by one party that he or she desires that a matter be arbitrated. If there was no mediation and the parties are unable within such 30 day period to agree upon an arbitrator, then the panel shall be one arbitrator selected by the Harris County office of The American Arbitration Association, which arbitrator shall be experienced in the area of real estate and who shall be knowledgeable with respect to the subject matter area of the dispute. The losing party shall bear any fees and expenses of the arbitrator, other tribunal fees and expenses, reasonable attorneys' fees of both parties, any costs of producing witnesses and any other reasonable costs or expenses incurred by the losing party or the prevailing party or such costs shall be allocated by the arbitrator. The arbitration panel shall render a decision within 30 days following the close of presentation by the parties of their cases and any rebuttal. The parties shall agree within 30 days following selection of the arbitrator to any prehearing procedures or further procedures necessary for the arbitration to proceed, including interrogatories or other discovery.

ARTICLE 6 NOTICES

26.1 Notices. All notices, demands, requests, consents approvals and other communications ("*Notice*" or "*Notices*") hereunder shall be in writing and hand-delivered, sent by FedEx or other nationally recognized overnight courier service, or mailed (by registered or certified mail, return receipt requested and postage prepaid), if to Lessor at 6363 Woodway, Suite 110, Houston, Texas 77057, Attn: Brett C. Moody and if to Lessee at 6363 Woodway, Suite 110, Houston, Texas 77057, Attn: Brett C. Moody or to such other address or addresses as either party may hereafter designate. Personally delivered Notice shall be effective upon receipt, and Notice given by overnight courier service or by mail shall be complete at the time of deposit with the courier service or in the U.S. Mail system, respectively, but any prescribed period of Notice and any right or duty to do any act or make any response within any prescribed period or on a date certain after the service of such Notice given by overnight courier service shall be extended one (1) day and by mail shall be extended five (5) days.

ARTICLE 27 GENERAL PROVISIONS

27.1 No Waiver. No failure by Lessor or Lessee to insist upon the strict performance of any term hereof or to exercise any right, power or remedy consequent upon a breach thereof, and no acceptance of full or partial payment of Rent during the continuance of any such breach, shall constitute a waiver of any such breach or of any such term. To the extent permitted by law, no waiver of any breach shall affect or alter this Lease, which shall continue in full force and effect with respect to any other then existing or subsequent breach.

27.2 Remedies Cumulative. To the extent permitted by law and unless otherwise provided herein to the contrary, each legal, equitable or contractual right, power and remedy of Lessor or Lessee now or hereafter provided either in this Lease or by statute or otherwise shall be cumulative and concurrent and shall be in addition to every other right, power and remedy and the exercise or beginning of the exercise by Lessor or Lessee of any one or more of such rights, powers and remedies shall not preclude the simultaneous or subsequent exercise by Lessor or Lessee of any or all of such other rights, powers and remedies.

27.3 Waiver of Trial by Jury. LESSOR AND LESSEE EACH WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO A TRIAL BY JURY IN THE EVENT OF A PROCEEDING WITH RESPECT TO THIS LEASE, INCLUDING, WITHOUT LIMITATION, SUMMARY PROCEEDINGS TO ENFORCE THE REMEDIES SET FORTH IN ARTICLE 16.

27.4 Acceptance of Surrender. No surrender to Lessor of this Lease or of the Leased Property or any part thereof, or of any interest therein, shall be valid or effective unless agreed to and accepted in writing by Lessor and no act by Lessor or any representative or agent of Lessor, other than such a written acceptance by Lessor, shall constitute an acceptance of any such surrender.

27.5 No Merger of Title. There shall be no merger of this Lease or of the leasehold estate created hereby by reason of the fact that the same Person may acquire, own or hold, directly or indirectly: (a) this Lease or the leasehold estate created hereby or any interest in this Lease or such leasehold estate and (b) the fee estate in the Leased Property.

27.6 Waiver of Presentment, Etc. Lessee waives all presentments, demands for payment and for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, and notices of acceptance and waives all notices of the existence, creation, or incurring of new or additional obligations, except as expressly granted herein.

27.7 Action for Damages. Except as otherwise expressly provided herein, in any suit or other claim brought by either party seeking damages against the other party for breach of its obligations under this Lease, the party against whom such claim is made shall be liable to the other party only for actual damages and not for consequential, punitive or exemplary damages.

27.8 Lease Assumption in Bankruptcy Proceeding. If an Event of Default occurs and Lessee has filed or has had filed against it a petition in bankruptcy or for reorganization or other relief pursuant to the federal bankruptcy code, Lessee shall promptly move the court presiding over the proceeding to assume this Lease pursuant to 11 U.S.C. §365, without seeking an extension of the time to file said motion.

27.9 Enforceability. Anything contained in this Lease to the contrary notwithstanding, all claims against, and liabilities of, Lessee or Lessor arising prior to any date of termination of this Lease shall survive such termination. If any term or provision of this Lease or any application thereof is invalid or unenforceable, the remainder of this Lease and any other application of such term or provisions shall not be affected thereby. If any late charges or any interest rate provided for in any provision of this Lease are based upon a rate in excess of the maximum rate permitted by applicable law, the parties agree that such charges shall be fixed at the maximum permissible rate. Neither this Lease nor any provision hereof may be changed, waived, discharged or terminated except by a written instrument in recordable form signed by Lessor and Lessee. All the terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. The headings in this Lease are for convenience of reference only and shall not limit or otherwise affect the meaning hereof. This Lease shall be governed by and construed in accordance with the laws of the State, but not including its conflicts of laws rules.

27.10 Memorandum of Lease. Lessor and Lessee shall promptly, upon the request of either party, enter into a short form memorandum of this Lease, in form suitable for recording under the laws of the State in which reference to this Lease, and all options contained herein, shall be made. Lessor shall pay all costs and expenses of recording such memorandum of this Lease.

27.11 Governing Law. This Lease shall be governed by and construed in accordance with the laws of the State, without regard to any applicable conflicts of laws principles that would require the application of the law of any other jurisdiction and venue with respect to any action to construe or enforce this Lease shall be laid in the State where the Leased Property is located.

27.12 Counterparts. This Lease may be executed in two or more counterparts, and all such counterparts shall be deemed to constitute but one and the same instrument.

27.13 Special Lender Provisions. Notwithstanding anything to the contrary contained in this Lease or in any other agreement between Lessor and Lessee, the following shall govern at all times while any obligations remains outstanding under the Initial Loan:

(a) Each of Lessor and Lessee hereby acknowledges and agrees that Initial Lender has made the Initial Loan to be secured by a mortgage or deed of trust upon the Leased Property and that for all purposes hereunder such mortgage or deed of trust shall qualify as and be the first lien mortgage or deed of trust encumbering the Leased Property and Initial Lender shall qualify as a Permitted Mortgagee.

(b) Lessee agrees that it (i) will comply with the provisions of the Initial Loan Documents and will operate the Leased Property in accordance therewith, and (ii) not take, or fail to take, any action under this Lease which would result in a violation of the Lessor's obligations under the Initial Loan Documents as they relate to the Leased Property or the operation and maintenance thereof.

(c) While the obligations under the Initial Loan remain outstanding, the Initial Lender will have the right to participate in any arbitration proceeding relating to the termination or amendment of this Lease or with respect to any matter that affects the Initial Lender's rights under the Initial Loan Documents.

(d) No amendment or other modification to this Lease may be made or shall be effective without the prior written consent of Initial Lender.

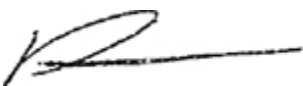
(e) Lessee and Lessor expressly acknowledge that Initial Lender is an intended third-party beneficiary of the provisions of this Lease relating, directly or indirectly, to the Initial Loan, and Initial Lender is entitled to enforce the provisions hereof.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the parties have executed this Lease by their duly authorized officers as of the date first above written.

“LESSOR”

Moody National Kirby-Houston Holding, LLC, a Delaware limited liability company

By: 
Name: Brett C. Moody
Title: President

“LESSEE”

Moody National Kirby-Houston MT, LLC, a Delaware limited liability company

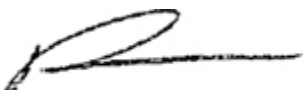
By: 
Name: Brett C. Moody
Title: President

Exhibit A

Leased Property

Legal Description

Unrestricted Reserve "A", in Block 1, of RESIDENCE INN MEDICAL CENTER, in Harris County, Texas, according to the map or plat thereof recorded in Film Code No. 674452, of the Map Records of Harris County, Texas.

EXHIBIT B

BASE RENT

<u>Year</u>	<u>Annual Rent</u>	<u>Monthly</u>
Year 1.....	\$ 4,400,000	\$ 366,666.67
Year 2.....	\$ 4,400,000	\$ 366,666.67
Year 3.....	\$ 4,400,000	\$ 366,666.67
Year 4.....	\$ 4,400,000	\$ 366,666.67
Year 5.....	\$ 4,400,000	\$ 366,666.67

Base Rent shall be adjusted for Year 6 as set forth in Section 3.1(a), and shall be adjusted every 5 years thereafter until the termination of the Lease.

EXHIBIT C

PERCENTAGE RENT

The Annual Revenue Computation is equal to the amount obtained by multiplying the Gross Revenue (“x”) from the prior twelve months by a factor (“y”) as set forth below:

<u>Gross Revenue (x)</u>	<u>Factor (y)</u>
\$0–\$9,800,000	45.5%
Over \$9,800,000 - \$10,300,000	47.0%
Over \$10,300,000 - \$10,800,000	48.5%
Over \$10,800,000 - \$11,300,000	50.0%
Over \$11,300,000	51.5%

The Annual Revenue Computation shall be adjusted for Year 6 as set forth in Section 3.1 (b), and shall be adjusted every 5 years thereafter until the termination of the Lease.

HOTEL MANAGEMENT
AGREEMENT

Residence Inn – Houston/Southwest Medical Center
Houston, Texas

between

RI II MC-HOU, LLC

and

MOODY NATIONAL HOSPITALITY MANAGEMENT, LLC

February 20, 2019

HOTEL MANAGEMENT AGREEMENT

This Hotel Management Agreement ("Agreement") is made February 20, 2019, by and between RI II MC-HOU, LLC, a Delaware limited liability company, whose principal place of business is 6363 Woodway, Suite 110, Houston, Texas 77057 ("Owner"), and MOODY NATIONAL HOSPITALITY MANAGEMENT, LLC, a Texas limited liability company, whose principal place of business is 6363 Woodway, Suite 110, Houston, Texas 77057 ("Manager").

RECITALS

WHEREAS, Owner is the owner of that certain tract of land located at the Northeast Quadrant of Main Street and Kirby Drive ("Land"), upon which has been constructed a hotel known as Residence Inn –Houston/Southwest Medical Center — Houston, Texas ("Hotel");

WHEREAS, Manager is engaged in the business of managing hotels and Manager is experienced in the various components of managing a hotel;

WHEREAS, subject to the terms and provisions of this Agreement, Owner desires to have Manager manage and operate the Hotel; and

WHEREAS, Manager desires to perform such services on behalf, and for the account, of the Owner in accordance with the terms hereof.

NOW THEREFORE, in consideration of the foregoing recitals and the premises and the mutual covenants herein contained, the parties hereto agree as follows:

ARTICLE I

DEFINED TERMS

Section 1.1 "Accounting Period" shall mean each of twelve (12) accounting periods of one (1) calendar month occurring each Fiscal Year.

Section 1.2 "Affiliates" (or Affiliate) shall mean any parent, subsidiary, affiliated or related corporation or other entity of Manager or Owner, or any officer, director, employee or stockholder of Manager or Owner or of any said parent, subsidiary, affiliated or related corporation or other entity, except a stockholder owning less than fifty percent (50%) of the issued and outstanding stock of Manager or Owner or of such parent, subsidiary, affiliated or related corporation or other entity directly or indirectly, who controls, is controlled by or is under common control provided however, for the purposes of to whom this Agreement may be assigned under Section 16.1 hereof, officers, directors and employees shall not be deemed to be Affiliates. For purposes of this definition, the term "control" (including the terms "controlling," "controlled by" and "under common control with") of means the possession, directly or indirectly, of the power: (i) to vote more than fifty percent (50%) of the voting stock of any such entity; or (ii) to direct or cause the direction of the management and policies of any such entity, whether through the ownership of voting stock, by contract or otherwise.

Section 1.3 "Annual Business Plan" shall have the meaning set forth in Section 9.1 hereof.

Section 1.4 "Base Management Fee" shall have the meaning set forth in Section 10.1 hereof.

Section 1.5 "Capital Renewals" shall mean a collective term for (a) normal capital replacements of, or additions to, FF&E, and (b) special projects designed to maintain the Hotel in a first-class condition in accordance with the standards contemplated by this Agreement, including without limitation, renovation of the guest room areas, public space, food and beverage facilities, or back of the house areas, which projects will generally comprise replacements of, or additions to, FF&E, but may include revisions and alterations to the Hotel; most of the expenditures for such special projects will be capitalized, but a portion thereof may be currently expended, such as the purchase of smaller items of FF&E, or expenditures which are ancillary to the overall project but which are properly chargeable to "Property Operations and Maintenance" under the Uniform System.

Section 1.6 "Capital Renewals Budget" shall mean a budget covering the estimated Capital Renewals for three (3) years which indicates in reasonable detail the replacements of, or additions to, FF&E, and the nature of the special projects covered thereby, as approved by the Owner.

Section 1.7 "ERISA" shall mean the Employees Retirement Income Security Act of 1974, as amended.

Section 1.8 "Fiscal Year" shall mean a Calendar Fiscal Year starting on January 1 and ending on December 31 or portion thereof depending upon the Management Commencement Date.

Section 1.9 “Franchise Agreement” shall mean that certain Franchise Agreement by and between Franchisor and Owner (as franchisee) dated December 15, 2017, as may be amended from time to time, and any subsequent and/or future franchise agreements entered into by Owner (as franchisee) Franchisee regarding the Hotel.

Section 1.10 “Franchisor” shall mean Marriott International, Inc.

Section 1.11 “Furniture, Fixtures, and Equipment” (“FF&E”) shall mean all furniture, furnishings, light fixtures, outfitting, apparatus, equipment and all other items of personal property customarily installed in, held in storage for use in, used in or required for use in connection with the operation of the Hotel.

Section 1.12 “Gross Operating Revenues” shall mean all receipts, revenues, income and proceeds of sales of every kind received by Manager directly or indirectly from the operation of the Hotel, and shall include, without limitation: room rentals; rent or other payments received from sub-tenants, licensees, and occupants of commercial and retail space located in the Hotel; the proceeds of insurance received by Owner or Manager with respect to use and occupancy or business interruption insurance; deposits forfeited and not refunded; frequent guest program payments; and any amount recovered in any legal action or proceeding or settlement thereof which amount represents and was directly related to, the collection of accounts receivables, cancellation fees or other uncollected revenue. Gross Operating Revenues shall exclude all sales and excise taxes and any similar taxes collected as direct taxes payable to taxing authorities; gratuities or service charges collected for payment to and paid to employees; credit or refunds to guests; proceeds of insurance, save and except for proceeds of insurance with respect to use and occupancy or business interruption insurance; proceeds of sales of property attributable under the accrual method of accounting, pursuant to generally accepted accounting practice or the Uniform System to a different Fiscal Year; proceeds from condemnation or casualty; interest earned on the Reserve Fund (as defined herein); and financing proceeds obtained by the Owner.

Section 1.13 “Group Services” shall have the meaning set forth in Section 5.2 hereof.

Section 1.14 “Hazardous Materials” shall mean any substance or material containing one or more of any of the following: “hazardous material,” “hazardous waste,” “hazardous substance,” “regulated substance,” “petroleum,” “pollutant,” “contaminant,” or “asbestos,” as such terms are defined in any applicable environmental law, in such concentration(s) or amount(s) as may impose cleanup, removal, monitoring or other responsibility under any applicable environmental law, or which may present a significant risk of harm to guests, invitees or employees of the Hotel.

Section 1.15 “Hotel” shall mean the Residence Inn Houston/Southwest Medical Center –Houston, Texas hotel referred to in the first recital herein consisting of 182 rooms.

Section 1.16 “House Profit” shall mean the excess, during each Fiscal Year (and proportionately for any period less than a Fiscal Year), of Gross Operating Revenues over expenses and deductions incurred in the operation of the Hotel by Manager in fulfilling its duties hereunder during such period, determined in accordance with the accounting system established by the Uniform System (except as modified by this Agreement). In arriving at House Profit, the following expenses shall be proper deductions from Gross Operating Revenues insofar as they relate to the operation of the Hotel: salaries, wages, fringe benefits, payroll taxes, workers’ compensation costs, and other costs related to Manager’s employees in or assigned to the Hotel, including Area manager and Regional Director and, without limitation, any claim for wrongful discharge and/or discrimination which expenses are not paid by insurance (provided, however, if such claim is determined to have been caused by the negligence or willful misconduct of any Key Employee, the amount for which Manager is required to indemnify Owner pursuant to this Agreement and has in fact paid to Owner, shall not be a deduction); department expenses; administrative and general expenses; credit card and collection expenses; and the cost of Hotel advertising and business promotion and public relations; heat, light and power; routine repairs, maintenance, landscaping, snow removal, and minor alterations including the cost of maintenance contracts for equipment and any insurance costs related thereto; costs of sales and the cost of replacing inventories and fixed asset supplies consumed in the operation of the Hotel such as linen, china, glassware, silver, uniforms and similar items; sales or excise taxes on goods or services provided to the Hotel; a reasonable reserve for uncollectible accounts receivable as determined by Manager; all costs and fees of independent accountants or other third parties who perform services required or permitted hereunder on behalf of the Hotel; the cost and expense of technical consultants and operational experts for specialized services provided to the Hotel; the Base Management Fee; rental payments on telephone leases, long distance access systems, and other operational leases approved by Manager; all costs or expenses incurred under any franchise, such as franchise fees if applicable, system charges for such items as reservations, frequent traveler programs, and airline points, system advertising or promotional costs, but excluding the initial fees paid in consideration of granting any franchise; and all other out of pocket actual costs and expenses and fees incurred by the Manager in the proper and efficient operation of the Hotel, including, but not limited to, all licenses, travel costs, and out-of-pocket expenses of employees of Manager or its Affiliates employed at the Hotel or performing services for the Hotel such as fax, postage, telephone and express mail.

Section 1.17 “Independent Auditor” shall mean a reputable national firm of independent certified public accountants having hotel experience, recommended by Manager from time to time and approved by Owner.

Section 1.18 “Key Employees” shall mean (to the extent such positions exist): (a) at the Hotel level, any salaried manager including Area Manager and (b) at the corporate level, positions at or above Vice President of Hospitality.

Section 1.19 “Legal Requirements” shall mean all public laws, statutes, ordinances, orders, rules, regulations, permits, licenses, authorizations, directions and requirements of all governments and governmental authorities, which, now or hereafter, may be applicable to the Hotel premises and the operation thereof, including, without limitation, those relating to zoning, building, life/safety, environmental and health, employee benefits, and providing continued health care coverage under ERISA.

Section 1.20 “Management Commencement Date” shall be the date on which the construction of the Hotel is completed and ready for operation.

Section 1.21 “Manager” shall mean Moody National Hospitality Management, LLC, a Texas limited liability company, and its permitted successors and assigns.

Section 1.22 “Net Operating Income” shall mean House Profit less property taxes and insurance expense.

Section 1.23 “Operating Funds” shall have the meaning set forth in Section 7.2 hereof.

Section 1.24 “Operating Supplies” shall mean all chinaware, glassware, linens, silverware, uniforms, utensils and other similar items necessary to the operation of the Hotel.

Section 1.25 “Termination Fee” shall have the meaning set forth in Section 12.3 hereof.

Section 1.26 “Reserve Fund” shall have the meaning set forth in Section 7.3.

Section 1.27 “Uniform System” shall mean the Uniform System of Accounts for Hotels, “Ninth Revised Edition”, 1996, as revised and adopted by the Hotel Association of New York City, Inc., from time to time and as modified by applicable provisions of this Agreement.

Other terms are defined in the Recitations and the further provisions of this Agreement, and shall have the respective meanings there ascribed to them.

ARTICLE II

ENGAGEMENT OF MANAGER AND COMMENCEMENT OF MANAGEMENT OF THE HOTEL

Section 2.1 Engagement of Manager to Manage Hotel. Owner hereby appoints Manager as Owner’s exclusive independent contractor, subject to the terms of this Agreement, to supervise, direct and control the management and operation of the Hotel, and Manager hereby undertakes and agrees to perform, as an independent contractor of and for the account of Owner all of the services and to comply with all of the provisions of this Agreement.

Section 2.2 Management Commencement Date and Takeover Activities.

A. Manager shall assume management and operation of the Hotel at 12:00:01 AM on the Management Commencement Date.

B. In connection with assuming management of the Hotel, Manager must undertake certain activities prior to and following the Management Commencement Date. These activities (“Takeover Activities”) shall include, without limitation, the following: (i) recruiting, relocating, training, and employing certain management staff required for the Hotel; (ii) assisting Owner (as requested) in applying for and procuring (in Manager’s name and/or Owner’s name as required by local authorities) all licenses and permits required for the operation of the Hotel, including, but not limited to, all licenses for the sale of alcoholic beverages (if applicable); and (iii) any other activities customarily required in order to assume management responsibilities of a hotel under current operation or newly constructed hotel (as applicable), including, but not limited to verifying inventories and other closing allocations on closing statements.

Section 2.3 Representations of Manager. Manager represents that it is experienced and capable in the planning, decorating, furnishing, equipping, promoting, management, and operation of limited-service hotels, and Manager covenants and agrees to manage and operate the Hotel and to protect and preserve the assets that comprise the Hotel. Manager covenants and agrees to manage and operate the Hotel in accordance with the standards and specifications set forth in the Franchise Agreement for the Hotel, so long as Owner provides sufficient capital to enable Manager to operate the Hotel in good standing under the Franchise Agreement, and in accordance with the Annual Business Plan. Manager represents and acknowledges that as of the Management Commencement Date Manager will cause the Hotel to be adequately staffed and capable of operating.

ARTICLE III

OPERATION OF THE HOTEL AFTER THE MANAGEMENT COMMENCEMENT DATE

Section 3.1 Authority of Manager. On and after the Management Commencement Date, the Manager shall have the exclusive authority and duty to direct, supervise, manage and operate the Hotel in an efficient and economical manner and to determine the programs and policies to be followed in connection therewith, all in accordance with the provisions of this Agreement and the Annual Business Plan. Subject to the provisions of this Agreement and the Annual Business Plan, Manager shall have the discretion and control in all matters relating to the management and operation of the Hotel. Without limiting the generality of the foregoing, Manager shall have the authority and duty consistent with the Annual Business Plan to:

- A. Recruit, employ, relocate, pay, train, supervise, and discharge all employees and personnel necessary for the operation of the Hotel in a manner consistent with Manager's practices at other comparable hotels managed and operated by Manager (taking into account locational differences). Included in the foregoing shall be the determination of all personnel policies, which shall be in writing;
- B. Establish all prices, price schedules, rates and rate schedules, rents, lease charges, concession charges, and, in connection therewith, the supervision, direction and control of the collection, receipt and giving of receipts for all services or income of any nature from the Hotel's operations;
- C. Supervise and maintain complete books and records, including without limitation, the books of accounts and accounting procedures of the Hotel which shall at all times be kept at the Hotel or in its Affiliate's corporate office or other suitable location pursuant to the operation of centralized accounting services;
- D. Administer leases, license and concession agreements for all public space at the Hotel, including all stores, office space and lobby space. Manager shall not, without first obtaining Owner's prior written consent, enter into any space leases. All such leases shall be in Owner's name and may be executed by Manager on Owner's behalf;
- E. Keep the Hotel and the Furniture, Fixtures, and Equipment in good order, repair and condition, including, without limitation, making necessary replacements, improvements, additions and substitutions to the Hotel, subject to the approved Annual Business Plan and in conformity with all Legal Requirements and in accordance with the Franchisor's standards for the operation of the Hotel;
- F. Negotiate and enter into, on behalf of the Owner, service contracts and licenses required in the ordinary course of business in operating the Hotel, including, without limitation, contracts for life/safety systems maintenance, electricity, gas, telephone, cleaning, elevator and boiler maintenance, air conditioning maintenance, master television service, master Internet service, laundry and dry cleaning, and other services which Manager deems advisable; provided however, any contract for a term in excess of one (1) year or an annual payment in excess of Ten Thousand and No/100 Dollars (\$10,000.00) shall be approved by Owner, which approval shall not be unreasonably withheld or delayed;
- G. Negotiate and enter into, on behalf of Owner, agreements for banquet facilities and guest rooms and agreements to provide entertainment for the Hotel, and licenses for copyright music and videos;
- H. Supervise and purchase or arrange for the purchase in the most economical manner of all inventories, provisions, and Operating Supplies, which, in the normal course of business, are necessary and proper to maintain and operate the Hotel in accordance with the Annual Business Plan;
- I. Timely prepare and submit to Owner the Annual Business Plan as hereinafter described;
- J. Perform such other tasks as are customary and usual in the operation of a hotel of a class and standing consistent with the Hotel's facilities;
- K. Operate the Hotel in accordance with the standards and specifications set forth in the Franchise Agreement for the Hotel so long as Owner provides sufficient capital to enable Manager to operate the Hotel in good standing under the Franchise Agreement;
- L. Provide risk management services in accordance with the terms of this Agreement;

- M. Manager will not permit the presence, use, storage, handling or disposal of any Hazardous Materials on the Hotel premises and in violation of any Legal Requirements and regardless of whether or not a given Hazardous Material is permitted on the Hotel premises under applicable Legal Requirements, Manager shall only bring on the premises such Hazardous Materials as are needed in the normal course of business of the Hotel; and
- N. Subject to Article XVII, administer and remit all real estate, personal property taxes, and ad valorem property taxes, assessments and similar charges on or relating to the Hotel during the Term of this Agreement.

Section 3.2 Employees. Manager or an Affiliate of Manager shall at all times be the employer of all employees in the Hotel. Owner's and Manager's agents and employees who provide consulting services to Manager in connection with the Hotel, shall be acting as the agent of the Owner. Manager shall have complete authority over pay scales and all benefit plans as long as the pay scales and benefits plans are reasonable and competitive in the market and consistent with those at comparable hotels managed by Manager or its Affiliates.

Section 3.3 Independent Contractors. Manager may hire independent contractors to provide such legal, accounting and other professional services as Manager deems necessary or appropriate in the ordinary course of business in connection with the operation of the Hotel and at an expense approved by Owner and itemized in the Annual Business Plan.

ARTICLE IV

OPERATING EXPENSES PAID BY OWNER

Section 4.1 Expenses Incurred by Manager on Behalf of Owner. Everything done by Manager in the performance of its obligations and all expenses incurred under this Agreement shall be for and on behalf of Owner and for its account except the services referred to in Article V hereof, which shall be rendered and performed by Manager or its Affiliates at their expense and not separately charged to Owner, except as otherwise provided in Article V.

Section 4.2 Liabilities to Third Parties. Except to the extent provided in Article XVIII hereof or elsewhere herein, all liabilities to third parties arising in the course of business of the Hotel are and shall be the obligations of Owner, and Manager shall not be liable for any of such obligations by reason of its management, supervision and operation of the Hotel for Owner.

Section 4.3 Manager Not Obligated to Advance Own Funds. Neither Manager nor any of its Affiliates shall be obligated to advance any of its own funds to or for the account of Owner, nor to incur any liability unless Owner shall have furnished Manager with funds necessary for the discharge thereof prior to incurring such liability. If Manager shall have advanced any funds in payment of an expense in the maintenance and operation of the Hotel, Manager shall promptly provide Owner with written notice upon making Owner such advances and Owner shall reimburse Manager therefor no later than five (5) days after receipt of such notice. Notwithstanding the foregoing, Manager shall pay from its own funds the expenses hereinafter described in Section 5.1 hereof.

ARTICLE V

SUPPORT SERVICES PAID BY MANAGER'S AFFILIATES

Section 5.1 Normal Consulting Services of Manager's Affiliates. Except as hereinafter provided in Section 5.2, after the Management Commencement Date, the normal consulting services of the corporate officers and employees of Manager's Affiliates, including its corporate executives for operations, room operations, food and beverage, sales and marketing, finance and administration, real estate, and accounting (excluding the Accounting Fee and Revenue Management Fee), to be rendered from time to time to Manager in connection with the operations of the Hotel, shall be provided by Manager's Affiliates to Manager at Manager's sole cost and expense and not charged to Owner.

Section 5.2 Exceptions for Certain Support Services of Manager's Affiliates. Notwithstanding the foregoing, Owner shall reimburse Manager for: (i) the appropriate and pro-rata share of salaries, wages or benefits of any officers, directors or employees of Manager or Manager's Affiliates who shall be regularly or temporarily employed or assigned on a full-time basis at the Hotel, or providing regular services to the Hotel, including human resources support, accounting support and the Regional Director of Operations, subject to the prior written approval of Owner, unless included in the Annual Business Plan including, but not limited to, the District Manager for the Hotel; (ii) personnel providing legal services to Manager in connection with matters involving the Hotel, which services shall be charged at rates which approximate Manager's Affiliates' costs associated with such personnel and which services, unless included in the Annual Business Plan, shall be subject to the prior written approval of Owner; (iii) the out-of-pocket expenses directly related to the operation and management of the Hotel, including, but not limited to travel expenses of corporate-level management for periodic Hotel reviews; and (iv) certain other services ("Group Services") best provided to Owner and Manager's Affiliates on a group rather than on an individual basis, including, without limitation, any insurance program Manager may institute. Manager and its Affiliates may profit from such programs and services through volume rebates, rate reductions, and other incentives from outside vendors, through markups, internal profits, and other benefits. Manager's intention is to make available to Owner certain benefits of group or national purchasing programs on a number of items that can be used by or at the Hotel, although Manager cannot and does not

assure or represent that any item or that the total of items purchased through any Group Services program will be at a cost lower than may otherwise be available to Owner or the Hotel from other sources. Owner hereby acknowledges the foregoing disclosure and consents to the retention by Manager or its Affiliates of such rebates, incentives, profits and other benefits which are paid, accrue to, or are retained by Manager in connection with the Group Services programs Owner elects to participate in. Owner specifically acknowledges and stipulates that Manager, in its capacity as operator of the Hotel or otherwise, is not acting as a fiduciary to Owner in connection with any aspect of Group Services. Further, Owner agrees that Manager is not required to disclose to Owner any profit, rebate, markup, incentive or other similar payment that Manager receives or retains from any markup or other source, including third party vendors and suppliers and Affiliates of Manager, such disclosure being specifically waived. Owner hereby waives any claim it might have to any profit, rebate, markup, incentive or similar sum which Manager or an Affiliate of Manager receives or retains in connection with purchases for the Hotel through any Group Services program, if any.

ARTICLE VI

COMPLIANCE WITH LAWS

Section 6.1 Compliance by Manager and Owner After Management Commencement Date. Manager shall make all reasonable efforts, at expense of Owner, to comply with all Legal Requirements, including but not limited to, all laws, rules, regulations, requirements, orders, notices, determinations and ordinances of any governing authority, including, without limitation, the state and local liquor authorities, and the requirements of any insurance companies covering any of the risks against which the Hotel is insured (provided, however, if such noncompliance is determined to have been caused by the gross negligence or willful misconduct of the Manager, the amount for which Manager is required to indemnify Owner pursuant to Article XVIII hereof shall not be an expense of Owner and Manager shall reimburse Owner or pay same directly). If the cost of compliance exceeds Two Thousand Dollars (\$2,000) in any instance, Manager shall promptly notify Owner, and Owner shall promptly provide Manager with funds for the payment of such costs.

Section 6.2 Owner's Right to Contest or Postpone Compliance. With respect to a violation of any such laws or rules, the Owner shall have the right to contest any of the foregoing and postpone compliance pending the determination of such contest, if so permitted by law and not detrimental to the operation of the Hotel but in such event, Owner shall indemnify and hold harmless Manager from any loss, cost, damage or expense, resulting solely from such postponement.

Section 6.3 Manager's Right to Terminate Agreement. Notwithstanding anything in this Agreement to the contrary, if within thirty (30) days of receiving Manager's written request, Owner fails to approve the changes, repairs, alterations, improvements, renewals or replacements to the Hotel which Manager determines in its reasonable judgment are necessary to (i) protect the Hotel, Owner and/or Manager from innkeeper liability exposure; or (ii) ensure material compliance with any applicable code requirements pertaining to life safety systems requirements; or (iii) ensure material compliance with any and all Legal Requirements including, but not limited to, all state, local, or federal employment law, including, without limitation, the Americans with Disabilities Act, then Manager may thirty (30) days after providing Owner an additional notice regarding its termination and, terminate this Agreement any time after the expiration of such second thirty (30) day notice period upon seven (7) days' written notice.

ARTICLE VII

OPERATING ACCOUNT AND OPERATING FUNDS

Section 7.1 Accounts. Manager shall establish and implement Owner's cash management plan. Manager shall establish, at such bank(s) designated by the Owner, at least two hotel accounts necessary for the operation of the Hotel (collectively, the "Agency Accounts"). The Agency Accounts are the property of Owner and Owner may not more frequently than weekly direct Manager to distribute into the Owner Account, within one (1) business day after receipt of notice from Owner, any funds remaining in the Operating Account after accrued fees and expenses have been either disbursed.

- A. Owner Account. Manager shall deposit all monies from the operation of the Hotel and due to Owner into a depository account for the sole benefit of Owner. Manager may endorse any and all checks drawn to the order of Owner for deposit in the Owner Account, however, Manager shall have no rights to withdrawal any monies from the Owner Account, or otherwise direct, any such funds into the Operating Account (as defined below).
- B. Operating Account. Owner will supply to Manager any working capital for the operation of the Hotel, which sum shall be deposited into one or more separate operating accounts to assure the timely payment of expenses of the Hotel in accordance with the Franchise Agreement and Annual Business Plan (the "Operating Account"). If at any time during the Term, the funds available from the Hotel operations for the payment of any of the costs of the Hotel, including Manager's Management Fee and reimbursable expenses, shall be insufficient to pay the same as they become due and payable, Owner shall within five (5) days of written request from Manager, deposit sufficient funds in the Hotel bank accounts to make such payments. Business days shall exclude Saturdays, Sundays and all statutory holidays observed under the laws of the state where the Hotel is located.

Section 7.2 Operating Funds. From time to time if and as required, Owner shall maintain cash in the Operating Account (“Operating Funds”) sufficient in amount to properly operate the Hotel (including amounts sufficient to pay those expenses described as deductions from Gross Operating Revenues). If at any time during the Term, the Operating Funds on hand fall below \$20,000 (the “Minimum Balance”), Owner shall, within five (5) days after Manager’s written notice to Owner, deposit in the Operating Account additional funds in an amount equal to the difference between the Operating Funds then on hand and the Minimum Balance. The Operating Funds shall at all times be the property of the Owner.

Section 7.3 Reserve Fund Account. There shall be established the Reserve Fund in an interest bearing account in a bank selected by Owner and approved by Manager which approval shall not be unreasonably withheld. The Reserve Fund shall at all times be the property of the Owner. Any amounts remaining in the Reserve Fund at the end of each Fiscal Year will be carried forward until fully expended, but shall not be credited against required contributions to the Reserve Fund for any subsequent Fiscal Year. Owner shall deposit into a reserve fund (“Reserve Fund”) an annual amount of up to Five Percent (5%) of Gross Operating Revenues (the “FF&E Percentage Contribution”). Manager shall deduct the FF&E Percentage Contribution on a monthly basis from Gross Operating Revenues and deposit such amount in the Reserve Fund. The Reserve Fund shall be used only for additions or replacements to FF&E and Capital Renewals as contemplated by the Capital Renewals Budget. It is understood that the amounts to be reserved for Capital Renewals under this Section 7.3 may not represent the amounts which may be required in later years to keep the Hotel in the condition contemplated by this Agreement and, accordingly, the parties recognize that the Capital Renewals Budgets in future years may call for additional expenditures in excess of the amounts being reserved therefor under this Section 7.3 which additional expenditures, if necessary, shall be paid from the Operating Funds (such expenditure shall not be considered an expense in calculating House Profit) and the balance, if any, shall be paid by Owner. Notwithstanding anything herein to the contrary, in the event Owner’s lender requires the same or greater reserve requirements, and Owner provides Manager reasonable evidence to this effect, the Reserve Fund shall not be required.

ARTICLE VIII

BOOKS, RECORDS AND FINANCIAL STATEMENTS

Section 8.1 Accounting System. Manager shall keep full and adequate books of account and other records reflecting the results of operation of the Hotel on an accrual basis, all substantially in accordance with the Uniform System. The Fiscal Year used by Manager will consist of twelve (12) Accounting Periods of one (1) calendar month each. Except for such books and records as Manager may elect to keep in its Affiliate’s corporate office or other suitable location pursuant to the operation of centralized accounting services, the books of account and all other records relating to, or reflecting the operation of, the Hotel shall be kept at the Hotel and shall be available to Owner and its representatives at all reasonable times for examination, audit, inspection and transcription. All of such books and records, including, without limitation, books of accounts, guest records and front office records, at all times shall be the property of Owner and shall not be removed from the Hotel by Manager without notifying Owner. Upon termination of this Agreement, all the books and records shall be turned over to Owner to ensure the orderly continuation of the operation of the Hotel, but the books and records shall thereafter be available to the Manager at all reasonable times for inspection, audit, examination and transcription.

Section 8.2 Financial Statements. Manager shall deliver to Owner within twenty-one (21) days after the end of each Accounting Period a profit and loss statement showing the results of the operation of the Hotel for such Accounting Period and the Fiscal Year to date and a balance sheet as of the close of such Accounting Period. Manager shall deliver to Owner within thirty (30) days after the end of each Fiscal Year a profit and loss statement showing the result of operation of the Hotel during such Fiscal Year, and the House Profit, if any, and Net Operating Income, for such Fiscal Year and a balance sheet for the Hotel as of the close of such Fiscal Year. Manager shall, if Owner elects to conduct an audit, cooperate with the Independent Auditor so as to allow the Independent Auditor to deliver audited financial statements to Owner within ninety (90) days after the end of each Fiscal Year. Any disputes as to the contents of any such statements or any accounting matter hereunder, shall be determined by the independent auditor mutually agreed upon by Owner and Manager (the “Independent Auditor”) whose decision shall be final and conclusive on Manager and Owner, the expense for which shall be an operating expense.

Section 8.3 Initial Accounting Records. Owner shall provide Manager with opening balance sheet entries for Manager’s use within fifteen (15) days following the Management Commencement Date, and Manager shall not be responsible for any reconstruction of accounting records prior to the Management Commencement Date. Manager shall not be responsible for the submission of a completed profit and loss statement prior to thirty (30) days after the receipt of the balance sheet entries. Owner acknowledges that Manager has no knowledge of and cannot certify the accuracy of any historical financial information provided to Manager by Owner.

ARTICLE IX

ANNUAL BUSINESS PLAN

Section 9.1 Preparation of Annual Business Plan. Manager shall submit to Owner as soon as reasonably practicable after the Management Commencement Date a forecast of performance for the balance of the year in which the Management Commencement Date Occurs. Thereafter, at least thirty (30) days prior to the end of each Fiscal Year, Manager shall submit an annual business plan for the succeeding Fiscal Year (“Annual Business Plan”). The Annual Business Plan shall include: an operating budget showing estimated

Gross Operating Revenues, department profits, operating expenses, House Profit and Net Operating Income for the forthcoming Fiscal Year for the Hotel; a marketing plan; a Capital Renewals Budget; all in reasonable detail and, where appropriate, with the basis for all assumptions expressly set forth. Owner shall review the Annual Business Plan and either approve or notify Manager of any objections to the Annual Business Plan in writing within twenty (20) days of its receipt thereof. Owner's approval of the Annual Business Plan shall not be unreasonably withheld or delayed. The parties will attempt to resolve in good faith any objections by Owner within thirty (30) days following Manager's receipt of Owner's disapproval.

Section 9.2 Annual Business Plan Disputes. If Manager and Owner are unable to agree upon an Annual Business Plan or any details thereof, the final Annual Business Plan shall be determined by arbitration in accordance with the provisions of Section 19.7 hereof, it being understood that only those details, line items or portions of the Annual Business Plan which are in dispute shall be the subject of such arbitration. Pending the conclusion of any such arbitration proceeding, the Annual Business Plan for all purposes under this Agreement shall be as follows: (a) the undisputed items shall be as set forth in the proposed Annual Business Plan and (b) the disputed items shall be modified by increasing the actual expenses incurred by the Hotel during the prior year in accordance with the Consumer Price Index (for purposes hereof, Consumer Price Index shall mean Consumer Price Index-Cities-All Urban Consumers (1982-84=100), issued by the Bureau of Labor Statistics of the United States Department of Labor). Owner and Manager agree that arbitration or mediation shall be the sole procedure for resolving any dispute regarding the Annual Business Plan.

Section 9.3 Deviations from Annual Business Plan. Manager shall diligently pursue all feasible measures to enable the Hotel to adhere to the Annual Business Plan, provided, however, Owner acknowledges and agrees that Manager will not be responsible for any variances from the Annual Business Plan. In the event that Manager determines that circumstances require that there be material changes in the Annual Business Plan, Manager shall so notify Owner as soon as practically possible after the need for such changes becomes apparent. Such determination is made when the annual amount in a specified department described below is forecasted to exceed the budgeted amount set forth in the Annual Business Plan as reflected in the monthly forecast. For purposes of this Section 9.3, (i) a variation of more than ten percent (10%) below or in excess of the amount set forth in the Annual Business Plan for either the Sales & Marketing department or the Repairs & Maintenance department; or (ii) a variation of more than ten percent (10%) in excess of the amount set forth in the Annual Business Plan for any other major deduction category in calculating House Profit (e.g., a department such as General and Administrative), shall be deemed to be material. Any such material change shall be subject to Owner's approval; provided, however, Owner's approval shall not be required to the extent such material change consists of: (a) expenses which are deducted from House Profit, (b) expenses which are nondiscretionary by virtue of being determined by a third party or governmental entity, such as minimum wages under collective bargaining agreements, utility costs, franchise fee increases, changes in franchise standards and sales taxes, (c) the amount of increased expenses resulting directly from increases in volume, provided that, departmental profit margins and House Profit margins are not diminished or otherwise negatively affected or (d) expenditures as may be required if Manager reasonably believes such expenditure to be required by any emergency situation imminently threatening life, health or safety (provided that Manager shall notify Owner of such emergency and the need for such expenditure in advance or if not possible in advance then as soon as practicable). Notwithstanding anything herein to the contrary, Manager is not warranting or guaranteeing in any respect the actual operating results of the Hotel.

ARTICLE X

MANAGER'S FEES AND REIMBURSEMENTS

Section 10.1 Base Management Fee. During each Fiscal Year after the Management Commencement Date (and for a fraction of any partial Fiscal Year), in consideration of the services Manager is to render under this Agreement, Manager will be paid a fee ("Base Management Fee") at the rate of four percent (4%) of Gross Operating Revenues per Fiscal Year. The Base Management Fee will be paid in installments by deducting such fee from Gross Operating Revenues immediately following each Accounting Period at the rate of four percent (4%) of Gross Operating Revenues for that Accounting Period.

Section 10.2 Accounting Fee and Revenue Management Fee In addition to the Base Management Fee, the Manager shall be paid a fee for centralized accounting services (the "Accounting Fee") equal to \$2,500 per Accounting Period during the Term of this Agreement and for one (1) Accounting Period after the termination of this Agreement. The Accounting Fee shall be increased each year in accordance with increases in the Consumer Price Index-Cities-All Urban Consumers (1982-84 — 100), issued by the Bureau of Labor Statistics of the United States Department of Labor. In addition, the manager shall be paid a monthly fee for revenue management services (the "Revenue Management Fee") equal to \$ 1,200 per month.

Section 10.3 Technical or Procurement Services. Service fees for technical or procurement services for the Hotel shall be paid to Manager or its Affiliates if and only if Owner requests such services of Manager, or any other services beyond the scope of services to be provided pursuant to this Agreement. The amount of fees shall be agreed to by Owner and Manager prior to commencing such services. Technical services include renovation coordination, design review, construction management and related services. Procurement services relate to purchase and installation of furniture, fixtures, equipment, and operating equipment of the hotel. Other services may include such services as IT support.

Section 10.4 Takeover Expenses. Appropriate expenses incurred in connection with the Takeover Activities (the “Takeover Expenses”) shall be paid by Owner and advanced to Manager in accordance with an accounting of such expenses and any and all relevant documents to support such accounting prepared by Manager.

ARTICLE XI

INSURANCE

Section 11.1 Insurance Coverage. Manager and/or Owner (as identified in Exhibit A) shall procure and maintain from and after the Management Commencement Date, at Owner’s cost and expense, the insurance policies as provided on Exhibit A in amounts sufficient to reasonably and adequately protect Owner and Manager against loss or damage arising in connection with the ownership, management and operation of the Hotel, as well as to satisfy the requirements of Owner’s lender and the Franchise Agreement. The Owner shall be responsible for obtaining the insurance coverages identified in Part A to Exhibit A. These policies will be in the name of Owner and will name the Manager as an additional insured. The Manager shall be responsible for obtaining the insurance coverages identified in Part B to Exhibit A. These policies will be in the name of Manager and name the Owner of the Hotel as an additional insured. All insurance policies shall be issued by insurance companies having an A.M. Best’s rating of not less than A — IX. Any insurance required to be provided by Manager in Section 11.1 may be provided under the blanket insurance policy of Manager, which policy covers other hotel properties managed by Manager. All premiums, costs and expenses shall be allocated among the properties participating under such program in accordance with generally accepted underwriting standards. Owner assumes no responsibility for, or interest in, additional premiums or proceeds (other than standard audit adjustments) generated by the blanket insurance policy of Manager. Owner shall be provided certificates evidencing the insurance coverages required pursuant to Section 11.1 on or before thirty (30) days after the Management Commencement Date, and upon any and all subsequent renewals thereof. Owner shall have the right at any time for any reasonable period of time to place property and casualty insurance coverage, and with the consent of Manager (which shall not be unreasonably withheld or delayed) any other required coverage under this Section 11.1. If Owner notifies Manager that Owner shall place the insurance coverage, Manager shall cooperate with Owner and shall terminate, with advance notice to Owner, any overlapping insurance coverage.

Section 11.2 Waiver of Subrogation - Owner Assumes Risk of Adequacy. Neither Manager nor Owner shall assert against the other, and do hereby waive with respect to each other, or against any other entity or person named as additional insureds on any policies carried under this Article XI, any claims for any losses, damages, liability or expenses (including attorneys’ fees) incurred or sustained by either of them on account of injury to persons or damage to property arising out of the operation or maintenance of the Hotel, to the extent that the same are covered by the insurance required under this Article XI. Each policy of insurance shall contain a specific waiver of subrogation reflecting the provisions of this Section 11.2, and a provision to the effect that the existence of the preceding waiver shall not affect the validity of any such policy or the obligation of the insurer to pay the full amount of any loss sustained. Owner and Manager acknowledge that they have agreed on the adequacy of the amounts of any insurance coverage provided under this Agreement.

ARTICLE XII

TERM

Section 12.1 Term. This Agreement shall be for a period commencing on the Management Commencement Date and unless sooner terminated as hereinafter provided, shall continue until the end of the Fiscal Year in which the tenth (10th) annual anniversary of the Management Commencement Date occurs (the “Term”). Thereafter, and subject to the mutual written consent of the Owner and Manager, this Agreement shall automatically renew for four (4) consecutive five (5) year renewal terms (“Renewal Terms”) unless Manager or Owner provides written notice of termination to the other party at least one hundred and eighty (180) days prior to the end of the then current term. Any reference in this Agreement to “Term” shall be deemed to be a reference to the Initial Term and any Renewal Term.

Section 12.2 Early Termination. Owner and Manager acknowledge that, but for the Term of this Agreement and the parties’ commitment to the contemplated relationship for the Term of this Agreement, the Manager would not have made the significant investments of money and time necessary to commence and conduct services under this Agreement and foregone other opportunities. In the event that this Agreement is terminated prior to the expiration of the Term (or any Renewal Term), for any reason other than Manager Default, then Owner shall pay to Manager the Termination Fee (as calculated below). Owner and Manager further acknowledge and agree that Manager’s damages in the event of a termination of this Agreement would be difficult or impossible to determine, including, without limitation, loss of management fees, harm to Manager’s reputation, loss of goodwill, disruption of operations, loss of contributions to budgeted system expenses and loss of a hotel with strategic significance to Manager’s system, and the Termination Fee is a fair estimate of those damages which has been agreed to in an effort to cause the amount of said damages to be certain.

Section 12.3 Termination Fee. The Termination Fee shall be the sum of the Base Management Fee estimated to be received for each Fiscal Year remaining Term of this Agreement (“Termination Fee”). The fees estimated to be received for any given Fiscal Year shall be determined by increasing the Base Management Fee for the last Fiscal Year prior to the termination of this Agreement (if there has not been one (1) full Fiscal Year under this Agreement prior to such termination, then the fees that would have

been earned by Manager for the twelve (12) month period under the Annual Business Plan. Owner and Manager specifically acknowledge that the calculation of the Termination Fee must take into account, and reasonably does take into account, (1) Manager's loss of Management Fees and the benefit of this Agreement over the full remaining Term of this Agreement. (2) The material impact of inflation on Fees over such an extended period, and (3) the inherent difficulty in predicting or quantifying the measure of damages from the non-fee components of Manager's damages described above.

ARTICLE XIII

DEFAULT AND REMEDIES

Section 13.1 Manager Default. This Agreement and the employment of Manager may be terminated by Owner, at its option, upon the happening of any of the following events: (a) a material breach, default, or noncompliance by Manager with any covenants contained in this Agreement; (b) operation of the Hotel by Manager in such a manner as to cause the Franchisor to require the removal of Manager as the operator of the Hotel or to give notice to the Owner of intent to terminate the Franchise Agreement (unless such termination is due to Owner's failure to provide the funds necessary for any required capital improvements or renovations); or (c) the making by Manager of a general assignment for the benefit of creditors; or a petition of application by either party to any tribunal for the appointment of a trustee, custodian, receiver or liquidator of all or substantially all of its business, estate or assets; or the commencement by Manager of any proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment or debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect.

Section 13.2 Owner Default. This Agreement may be terminated by Manager, at its option, upon the happening of any of the following events: (a) failure of Owner to pay or reimburse Manager as stipulated in this Agreement, said termination to become effective within five (5) days after Manager having served Owner notice of the failure and Owner's continued failure to remedy; (b) material breach, default, or noncompliance by Owner with any other covenants contained in this Agreement; (c) the making by Owner of a general assignment for the benefit of creditors; or a petition of application by either party to any tribunal for the appointment of a trustee, custodian, receiver or liquidator of all or substantially all of its business, estate or assets; or the commencement by Owner of any proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment or debt, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect.

Section 13.3 Right to Cure. Except with respect to a default under Section 13.2(0) above, the defaulting party shall have a period of thirty (30) days after receipt of written notice from the non-defaulting party to cure the matter giving rise to the default, and if the nature of the default is such that it is not reasonably susceptible to cure within a thirty (30) day period, the defaulting party shall have up to one hundred twenty (120) days after receipt of written notice to cure such default, provided the defaulting party promptly commences and diligently pursues the curing of such default.

Section 13.4 Remedies. Upon the breach of any term or condition of this Agreement by Manager and the expiration of any applicable cure period, the sole remedy of Owner shall be to terminate this Agreement without the payment of any Termination Fee to Manager; except that Owner shall be able to seek actual damages and/or equitable relief in the event that: (a) Manager solely causes a default under the Franchise Agreement, (b) Manager voluntarily ceases operations of the Hotel for more than twenty-four (24) hours; or (c) Manager commits a crime or intentional tort, as the case may be. Upon the breach of any term or condition of this Agreement by Owner and expiration of any applicable cure period, Manager can elect to terminate this Agreement and shall be entitled to the Termination Fee.

ARTICLE XIV

DAMAGE TO AND DESTRUCTION OF THE HOTEL

Section 14.1 Casualty. In the event that the Hotel shall be substantially destroyed during the term of the Agreement, by fire or other casualty, and the Owner shall elect, for any reason, not to rebuild the Hotel and other improvements, the terms of this Agreement shall cease and terminate as of the date of such destruction and no Termination Fee shall be applicable. If this Agreement is terminated pursuant to the provisions of this Section 14.1 and within a period of two (2) years from the date of termination, Owner commences the construction of a new hotel on the Land, then Manager shall be given a right of first refusal to operate the Hotel on the basis set forth in this Agreement, subject to those changes required by the changes in circumstances and for a term which remained under the Agreement prior to such termination. In the event that the Hotel shall be partially destroyed during the term of the Agreement, by fire or other casualty, and the Owner shall elect to temporarily close all or a portion the Hotel for repair and restoration, Manager shall continue to manage the Hotel and shall be entitled to all Fees described in Article X, including a monthly management fee during the period or reconstruction. The proceeds of any business interruption insurance shall be included in Gross Operating Revenues for the period for which such proceeds are payable. In addition, in the event that Owner engages the Manager to complete the renovations, Manager shall be entitled to a renovation and construction fee of five percent (5%) of the entire cost of reconstruction for the additional time and expense associated with the work as approved by Owner in writing. Upon completion of the reconstruction, Manager shall be entitled to its normal management fee as set forth in Article X.

Section 14.2 Condemnation. If the whole or a substantial portion of the Hotel shall be taken or condemned in any eminent domain, condemnation, compulsory acquisition or like proceeding by any competent authority for any public or quasi-public use of purpose, or if such a portion thereof shall be taken or condemned as to make it imprudent or unreasonable, in either party's reasonable opinion, to use the remaining portion as a Hotel of the type and class immediately preceding such taking or condemnation, then, in either of such events, the terms of this Agreement shall cease and terminate as of the date of such taking or condemnation and no Termination Fee shall be applicable. If this Agreement is terminated pursuant to the provisions of this Section 14.2 and within a period of two (2) years from the date of termination, Owner commences the construction of a hotel on the Land, then Manager shall be given a right of first refusal to operate the Hotel on the basis set forth in this Agreement subject to those changes required by the changes in circumstances and for a term which remained under the Agreement prior to such termination. Any condemnation award or similar compensation shall be the property of Owner, provided that Manager shall have the right to bring a separate proceeding against the condemning authority for any damages and expenses specifically incurred by Manager as a result of such condemnation.

ARTICLE XV

EARLY TERMINATION

Section 15.1 If a termination event occurs pursuant to this Agreement for any reason other Than under Section 13.2(a), the party electing to terminate shall give the other party written notice of such election. On the date which is thirty (30) days after the date of such notice, Manager shall cease all activities at the Hotel and shall have no further obligations under this Agreement.

Section 15.2 If a termination occurs pursuant to Section 13.2(a), Manager shall give to Owner notice of such election. Any time thereafter, Manager may, on ten (10) days' written notice, cease an activities at the Hotel and thereafter have no further obligations under this Agreement.

Section 15.3 Manager shall continue to operate the Hotel in good faith in accordance with the terms of this Agreement until the effective date of such termination. Manager shall peacefully vacate and surrender the Hotel to Owner on the effective date of such termination.

Section 15.4 After the notice is given, and prior to the date Manager ceases activities at the Hotel, Manager shall be paid any and all fees or expenses due it pursuant to this Agreement, and Manager shall cooperate with Owner in the orderly transfer of management to Owner or Owner's designated agent.

Section 15.5 Manager shall assign and transfer to Owner:

1. any interest which Manager may have or claim in and to all of Owner's books and records, plans and specifications, architectural or engineering drawings, contracts, leases and other documents respecting the Hotel that are not Manager's proprietary information and are in the custody and control of Manager; and
2. all of Manager's right, title and interest in and to all liquor, restaurant and any other licenses and permits, if any, held by Manager in connection with the operation of the Hotel; but only to the extent such assignment or transfer is permitted under the law of the state in which the Hotel is located; provided, however, that if Manager has expended any of its own funds in the acquisition of licenses or permits, Owner shall reimburse Manager therefore;
3. and any interest which Manager may have or claim in and to the Operating Account(s) (excluding any funds deposited in the payroll account for final payrolls) or the Reserve Fund.

Section 15.6 Non-Solicitation of Employees. During the period ending six (6) months from the termination or expiration of this Agreement, Owner shall not, directly or indirectly, hire or solicit for hire (whether as an employee, consultant or otherwise) any Key Employees of Manager, without the prior written consent of Manager. For the purposes of this Section 15.6 "solicit for hire" shall not include a general advertisement for employment not directed at employees of Manager.

ARTICLE XVI

ASSIGNMENT

Section 16.1 Assignment. Neither party shall assign or transfer or permit the assignment or transfer of this Agreement without the prior written consent of the other; provided, however, that Manager shall have the right, without such consent, to irrevocably and totally assign its interest in this Agreement to (i) any of its Affiliates, (ii) any successor by merger or consolidation with Manager, or (iii) any party succeeding to substantially all of the assets of the Manager.

ARTICLE XVII

TAXES

Section 17.1 Real Estate and Property Taxes. Upon (i) the written request of Owner and (ii) the provision of sufficient funds and the necessary documentation, and unless otherwise required by Owner's lender, all real estate and ad valorem property taxes, assessments and similar charges on or relating to the Hotel during the Term of this Agreement shall be paid by Manager before any fine, penalty or interest is added thereto or lien placed upon the Hotel or this Agreement, unless payment thereof is, in good faith, being contested and enforcement thereof is stayed. Manager shall, within the earlier of thirty (30) days of payment or ten (10) days following written demand by Owner, furnish Owner with copies of official tax bills, assessments and evidence of payment or contest thereof. Owner, or Manager at direction of Owner, at Owner's expense, may contract with a tax consultant firm to review assessments and tax bills, file personal property tax returns as necessary, make recommendations regarding appeals, and to manage the appeals process.

ARTICLE XVIII

INDEMNIFICATION AND LIMITATION OF LIABILITY

Section 18.1 Indemnification by Owner. Owner shall hold harmless, indemnify and defend Manager and its Affiliates and their respective agents, employees, officers, directors and shareholders (collectively, "Manager Indemnities"), from and against any action, cause of action, suit, debt, cost, expense (including, without limitation, reasonable attorneys' fees for pre-trial, trial and appellate proceedings), claim or demand whatsoever brought or asserted by any third person whomsoever, at law or in equity, incurred by Manager Indemnities arising out of, as a result of, or in connection with the operation of the Hotel including, without limitation: (a) the performance by Manager or its Affiliates of its services hereunder, including, without limitation, any and all obligations incurred relating to any agreements with third parties entered into by Manager or Owner in connection with the management or operation of the Hotel in accordance with this Agreement; (b) any act or omission (whether or not willful, tortuous, or negligent) of Owner or any third party; or (c) any other occurrence related to the Hotel or Manager's duties under this Agreement (except for liabilities for which Manager indemnifies Owner). Owner may apply the proceeds of any available insurance to the payment of any claim under the indemnity set for the in this Section 18.1. The provisions of this Section 18.1 shall survive the expiration or termination of this Agreement and shall be binding upon Owner's successors and assigns.

Section 18.2 Indemnification by Manager. Manager shall hold harmless, indemnify and defend Owner and its Affiliates and their respective agents, employees, officers, directors and shareholders (collectively, "Owner Indemnities"), from and against any action, cause of action, suit, debt, cost, expense (including, without limitation, reasonable attorneys' fees for pre-trial, trial and appellate proceedings), claim or demand whatsoever brought or asserted by any third person whomsoever, at law or in equity, incurred by Owner Indemnities, arising by reason of: (a) the gross negligence or willful misconduct of any Key Employees, which results in a claim for bodily injury, death or property damage occurring on, in or in conjunction with the business of the Hotel, to the extent not covered by insurance (including the deductible, if any); (b) Manager's gross negligence or willful misconduct in the selection, hiring, training discharge or supervision of any Hotel employees; or (c) any action taken by Manager, its employee or agent, which is beyond the scope of Manager's authority under this Agreement. Manager may apply the proceeds of any available insurance to the payment of any claim under the indemnity set for the in this Section 18.2. The provisions of this Section 18.2 shall survive the expiration or termination of this Agreement and shall be binding upon Manager's successors and assigns.

Section 18.3 Indemnification Procedure. Upon the occurrence of a claim of an event giving rise to indemnification, the party seeking indemnification shall notify the other party hereto and provide the other party hereto with copies of any documents reflecting the claim, damage, loss or expense. The party seeking indemnification is entitled to engage such attorneys and other persons to defend against the claim, damage, loss or expense, as it may choose. The party providing indemnification shall pay the reasonable charges and expenses of such attorneys and other persons on a current basis within twenty (20) days of submission of invoices or bills. In the event Owner neglects or refuses to pay such charges, Manager 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 Manager from Owner.

ARTICLE XIX

MISCELLANEOUS

Section 19.1 Severability. In the event that any portion of this Agreement shall be declared invalid by order, decree or judgment of a court, this Agreement shall be construed as if such portion had not been inserted herein except when such construction would operate as an undue hardship to Manager or Owner or constitute a substantial deviation from the general intent and purpose of said parties as reflected in this Agreement.

Section 19.2 Performance. The failure of either party to insist upon a strict performance of any of the terms or provisions of this Agreement or to exercise any option, right or remedy herein contained, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

Section 19.3 Relationship. The relationship of Owner and Manager shall be that of independent contractor. Nothing contained in this Agreement shall be construed to create an agency, partnership or joint venture between them or their successors in interest. Neither party shall borrow money in the name of, or pledge the credit of, the other.

Section 19.4 Meetings. Owner shall meet with representatives of the Manager, from time to time, so that the Manager and Owner may discuss the status of operations and future plans, recommendations and projections. The meetings will be held at mutually convenient dates and locations.

Section 19.5 Consents. Except as herein otherwise provided, whenever in this Agreement the consent or approval of Owner or Manager is required, such consent or approval shall not be unreasonably withheld or delayed. Such consent or approval shall be in writing only and shall be duly executed by an authorized officer or agent of the party granting such consent or approval.

Section 19.6 Applicable Law. This Agreement shall be construed under, and governed in accordance with, the laws of the State of Texas

Section 19.7 Mediation and Arbitration. Any controversy, dispute or claim arising out of or relating to this Agreement or the performance, enforcement, breach, termination or validity thereof, including the determination of the scope of this Agreement to arbitrate, shall first be submitted to nonbinding mediation and shall thereafter be determined by final binding arbitration, and not litigation, the agreed venue for mediation and arbitration being in Houston, Texas. The mediation process shall be administered by a mutually acceptable mediator selected in accordance with the Commercial Mediation Rules of the American Arbitration Association ("AAA"). If any dispute remains unresolved between the parties after the mediation process has been completed, either party may then submit any such unresolved dispute to final and binding arbitration pursuant to the Commercial Arbitration rules of AAA, with all matters related to the enforceability of this arbitration agreement and any award rendered pursuant to this agreement to be governed by the Federal Arbitration Act, 9 U.S.C. Section 1-16. The Arbitration Tribunal shall be formed of three (3) arbitrators each of which shall have at least five (5) years' experience in hotel operation, management, ownership or leasing, one (1) to be appointed by each party and the third (3rd) to be appointed by the American Arbitration Association. The arbitration panel may require and facilitate such discovery as it shall determine is appropriate in the circumstances, taking into account the needs of the parties and the desirability of making discovery expeditious and cost-effective. The arbitration panel shall be empowered to subpoena non-party and party witnesses for deposition and hearing to the full extent provided under the AAA Rules and the Federal Arbitration Act (or the applicable state arbitration statute if the arbitration panel is appointed pursuant to a petition filed in state court). The arbitration panel may also direct the production of documents and other information and the advance identification of witnesses to be called and documents to be admitted. The arbitration panel may issue orders to protect the confidentiality of proprietary information, trade secrets and other sensitive information before it is required to be disclosed in discovery. In addition to monetary damages, or in lieu thereof, the arbitration panel shall have the power to grant all equitable relief (both by way of interim relief and as a part of its final award) as may be granted by any court in the state where the Hotel is located. Monetary damage liability shall be limited to actual damages; the parties hereby waive the right to claim and/or receive punitive damages or exemplary relief. The arbitration panel shall determine whether and to what extent any party is a prevailing party and shall award attorneys' fees and expenses associated with the arbitration proceeding to the "prevailing party, if any. All proceedings shall be reported by a certified shorthand court reporter and written transcripts of the proceedings shall be prepared and made available to the parties. The fees of the arbitration panel, together with all costs and expenses incurred in conducting the arbitration (but excluding the parties' respective attorney, witness and related costs and expenses) shall be borne by the party against whom the arbitral award is made and shall be a (the) component of the arbitral award. The arbitration shall take place in Houston, Texas, and shall be conducted in the English language. The arbitration award shall be final and binding upon the parties hereto and subject to no appeal. Arbitration expenses shall not be an expense in determining House Profit. Judgment upon the award rendered maybe entered into any court having jurisdiction, or applications may be made to such court for an order of enforcement.

Section 19.8 Successors Bound. This Agreement shall be binding upon and inure to the benefit of Owner, its successors and assigns, and shall be binding and inure to the benefit of Manager and its permitted assigns.

Section 19.9 Headings. Headings of Articles and Sections are inserted only for convenience and are in no way to be construed as a limitation on the scope of the particular Articles or Sections to which they refer.

Section 19.10 Incorporation of Recitals. The recitals set forth in the preamble of this Agreement are hereby incorporated into this Agreement as if fully set forth herein.

Section 19.11 Force Majeure. If any one or more of the following events or circumstances that, alone or in combination, adversely affects the operation of the Hotel: fire, earthquake, storm or other casualty; strikes, lockouts, or other labor interruptions; war, acts of terrorism, rebellion, riots or other civil unrest; or any other event beyond Manager's or Owner's, as the case maybe, reasonable control, a party shall be excused from performance of any provision hereof to the extent that such party's ability to comply with such provision is materially impacted by such event

Section 19.12 Notices. Notices, statements and other communications to be given under the terms of this Agreement shall be in writing and delivered by hand against receipt or sent by certified or registered mail, return receipt requested, or by Federal Express or other similar overnight mail service:

To Owner:

RI II MC-HOU
c/o Moody National Companies
6363 Woodway, Suite 110
Houston, Texas 77057
Attn: Director of Closing
Phone: 713-977-7500
Fax: 713-977-7505

To Manager:

Moody National Hospitality
Management, LLC
6363 Woodway, Suite 110
Houston, Texas 77057
Attn: President - Hospitality
Phone: 714-977-7500
Fax: 713-977-7505

or at such other address as from time to time designated by the party receiving the notice.

Section 19.13 Entire Agreement. This Agreement, together with other writings signed by the parties expressly stated to be supplementing hereto and together with any instruments to be executed and delivered pursuant to this Agreement, constitutes the entire agreement between the parties and supersedes all prior understandings and writings, and may be changed only by a writing signed by the parties hereto.

Section 19.14 Manager's Authority Limited. Manager's authority shall be derived wholly from this Agreement, and Manager has no authority to act for or represent Owner except as herein specified.

Section 19.15 Exclusive Compensation. The payments to be made to Manager hereunder shall be in lieu of all other or further compensation or commissions of any nature whatsoever for the services described herein and this Agreement shall be considered as a special agreement between the parties hereto covering the appointment and compensation of Manager to the exclusion of any other method of compensation unless otherwise agreed to in writing.

Section 19.16 Time. Time is of the essence with respect to this Agreement.

Section 19.17 Attorneys' Fees. In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to reasonable costs and expenses, including without limitation, attorneys' fees.

Section 19.18 Complimentary/Discount Policies. Manager will be permitted to provide customary gratuitous accommodations, services and amenities to such employees and representatives of Manager visiting the Hotel in connection with the Hotel's management.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers.

OWNER:

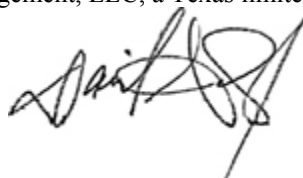
RI II MC-HOU, LLC, a Delaware
limited liability company

By: 

Brett C. Moody, President

MANAGER:

Moody National Hospitality
Management, LLC, a Texas limited liability company

By: 

David Gould, President

Exhibit A

Insurance

Insurance Requirements for Owner and Manager

PART A — OWNER REQUIREMENTS

1. Commercial General Liability policy (with respect to the Property) with limits not less than \$1,000,000 per occurrence with a \$2,000,000 annual aggregate.
2. Commercial Umbrella policy (with respect to the Property) with limits not less than \$10,000,000.
3. Business Automobile Insurance with limits not less than a \$1,000,000 Combined Single Limit.
4. Commercial Property policy insuring the building, business personal property, business income and signs at a replacement cost with agreed upon deductibles. Policy shall be written on a special causes of loss form including coverage for flood, wind and earthquake where applicable.
5. Terrorism.
6. Business Interruption.
7. Boiler & Machinery.
8. Garage Keepers Liability.
9. Liquor Liability Insurance policy with limits not less than \$1,000,000 per occurrence (Only when applicable)
10. Insurance against the theft or damage to guests' property in an amount not less than \$25,000 per guest.
11. Insurance against such other operating risks against which it is customary or advisable to insure in the operations of hotels of this nature.

PART B — MANAGER REQUIREMENTS

1. Commercial General Liability policy (with respect to Management Company) with limits not less than \$1,000,000 per occurrence with a \$2,000,000 annual aggregate.
2. Workers Compensation Insurance on all Hotel Employees in compliance with applicable statutory requirements with a \$1,000,000 limit under the employer's liability
3. Commercial Umbrella policy (with respect to Management Company) with limits not less than \$10,000,000.
4. A blanket Fidelity bond with a limit not less than \$500,000 and a deductible of no more than \$25,000, or as may be reasonably requested by the Owner.
5. Employment Practices Liability insurance policy covering all employees with a limit of not less than \$1,000,000 per occurrence.
6. Management Errors and Omissions policy with limits of at least \$1,000,000 per occurrence.
7. Insurance covering such other hazards as in such amounts as may be customary for comparable properties in the areas of the Hotel as may be reasonably requested by the Owner.

ASSIGNMENT AND ASSUMPTION OF HOTEL MANAGEMENT AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF HOTEL MANAGEMENT AGREEMENT (this "Assignment"), is made and entered into as of the 29th day of April, 2019, by and between RI II MC-HOU, LLC, a Delaware limited liability company ("Assignor") and MOODY NATIONAL KIRBY-HOUSTON MT, LLC, a Delaware limited liability company ("Assignee").

W I T N E S S E T H :

WHEREAS, Assignor, as Owner, and Moody National Hospitality Management, LLC, a Texas limited liability company, as Manager, entered into that certain Hotel Management Agreement dated February 20, 2019, related to the operation of that certain hotel known as Residence Inn- Houston/ Southwest Medical Center — Houston, Texas ("Hotel"), located at 7807 Kirby Street, Houston, Texas 77030 ("Property").

WHEREAS, on the date of this Agreement, Assignor has conveyed the Property to MOODY NATIONAL KIRBY-HOUSTON HOLDING, LLC, a Delaware limited liability company, an affiliate of Assignee, who leases the Hotel to Assignee.

WHEREAS, in connection with the sale of the Property, Assignor now wishes to assign all of its right, title and interest as Purchaser under the Agreement to Assignor and Assignee desires to assume and perform the obligations of the Assignor as Purchaser under the Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment. Assignor does hereby SELL, GRANT, ASSIGN, TRANSFER, CONVEY, RELINQUISH AND SET OVER unto Assignee all of Assignor's right, title and interest in and to the Agreement.

2. Assumption by Assignee. Assignee, hereby accepts the foregoing assignment, agrees to assume and perform all the duties and obligations to be performed by the Purchaser under the Agreement therein mentioned to the same extent as if Assignee had originally been named as the Purchaser in that Agreement, and to indemnify and hold Assignor harmless for any liability for performance or nonperformance of the duties and obligations assumed by Assignee.

3. Governing Law. This Assignrument shall be governed by, and be construed in accordance with, the laws of the State of Texas.

4. Counterparts. To facilitate execution, this Assignment may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of both parties hereto appear on each counterpart hereof. All counterparts hereof shall collectively constitute a single Agreement.

5. Entire Contract. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

[Signature page follows.]

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Assignment as of the date and year first above written.

ASSIGNOR:

RI II MC-HOU, LLC,
a Delaware limited liability company

By: /s/ Brett C. Moody
Brett C. Moody, President

ASSIGNEE:

MOODY NATIONAL KIRBY-HOUSTON MT, LLC, a Delaware
limited liability company

By: /s/ Brett C. Moody
Brett C. Moody, President

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

After Recording Return To:
Greer, Herz & Adams, L.L.P.
2525 South Shore Blvd., Suite 203
League City, Texas 77573
Attn: Meredith Bates

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made as of April 29, 2019, by and among RI II MC-HOU, LLC, a Delaware limited liability company ("Original Maker"); MOODY NATIONAL KIRBY-HOUSTON HOLDING, LLC, a Delaware limited liability company ("New Maker"); BRETT C. MOODY, an individual ("Guarantor" and together with Original Maker, New Maker, and the Master Tenant (as defined herein), collectively, the "Loan Parties"; and AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company ("Noteholder").

RECITALS:

- A. Original Maker has executed and delivered to Noteholder:
- (i) a Promissory Note (as amended, modified, restated or supplemented from time to time, the "Note") dated September 13, 2017, payable to the order of Noteholder in the original principal amount of \$29,100,000.00, with interest and principal payable as therein provided, evidencing a loan described therein (the "Loan");
 - (ii) a Deed of Trust, Security Agreement and Financing Statement (as amended, modified, restated or supplemented from time to time, the "Deed of Trust") dated of even date with the Note, to Darryl H. Levy, as trustee for the benefit of Noteholder, securing payment of the Note, covering certain real property and the improvement, fixtures and personal property more particularly described therein (the "Property"), recorded as Clerk's File No. 2017-405008 in the Official Public Records of Real Property of Harris County, Texas (the "Records");
 - (iii) an Absolute Assignment of Leases and Rents (as amended, modified, restated or supplemented from time to time, the "Assignment") dated of even date with the Note, to Noteholder, securing payment of the Note, recorded as Clerk's File No. 2017-405009 in the Records; and
 - (iv) a Certificate and Indemnity Regarding Hazardous Substances (as amended, modified, restated or supplemented from time to time, the "Environmental Indemnity") dated of even date with the Note, to Noteholder.
- B. Original Maker and Noteholder also entered into a Construction Loan Agreement of even date with the Note (the "Loan Agreement").
- C. Reference is made to the Note, the Deed of Trust, the Assignment, the Environmental Indemnity, and the Loan Agreement for all purposes. The Note, the Deed of Trust, the Assignment, the Environmental Indemnity, the Loan Agreement and the Guaranty (as defined below) and all other documents executed by Original Maker, Guarantor and/or any other party evidencing or securing or otherwise in connection with the loan evidenced by the Note, including without limitation the Subordination and Attornment Agreement and the Master Tenant Security Agreement (each, as defined herein) as amended, modified, restated or supplemented from time to time, are collectively called the "Loan Documents."
- D. Guarantor has executed and delivered to Noteholder (collectively, the "Guaranty"):
- (i) an Absolute, Unconditional Completion Guaranty of even date with the Note;
 - (ii) an Absolute, Unconditional Payment Guaranty of even date with the Note and;

- (iii) a Guaranty Regarding Taxes and Tax Liens of even date with the Note.
- E. The Note is due and payable on October 1, 2024.
- F. Original Maker is transferring Original Maker's interest in and to the Property and the other property described in the Deed of Trust to New Maker (the "Transaction").

AGREEMENTS:

NOW, THEREFORE, in consideration of the foregoing facts and the covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Original Maker, New Maker, Guarantor and Noteholder hereby agree as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated by reference herein.
2. The Transaction. Noteholder hereby acknowledges that the Transaction is permitted under the terms of the Deed of Trust and does not constitute an Event of Default under any Loan Document.
3. Assumption of the Loan. New Maker unconditionally assumes all the duties, obligations, covenants, agreements, and liabilities of Original Maker under the Note and the other Loan Documents. In connection therewith, without limiting the generality of the foregoing, New Maker agrees to pay the Note at the time, in the manner and in all other respects as therein provided, to perform all of the duties, covenants and obligations provided in the Note and the other Loan Documents to be performed by Original Maker thereunder at the time, in the manner, and in all other respects as therein provided, and to be bound by all the terms of the Note and the other Loan Documents as fully and to the same extent as if the Note and the other Loan Documents were originally made, executed and delivered to Noteholder by New Maker. Accordingly, the Note and the other Loan Documents shall include New Maker as an obligor thereunder including, without limitation, the inclusion of New Maker as "Maker" under each Loan Document.
4. Release of Original Maker. Upon execution of this Agreement by Noteholder, Noteholder hereby releases Original Maker from any and all liabilities or obligations relating to, or arising under, the Note and the other Loan Documents.
5. Loan Balance. The Loan Parties and Noteholder acknowledge and agree that the outstanding principal balance of the Note, as of the date of this Agreement, is \$28,179,698.36, with interest paid up to and including March 31, 2019.
6. Conditions to Effectiveness. This Agreement shall not be effective until Noteholder shall have received each of the following, in form and substance satisfactory to Noteholder:
 - (a) signed, notarized counterparts of this Agreement from all of the Loan Parties party hereto, in proper form for recording in the Records;
 - (b) signed copies of the Hotel Lease Agreement ("Master Lease") between New Maker, as landlord, and Moody National Kirby-Houston MT, LLC, a Delaware limited liability company ("Master Tenant"), as tenant, with respect to the Property, together with signed, notarized counterparts of a memorandum thereof, in proper form for recording in the Records, in each case, in form and substance reasonably acceptable to Noteholder;
 - (c) signed counterparts of a Master Lease Subordination and Attornment Agreement between Noteholder and Master Tenant ("Subordination and Attornment Agreement"), together with signed, notarized counterparts of a memorandum thereof, in proper form for recording in the Records, in each case, in form and substance reasonably acceptable to Noteholder;
 - (d) a signed, notarized counterpart of an Assignment of Leases and Rents and Security Agreement ("Master Tenant Security Agreement") executed by Master Tenant, in proper form for recording in the Records, in form and substance reasonably acceptable to Noteholder;
 - (e) a no oral agreements letter signed by the Loan Parties and Noteholder;
 - (f) a Closing Certificate signed by New Maker; and
 - (g) an Acknowledgment of Non-Representation by Noteholder Counsel signed by the Loan Parties.
7. Modifications to Loan Documents. Effective as of the effectiveness of this Agreement pursuant to Section 6: (a)
 - k Master Lease Documents. Notwithstanding any provision of the Deed of Trust, the Assignment, or any other Loan Agreement to the contrary:

(i) New Maker acknowledges and agrees that the assignments of leases and rents included in each of the Deed of Trust and Assignment include all rights, benefits, privileges, and interests of New Maker in each of the Master Lease and the Master Tenant Security Agreement (collectively, the “Master Lease Documents”), and all modifications, extensions, renewals, and replacements of the Master Lease Documents, and all remedies, privileges and security interests granted to New Maker under the Master Lease Documents, and all deposits, credits, options, privileges, and rights of New Maker under the Master Lease Documents, together with all of the easements, rights, privileges, franchises, tenements, hereditaments and appurtenances now or hereafter thereunto belonging or in any way appertaining thereto, and all of the estate, right, title, interest, claim and demand whatsoever of New Maker therein or thereto, either at law or in equity, in possession or in expectancy, now or hereafter acquired;

PROVIDED, HOWEVER, FOR THE AVOIDANCE OF DOUBT, THAT, for so long as the Master Lease (or any replacement Master Lease entered into in accordance with the Loan Documents) is in effect, (A) New Maker’s interests in the Rents shall be limited to payments of rent due under the Master Lease (together with the assignment by New Maker to Lender, as set forth in the preceding subparagraph (ii), of New Maker’s interest in the assignment and conveyance of the Rents (as such term is defined in the Master Tenant Security Agreement) by Master Tenant to New Malcer pursuant to the Master Tenant Security Agreement), and (B) references in the Loan Documents to New Maker’s interest in the Leases shall be deemed references to the Master Lease; and

(ii) The assignment of condemnation awards set forth in Section III(B) of the Deed of Trust shall be deemed to refer to (A) condemnation awards received by New Maker in respect of New Maker’s interest in the Property, and (B) New Maker’s interest in any condemnation awards received by Master Tenant in respect of Master Tenant’s leasehold interest in the Property.

(b) Definition of “Permitted Transfers.” Notwithstanding any provision of the Deed of Trust, the Assignment, or any other Loan Agreement to the contrary, New Maker’s lease of the Property to Master Tenant pursuant to the Master Lease shall constitute a “Permitted Transfer.”

(c) Separateness Covenants.

(i) Section VI.O(c)(viii) of the Deed of Trust is hereby amended and restated to read in its entirety as follows:

(viii) not enter into any transaction with affiliates except on an arm’s-length basis on terms which are intrinsically fair and no less favorable than would be available for unaffiliated third parties, and pursuant to written, enforceable agreements; provided that neither the Master Lease Documents nor the management agreement entered into between Master Tenant and Moody National Hospitality, LLC, nor capital contributions and distributions permitted under the terms of New Maker’s organizational documents shall be deemed to violate this provision;

(ii) Section VI.O(c)(x) of the Deed of Trust is hereby amended and restated to read in its entirety as follows:

(x) except for such commingling, if any, as may occur between the assets or funds of New Maker and Master Tenant pursuant to the operation of the Loan Documents, not commingle its assets or funds with those of any other person or entity;

(iii) Section VI.O(c)(xiii) of the Deed of Trust is hereby amended and restated to read in its entirety as follows:

(xiii) except for any guaranty required under the terms of any franchise agreement pursuant to which the Property is operated, not permit any affiliate to guarantee or pay its obligations (other than limited guarantees and indemnities set forth in the Loan Documents);

8. Representations.

(a) Original Maker represents and warrants to Noteholder that:

(i) it is duly authorized to enter into this Agreement;

(ii) Except as set forth on Schedule 1 hereto, the representations and warranties contained within the Loan Documents are true and correct as of the date hereof or, if relating to an earlier date, were true and correct when made;

(iii) no condition or event has occurred and is continuing which after notice and/or the lapse of time would constitute an Event of Default under any Loan Document;

(iv) it has voluntarily, with full knowledge and without coercion or duress of any kind, entered into this Agreement and it is not relying on any representation, whether written or oral, express or implied, made by Noteholder other than as expressly set forth in this Agreement; and

(v) on its own initiative, it has made proposals to the Noteholder the terms of which are reflected by this Agreement, and it has received actual and adequate consideration to enter into this Agreement.

(b) New Maker represents and warrants to Noteholder that:

(i) it is duly authorized to enter into this Agreement;

(ii) the representations and warranties contained within the Loan Documents, as they relate to the Property, are true and correct as of the date hereof or, if relating to an earlier date, were true and correct when made;

(iii) no condition or event has occurred and is continuing which after notice and/or the lapse of time would constitute an Event of Default under any Loan Document;

(iv) it has voluntarily, with full knowledge and without coercion or duress of any kind, entered into this Agreement and it is not relying on any representation, whether written or oral, express or implied, made by Noteholder other than as expressly set forth in this Agreement; and

(v) on its own initiative, it has made proposals to the Noteholder the terms of which are reflected by this Agreement, and it has received actual and adequate consideration to enter into this Agreement.

(c) Guarantor represents and warrants to Noteholder that:

(i) Except as set forth on Schedule 1 hereto, the representations and warranties contained within the Loan Documents are true and correct as of the date hereof or, if relating to an earlier date, were true and correct when made;

(ii) no condition or event has occurred and is continuing which after notice and/or the lapse of time would constitute an Event of Default under any Loan Document;

(iii) it has voluntarily, with full knowledge and without coercion or duress of any kind, entered into this Agreement and it is not relying on any representation, whether written or oral, express or implied, made by Noteholder other than as expressly set forth in this Agreement; and

(iv) on its own initiative, it has made proposals to the Noteholder the terms of which are reflected by this Agreement, and it has received actual and adequate consideration to enter into this Agreement.

9. Other Documents. The Loan Parties, upon request from Noteholder, agree to execute such other and further documents as may be reasonably necessary or appropriate to consummate the transactions contemplated herein or to perfect the liens and security interests intended to secure payment of the loan evidenced by the Note.

10. Title Insurance. New Maker, at its sole cost and expense, shall obtain and deliver to Noteholder a loan policy of title insurance, together with the endorsements required by Noteholder, insuring the priority of the Deed of Trust, as modified by this Agreement, in the form attached to this Agreement as Exhibit A.

11. Loan Document. This Agreement is included within the definition of "Loan Documents" in the Loan Documents.

12. Ratification. Except as specifically provided herein, the terms and provisions of the Loan Documents shall remain unchanged and shall remain in full force and effect. The Loan Documents as modified and amended by this Agreement are ratified and confirmed in all respects. All liens, security interests and assignments granted or created by or existing under the Loan Documents remain unchanged and continue, unabated, in full force and effect, to secure New Maker's and Guarantor's obligation to repay the loan evidenced by the Note. New Maker and Guarantor acknowledge that there are no offsets, claims or defenses to their respective obligations under the Loan Documents.

13. Past Acceptance. Noteholder acknowledges that Noteholder and its agents in the past may have accepted, without exercising the remedies to which Noteholder was entitled, payments and performance by Original Malcer that constituted Events of Default under the Loan Documents. New Maker acknowledges that no such acceptance or grace granted by Noteholder or its agents in the past, or Noteholder's agreement to the modifications evidenced by this Agreement, has in any manner diminished Noteholder's

right in the future to insist that New Maker strictly comply with the terms of the Loan Documents, as modified by the terms of this Agreement. Furthermore, New Maker specifically acknowledges that any future grace or forgiveness of Events of Default shall not constitute a waiver or diminishment of any right of Noteholder with respect to any future Event of Default of New Maker, whether or not similar to any Event of Default with respect to which Noteholder has in the past chosen, or may in the future choose, not to exercise all of the rights and remedies granted to it under the Loan Documents.

14. No Modification. This Agreement, together with the Loan Documents being executed and delivered pursuant hereto and the existing Loan Documents, as modified pursuant hereto, supersedes and merges all prior and contemporaneous promises and agreements. No subsequent modification of this Agreement or any other Loan Document, or any waiver of rights under any of the foregoing, shall be effective unless made by supplemental agreement, in writing, executed by Noteholder and New Maker, Guarantor and/or Master Tenant, as applicable. Noteholder and the Loan Parties further agree that this Agreement may not in any way be explained or supplemented by a prior, existing or future course of dealings between the parties or by any prior, existing, or future performance between the parties pursuant to this Agreement or otherwise.

15. Waivers. New Maker acknowledges that the execution of this Agreement by Noteholder is not intended nor shall it be construed as (i) an actual or implied waiver of any Event of Default under the Loan Documents as modified hereby or (ii) an actual or implied waiver of any condition or obligation imposed upon New Maker pursuant to the Loan Documents, in either case except to the extent expressly set forth herein.

16. Expenses. Contemporaneously with the execution and delivery hereof, the Loan Parties shall pay, or cause to be paid, all costs and expenses incident to the preparation hereof and the consummation of the transactions specified herein, including, without limitation, title insurance policy charges, recording fees and fees and expenses of legal counsel to Noteholder.

17. Release. The Loan Parties release, remise, acquit and forever discharge Noteholder, together with its employees, agents, representatives, consultants, attorneys, fiduciaries, servants, officers, directors, partners, predecessors, successors and assigns, subsidiary corporations, parent corporations, and related corporate divisions (all of the foregoing the “Released Parties”), from any and all actions and causes of action, judgments, executions, suits debts, claims, counterclaims, defenses, demands, liabilities, obligations, damages and expenses of any and every character, known or unknown, direct and/or indirect, at law or in equity, of whatsoever kind or nature, whether heretofore or hereafter accruing, for or because of any matter or things done, omitted or suffered to be done by any of the Released Parties prior to and including the date hereof, and in any way directly or indirectly arising out of or in any way connected to this Agreement or the Loan Documents, or any of the transactions associated therewith, or the Property, including specifically, but not limited to claims of usury, lack of consideration, fraudulent transfer and lender liability. THE FOREGOING RELEASE INCLUDES ACTIONS AND CAUSES OF ACTION, JUDGMENTS, EXECUTIONS, SUITS, DEBTS, CLAIMS, DEMANDS, LIABILITIES, OBLIGATIONS, DAMAGES AND EXPENSES ARISING AS A RESULT OF THE NEGLIGENCE AND/OR THE STRICT LIABILITY OF ONE OR MORE OF THE RELEASED PARTIES.

18. Counterparts. This Agreement may be executed in any number of counterparts with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

19. Severability. If any covenant, condition or provision herein contained is held to be invalid by final judgment of any court of competent jurisdiction, the invalidity of such covenant, condition, or provision shall not in any way affect any other covenant, condition or provision herein contained.

20. Time is of the Essence. It is expressly agreed by the parties hereto that time is of the essence with respect to this Agreement.

21. Construction. The parties acknowledge and confirm that each of their respective attorneys have participated jointly in the review and revision of this Agreement and that it has not been written solely by counsel for one party. The parties hereto therefore stipulate and agree that the rule of construction to the effect that any ambiguities are to or may be resolved against the drafting party shall not be employed in the interpretation of this Agreement to favor either party against the other.

22. Applicable Law. This Agreement and the rights and duties of the parties hereunder shall be governed for all purposes by the law of the State of Texas and the law of the United States applicable to transactions within said State.

23. Successors. The terms and provisions hereof shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

24. Notice and Agreement. The Loan Parties and Noteholder take notice of and agree to the following:

(a) PURSUANT TO SUBSECTION 26.02(b) OF THE TEXAS BUSINESS AND COMMERCE CODE, A LOAN AGREEMENT IN WHICH THE AMOUNT INVOLVED THEREIN EXCEEDS \$50,000.00 IN VALUE IS NOT ENFORCEABLE UNLESS THE AGREEMENT IS IN WRITING AND SIGNED BY THE PARTY TO BE BOUND OR BY THAT PARTY’S AUTHORIZED REPRESENTATIVE.

(b) PURSUANT TO SUBSECTION 26.02(c) OF THE TEXAS BUSINESS AND COMMERCE CODE, THE RIGHTS AND OBLIGATIONS OF THE PARTIES TO THE LOAN DOCUMENTS SHALL BE DETERMINED SOLELY FROM THE LOAN DOCUMENTS AND ANY PRIOR ORAL AGREEMENTS BETWEEN THE PARTIES ARE SUPERSEDED BY AND MERGED INTO THE LOAN DOCUMENTS.

(c) THE LOAN DOCUMENTS AND THIS AGREEMENT REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES THERETO AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES THERETO. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

25. WAIVER OF JURY TRIAL. THE LOAN PARTIES AND NOTEHOLDER VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON TORT, CONTRACT OR OTHERWISE) BETWEEN OR AMONG ORIGINAL MAKER, NEW MAKER, GUARANTOR AND NOTEHOLDER ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT, THE OTHER LOAN DOCUMENTS OR THE LOAN. THIS PROVISION IS A MATERIAL INDUCEMENT TO NOTEHOLDER TO ENTER THIS AGREEMENT.

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EXECUTED as of the date first set forth above.

ORIGINAL MAKER:

RI II MC-HOU, LLC,
a Delaware limited liability company

By: /s/ Brett C. Moody

Name: Brett C. Moody

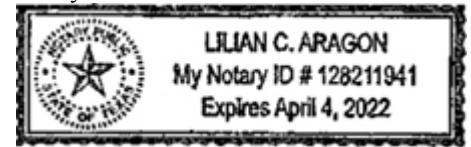
Title: President

STATE OF TEXAS

COUNTY OF HARRIS

The foregoing instrument was acknowledged before me on April 24, 2019, by Brett C. Moody, as President of RI II MC-HOU, LLC, a Delaware limited liability company, on behalf of said limited liability company, for the purposes and consideration therein stated.

Notary Public in and for the State of Texas



NEW MAKER:

MOODY NATIONAL KIRBY-HOUSTON
HOLDING, LLC, a Delaware limited liability
company

By: /s/ Brett C. Moody

Name: Brett C. Moody

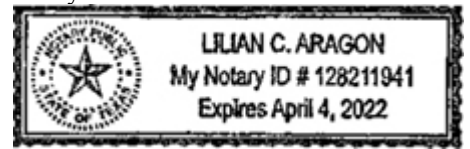
Title: President

STATE OF TEXAS

COUNTY OF HARRIS

The foregoing instrument was acknowledged before me on April 24, 2019, by Brett C. Moody, as President of MOODY NATIONAL KIRBY-HOUSTON HOLDING, LLC, a Delaware limited liability company, on behalf of said limited liability company, for the purposes and consideration therein stated.

Notary Public in and for the State of Texas



GUARANTOR:

/s/ Brett C. Moody

BRETT C. MOODY, an individual

STATE OF TEXAS

COUNTY OF HARRIS

This instrument was acknowledged before me on April ____, 2019, by BRETT C. MOODY, an individual, for the purposes and consideration therein stated.

6



LILIAN C. ARAGON
My Notary ID # 128211941
Expires April 4, 2022
4. Pl. ____ t

NOTEHOLDER:

AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company

By: /s/ Robert J. Kirchner

Name: Robert J. Kirchner

Title: Vice President

STATE OF TEXAS

COUNTY OF HARRIS

The foregoing instrument was acknowledged before me on April 18, 2019, by Robert J. Kirchner, as Vice President of AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company, on behalf of said limited liability company, for the purposes and consideration therein stated.

Notary Public in and for the State of Texas

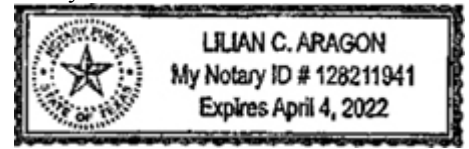


EXHIBIT A

Form of Loan Policy of Title Insurance

SCHEDULE 1

Schedule of Exceptions to Representations and Warranties

Deed of Trust:

1. Section F(2): In addition to the Persons initially identified as the members of 4MCH, LLC, the Elijah B. Moody Trust and the Peter L. Moody Trust are also members of 4MCH, LLC.

PROMISSORY NOTE

\$29,100,000.00

September 13, 2017

FOR VALUE RECEIVED, RI II MC-HOU, LLC, a Delaware limited liability company ("Maker") promises to pay to the order of AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company, (American National Insurance Company, its successors or assigns being hereinafter called "Noteholder") the sum of TWENTY-NINE MILLION ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$29,100,000.00) or so much thereof as may be disbursed from time to time pursuant to that certain Construction Loan Agreement (the "Loan Agreement") of even date herewith by and between Noteholder and Maker, together with interest on the outstanding principal balance hereof from the date of each advance hereunder until paid at the rate of five percent (5%) per annum (the "Contract Rate").

The initial phase of the loan evidenced hereby (the "Interest Only Phase") shall commence as of the date hereof and shall terminate on September 30, 2019. Commencing on October 1, 2017 and continuing on the first day of each and every calendar month thereafter through and including the payment due on October 1, 2019, Maker shall pay monthly installments of interest only, in arrears, at the Contract Rate on the principal balance hereof outstanding from time to time. Such monthly installments of interest only during the Interest Only Phase shall be calculated based on a three hundred sixty-five (365) or three hundred sixty-six (366) day year, as applicable.

On and after October 1, 2019, all interest shall be computed on the basis of a three hundred sixty (360) day year comprised of twelve (12) equal thirty (30) day months. Commencing on November 1, 2019, and continuing on the first day of each and every succeeding calendar month thereafter until the entire indebtedness shall have been fully paid, Maker shall pay equal monthly installments of principal and interest at the Contract Rate in the amount of ONE HUNDRED SEVENTY THOUSAND ONE HUNDRED III-MEN AND 70/100 DOLLARS (\$170,115.70) each, or such lesser monthly amount necessary to amortize the outstanding principal balance of the Note on the last day of the Interest Only Phase over a twenty-five (25) year period at the Contract Rate.

Maker understands that the monthly installments of interest and principal on this Note referred to above are based upon a hypothetical twenty-five (25) year amortization; that such installments will not amortize fully the principal balance by the Scheduled Maturity Date; that the final installment will be a "balloon" payment; and that Noteholder has no obligation to refinance such "balloon" payment.

As monthly installments are paid, they are to be applied first to the payment of interest accrued on the entire amount of said indebtedness unpaid at the time of said payment, and the balance, if any, shall be applied to the payment of principal.

This Note shall mature on October 1, 2024 (the "Scheduled Maturity Date"). Notwithstanding anything to the contrary contained in this Note, the entire outstanding principal balance of this Note, together with all accrued and unpaid interest thereon computed as aforesaid and any other sums due hereunder shall become due and payable, without offset and without further notice, on the Scheduled Maturity Date.

Both principal and interest are payable at the office of American National Insurance Company, in the Mortgage and Real Estate Investment Department, 2525 South Shore Blvd., Suite 207, League City, Texas 77573 or at such place as Noteholder may from time to time designate in writing.

Maker acknowledges and agrees that (i) the monthly installments described above are based on the Contract Rate; and (ii) Noteholder may, but is not obligated to, recalculate the monthly installments due under this Note based upon a change in interest rate resulting from the calculation of interest at the Default Rate (as defined below) as provided in this Note, and Maker shall pay any such recalculated monthly installment amounts.

This Note is given for a loan of \$29,100,000.00 and is secured by a Deed of Trust, Security Agreement and Financing Statement (as amended, the "Deed of Trust") of even date herewith from Maker to Darryl H. Levy, Trustee, on the property (the "Mortgaged Property") described in Exhibit A attached hereto and made a part hereof. This Note, the Deed of Trust, the Loan Agreement, that certain Absolute, Unconditional Payment Guaranty (the "Payment Guaranty") executed of even date herewith by Brett C. Moody (the "Guarantor") in favor of Noteholder, that certain Absolute, Unconditional Completion Guaranty (the "Completion Guaranty") executed of even date herewith by Guarantor in favor of Noteholder and any and all other documents securing, evidencing or relating to the Note are sometimes individually referred to as a "Loan Document" and collectively as "Loan Documents". The Payment Guaranty and the Completion Guaranty are individually and collectively referred to as the "Guaranty".

It is expressly agreed that if (a) Maker shall be in default in the payment when due of any principal, interest or installment of principal and interest or any other sums due and payable pursuant to the terms, conditions, covenants, agreements, of this Note or any Loan Documents; (b) Maker shall be in default under the other terms, conditions, covenants, agreements, representations or warranties

contained in this Note or any other Loan Document, and such default shall continue beyond any applicable cure period provided herein or therein; or (c) any Maker, or any drawer, acceptor, endorser, guarantor, surety or accommodation party or other person liable upon or for the payment of the indebtedness evidenced by this Note and/or for the performance of the landlord's obligations pursuant to any lease on any portion of the Mortgaged Property (each hereinafter called "Other Liable Party" or "Other Liable Parties") (i) admits in writing its inability to pay its debts generally as they become due, (ii) files a petition in bankruptcy as a Debtor or seeking reorganization or an arrangement or otherwise to take advantage of any state or federal bankruptcy or insolvency law, (iii) makes an assignment for the benefit of creditors, (iv) files a petition for or consents to the appointment of a receiver of any of its assets or a part thereof, (v) without its consent, a petition in bankruptcy is filed against it, or an order, decree or judgment is entered by a court of competent jurisdiction appointing a receiver over its property, or approving a petition filed against it seeking a reorganization or an arrangement of it under any bankruptcy or insolvency law, and such petition, order, decree or judgment is not vacated, set aside or stayed within ninety (90) days from the date of entry, (vi) dissolves, or its existence as a legal entity terminates, other than any Permitted Transfer, as such term is defined in the Deed of Trust, (vii) is a party to any merger or consolidation, other than any Permitted Transfer, is the subject of any transaction known as or similar to a leveraged buy-out or is involved in any material corporate restructuring, however designated, then Noteholder, in any of such events, shall have the right and option, without notice or demand, to accelerate the maturity of this Note and declare the entire unpaid balance of this Note, both outstanding principal and accrued but unpaid interest, immediately due and payable and/or may enforce such other rights as are available to Noteholder under the terms and conditions of any Loan Document or otherwise available at law or in equity. Upon such acceleration by Noteholder in the event of default as aforesaid, whether such event of default be voluntary or involuntary, Maker specifically agrees that Noteholder shall be entitled to collect the prepayment fee when due as hereafter provided in addition to the balance of indebtedness due under this Note. All rights and remedies available to Noteholder shall be cumulative and not exclusive, failure to exercise any of such rights upon default shall not constitute a waiver of the right to exercise any of them at any time, and the exercise or beginning to exercise of any one of such rights and remedies shall not preclude the simultaneous or later exercise of any or all of such rights and remedies.

Maker hereby agrees to pay all expenses incurred, including, but not limited to, reasonable attorney's fees if this Note is placed in the hands of an attorney for collection or if this Note is collected through probate, bankruptcy or other judicial proceedings.

Prior to default hereon, unpaid principal shall bear interest from the date hereof at the Contract Rate hereinabove provided. From and after any default and continuing so long as Noteholder has not agreed in writing to a waiver or cure of such default, all unpaid principal (whether or not overdue) and unpaid interest shall bear interest at the lesser of the Maximum Nonusurious Rate (as hereinafter defined), or seventeen percent (17%) (hereinafter referred to as the "Default Rate"), whether or not Noteholder has exercised its option to accelerate the maturity of this Note and to declare the entire unpaid principal indebtedness and accrued interest due and payable. Provided, however, at any time after the tenth (10th) day a delinquent payment is due but has not been received by Noteholder, Noteholder, in its sole and absolute discretion, may elect to charge a rate of interest or impose a delinquency charge which is less than the amount which would result from applying the Default Rate provided for in the preceding sentence, but any such delinquency charge for any delinquent installment or other amount shall not exceed five percent (5%) of such delinquent installment or amount, as applicable. Any such election by Noteholder to charge such lesser amount shall not constitute a waiver of Noteholder's right to impose the Default Rate during the existence of any future defaults.

In the event of default hereunder and following acceleration of maturity by Noteholder as aforesaid, a tender of payment of the amount necessary to satisfy the entire indebtedness evidenced by this Note or secured by the aforementioned liens made at any time prior to a foreclosure sale shall be deemed to constitute an attempted evasion by Maker of the following restrictions on the right of prepayment and shall be deemed a voluntary prepayment hereunder, and such payment must therefore include a prepayment fee equal to the lesser of (a) the prepayment fee provided for in the next succeeding paragraph, or if no fee is provided, 8% on the then outstanding principal balance, or (b) the maximum amount, which when added to all other interest charged, paid or contracted for hereunder, would not exceed the Maximum Nonusurious Rate for this loan.

This Note shall not be prepayable in whole or in part prior to November 1, 2021. Maker reserves the privilege of paying this Note in full (but not in part) on or after November 1, 2021, on at least thirty days but not more than ninety days prior written notice; provided, however, that in addition to the principal and accrued interest payable upon any such prepayment, Maker agrees and promises to pay an amount equal to a percentage of the principal remaining unpaid on the interest payment date next preceding such prepayment according to the following schedule: 3% during the period from November 1, 2021 through October 31, 2022, 2% during the period from November 1, 2022 through October 31, 2023, 1% beginning on November 1, 2023, and thereafter until the loan is paid in full; provided, further, that no premium shall be due on payments made within one hundred and twenty (120) days of the Scheduled Maturity Date or as a result of the application of insurance or condemnation proceeds to the repayment of the indebtedness due under this Note.

Except as otherwise expressly provided in the Deed of Trust with respect to notice of default, Maker hereof, and all Other Liable Parties, jointly and severally waive presentment for payment, protest and demand, notice of non-payment, protest, notice of protest, notice of acceleration, notice of the intent to accelerate, the filing of suit, and diligence in collecting this Note or enforcing any of the security herefor, and agree to the substitution, exchange or release of any such security or the release of any party primarily or secondarily liable hereon, and further agree that it will not be necessary for the holder hereof, in order to enforce payment of this Note by it, to first institute suit or exhaust its remedies against Maker or any Other Liable Party, or to enforce its rights against any security

herefor, and consent to any one or more rearrangements, modifications, extensions or postponements of the time, amount or manner of payment of this Note on any terms or any other indulgences with respect thereto, without notice thereof to any of them and without discharging or reducing any of their liability hereunder. Noteholder may transfer this Note, and the rights and privileges of Noteholder under this Note shall inure to the benefit of Noteholder's successors, and assigns.

This Note shall be governed by and construed in accordance with Texas law and applicable federal law. It is the intention of Noteholder and Maker that this Note and all provisions hereof and of all other Loan Documents conform in all respects to the laws of the State of Texas and applicable federal law pertaining to usury. Notwithstanding any provision in this Note or in any other Loan Documents to the contrary, it is expressly provided that in no case or event should the aggregate amounts, which by applicable law are deemed to be interest with respect to this Note or any other Loan Documents ever exceed the "Maximum Nonusurious Rate" (as defined below). In this connection, it is expressly stipulated and agreed that it is the intention of Noteholder and Maker to contract in strict compliance with applicable usury laws of the State of Texas and/or of the United States (whichever permits the higher rate of interest) from time to time in effect. Nothing in this Note or other Loan Documents shall ever be construed to create a contract to pay, as consideration for the use, forbearance or detention of money, interest at a rate in excess of the Maximum Nonusurious Rate. If under any circumstances the aggregate amounts contracted for, charged or paid with respect to this Note, whether by fulfillment of any provision hereof or of any mortgage, deed of trust, loan agreement or other document now or hereafter securing, evidencing or relating to the indebtedness evidenced hereby, which by applicable law are deemed to be interest, would produce an interest rate greater than the Maximum Nonusurious Rate, Maker and any other person obligated to pay this Note, stipulates that the amounts will be deemed to have been paid, charged or contracted for as a result of an error on the part of Maker, any other person obligated for the payment of this Note and Noteholder and upon discovery of the error or upon notice thereof from Maker or the party making such payment, Noteholder or the party receiving such excess payment shall, at its option, refund the amount of such excess payment or credit the excess payment against any other amount due under this Note. In addition, all sums paid or agreed to be paid to the holder of this Note for the use, forbearance or detention of monies shall be, to the extent permitted by applicable law, amortized, prorated, allocated and spread through the full stated term of this Note so that the amount of interest on account of the indebtedness evidenced hereby does not exceed the maximum permitted by law. The provisions of this paragraph shall control all existing and future agreements between Maker and Noteholder. At all times, if any, as Title Four of the Texas Finance Code shall establish the maximum nonusurious rate, the "Maximum Nonusurious Rate" shall be the highest permitted rate based upon the "weekly ceiling" (as defined in Title Four of the Texas Finance Code) from time to time in effect; but Noteholder may from time to time, as to current or future balances, implement, withdraw, and reinstate any ceiling under such Title as an alternative, including the right to reinstate the weekly ceiling, or revise the index, formula or the provisions of law used to compute the Maximum Nonusurious Rate by notice to Maker, if and to the extent permitted by and in the manner in, such Title. If the Maximum Nonusurious Rate is increased or removed by statute or other governmental action subsequent to the date of this Note, then the new Maximum Nonusurious Rate, if any, will be applicable to this Note from the effective date of the new Maximum Nonusurious Rate, unless such application is precluded by the statute or governmental action or by the general law of the jurisdiction governing this Note. As a condition precedent to any claim seeking usury penalties against Noteholder, Maker shall provide written notice to Noteholder advising Noteholder in reasonable detail of the nature and amount of the violation, and Noteholder shall have sixty (60) days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest in Maker or crediting such excess interest against the indebtedness then owing by Maker to such Noteholder.

Maker warrants and represents to Noteholder and all holders of the indebtedness evidenced hereby, that (i) all loans evidenced by this Note shall be "business loans" as that term is used in the Depository Institutions Deregulatory and Monetary Control Act of 1980, as amended, (ii) that this transaction is specifically exempt under Section 226.3(a) of Regulation Z issued by the Board of Governors of the Federal Reserve System, and Title I and Title V of the Consumer Credit Protection Act, and (iii) that such loans are for business, commercial, investment or other similar purposes and not primarily for personal, family, household or agricultural use as such terms are used in the Texas Credit Code and/or the Texas Finance Code.

Without limiting in any way the obligations of Guarantor under the Guaranty and except as otherwise specifically provided below, in the event of a default in the payment of this Note by Maker, or any other default under any other Loan Document, after Completion, Noteholder's sole recourse against Maker shall be against the Mortgaged Property described in the Deed of Trust securing this Note, and Noteholder shall not be entitled to recover any deficiency judgment against Maker if the foreclosure or recovery of such Mortgaged Property is not sufficient to pay the amount owed by Maker hereunder. Notwithstanding the foregoing limitation of liability, Maker shall be fully liable (a) for fraud or material misrepresentation made in or in connection with this Note or any other Loan Document or the apparent purpose of which is to deprive Noteholder of the security for this Note; (b) for failure to pay taxes, assessments, charges for labor or materials or any other charges which can create liens on any portion of the Mortgaged Property (less any money held by Noteholder in an escrow account established as a reserve for such payment); (c) for the misapplication of (i) proceeds of insurance covering any portion of the Mortgaged Property, or (ii) proceeds of the sale or condemnation of any portion of the Mortgaged Property; (d) for failure to maintain, repair or restore the Mortgaged Property in accordance with any Loan Document (less any money held by Noteholder in an escrow account established as a reserve for such payment); (e) for any act or omission knowingly or intentionally committed or permitted by Maker which results in the waste, damage or destruction to the Mortgaged Property, but only to the extent such events are not covered by insurance proceeds which are received by Noteholder; (f) for the return to Noteholder of all unearned advance rentals and security deposits paid by tenants of the Mortgaged Property or any guarantors of the leases of such tenants which are not rightfully refunded to or which are forfeited by such tenants or guarantors; (g) for the return of, or reimbursement for, all

personal property taken from the Mortgaged Property by or on behalf of Maker except as expressly permitted in the Deed of Trust; (h) for any liability of Maker pursuant to the provision contained in the Deed of Trust pertaining to hazardous or toxic materials or substances; (i) for any liability of Maker pursuant to the Closing Certificate executed by Maker in favor of Noteholder on or about the date hereof or Certificate and Indemnity Regarding Hazardous Substances executed by Maker and delivered to Noteholder in connection with the indebtedness evidenced by this Note; (j) for any delay after a default which is not cured, in deeding over the Mortgaged Property to Noteholder or failure to cooperate in a consensual foreclosure within 90 days of Noteholder's request; (k) for failure to maintain or alter the Mortgaged Property in compliance with the Americans with Disabilities Act of 1990, as it may be amended from time to time; and (l) for all court costs and reasonable attorneys' fees incurred in connection with the enforcement of one or more of the above subparagraphs (a) through (k), inclusive.

Time is of the essence of this Note. This Note shall be interpreted, construed and enforced in accordance with the internal laws of the State of Texas, without regard to Texas law with respect to conflict of laws. Where the context so requires references to any gender shall include the others and references to the singular shall include the plural and vice versa. If any term, covenant, condition, agreement, representation or warranty of the Note or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Note, or the application of such term, covenant, condition, agreement, representation or warranty to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, condition, agreement, representation or warranty of this Note shall be valid and enforced to the fullest extent permitted by law.

[REMAINDER OF PAGE INTENTIONALLY RESERVED]

MAKER:

RI II MC-HOU, LLC,
a Delaware limited liability company

By: /s/ Brett C. Moody

Name: Brett C. Moody

Title: President

EXHIBIT A

Mortgaged Property

Unrestricted Reserve "A", in Block 1, of RESIDENCE INN MEDICAL CENTER, in Harris County, Texas, according to the map or plat thereof, recorded under Film Code No. 674452, of the Map Records of Harris County, Texas.

CONSTRUCTION LOAN AGREEMENT

THIS CONSTRUCTION LOAN AGREEMENT (this “Agreement”) is made and entered into and to be made effective as of September 13, 2017 by and between RI II MC-HOU, LLC, a Delaware limited liability company (“Maker”), whose address is 6363 Woodway, Suite 110, Houston, Texas 77057, and AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company (“Noteholder”), whose address is Attention: Mortgage and Real Estate Investment Department, 2525 South Shore Blvd., Suite 207, League City, Texas, 77573.

RECITALS:

- A. Maker is the owner of fee simple title to the Land (as defined herein).
- B. Maker desires to improve the Land by constructing the Improvements (as defined herein) thereon.
- C. Maker has applied to Noteholder for the Loan (as defined herein) to fund the development and construction of the Improvements on the Land as more fully provided in this Agreement. The Loan is to be secured by a deed of trust lien encumbering the Project (as defined herein).
- D. Noteholder has agreed to make the Loan for such purpose pursuant to the Commitment, on the terms, conditions and provisions set forth in the Commitment.
- E. Capitalized terms used but not defined in this Agreement shall have the meaning given such terms in Exhibit G attached hereto and incorporated herein by this reference.

NOW, THEREFORE, in consideration of Ten and 00/100 Dollars (\$10.00) paid in hand and the mutual covenants and agreements of the parties hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, it is mutually covenanted and agreed as follows:

ARTICLE I. THE LOAN

Section 1.1 The foregoing recitals to this Agreement are incorporated herein and made a part hereof by reference to the same extent as if herein set forth in full.

Section 1.2 For purposes of evidencing the Loan and securing Noteholder in the payment of the Loan, all interest thereon and all other amounts at any time due from Maker to Noteholder, and for the purpose of securing the performance by Maker of all of the covenants and undertakings of Maker as set forth herein and as set forth in the below listed documents, the following documents have been or will be executed and delivered to Noteholder:

- (a) The Note, or so much thereof as shall be advanced, which Note shall be due and payable on the Scheduled Maturity Date, as that term is defined therein or any earlier maturity of the Note provided therein;
- (b) the Security Instrument;
- (c) the Completion Guaranty;
- (d) the Payment Guaranty;
- (e) the Tax Lien Guaranty;
- (f) the Lease Assignment;
- (g) the Environmental Indemnity;
- (h) the Closing Certificate;
- (i) the Financing Statement; and
- (j) the Assignment of Plans and Specifications.

Maker agrees that a default by Maker, Guarantor or any other applicable party under any one or more of the Loan Documents which is not cured within any applicable notice, grace and/or cure period shall automatically be deemed to be a default by Maker under each of the Loan Documents without further notice or curative grace period being given to Maker.

ARTICLE II. CONSTRUCTION OF IMPROVEMENTS

Section 2.1 Maker covenants and agrees to perform or cause to be performed any and all of the construction obligations (including, without limitation, material compliance with all design, development, construction and delivery schedules and deadlines) and to cause Completion to occur on or before twenty-four (24) months after the date of this Agreement (the “Completion Deadline”), subject to Force Majeure (as defined below). Additionally, Maker covenants and agrees to cause (a) approval of the Plans and Specifications by the Inspecting Engineer and, if required under the Franchise Agreement, the Franchisor, and (b) completion of all foundations of the Improvements (as necessary) not later than one hundred twenty (120) days after the date of this Agreement, subject to Force Majeure (as defined below). Notwithstanding the foregoing, Noteholder acknowledges that, prior to the date of this Agreement, the Inspecting Engineer reviewed and approved the Plans and Specifications.

Section 2.2 Maker covenants and agrees to commence construction within the earlier of (a) sixty (60) days after the date of this Agreement or (b) the date by which Maker is required to commence construction as required by the Franchise Agreement, and thereafter to continue diligently, subject to Force Majeure and other delays, including weather delays, with the construction of the Improvements in accordance with the requirements of the Franchise Agreement and the Project Budget in order for Completion to occur on or before the earlier of (x) the Franchise Construction and Delivery Deadlines and (y) the Completion Deadline. Maker acknowledges and agrees that the Project Budget requires Maker to pay into (or provide evidence that it has already paid into) the Project equity in the amount of Maker’s Equity.

Section 2.3 The Improvements shall be constructed in substantial accordance with the Plans and Specifications. The identification and acceptance of the Plans and Specifications by Noteholder shall in no way constitute acceptance or warranty by Noteholder or the Inspecting Engineer, defined below, as to the sufficiency and/or adequacy of the Improvements and/or any of the component parts thereof, nor shall it constitute an acceptance or warranty as to the sub-soil conditions involved in the Land. The Plans and Specifications are incorporated herein and made a part hereof by reference to the same extent as if herein set forth in full, and the same shall not be changed or modified in any material respect without the prior written consent of Noteholder and the Inspecting Engineer, such consent not to be unreasonably withheld, conditioned or delayed.

Section 2.4 The Improvements shall be constructed with new, unused sound materials and in a good and workmanlike manner and in accordance with any requirements set forth in the Franchise Agreement. The Improvements shall be constructed by the Contractor, in accordance with a guaranteed maximum price Construction Contract to be submitted to and approved by Noteholder. Subject to the provisions of Section 3.2(a) below, the Construction Contract and the sums payable by Maker to the Contractor thereunder shall not be modified, altered or amended in any material respect without the prior written consent of Noteholder in each instance, such consent not to be unreasonably withheld, conditioned or delayed. The Improvements shall be constructed substantially in accordance with the Plans and Specifications, in compliance with any requirements set forth in the Franchise Agreement and in compliance with all applicable statutes, ordinances and regulations of all public authorities having jurisdiction thereof. Maker hereby certifies to Noteholder that the copy of the Construction Contract to be delivered to Noteholder is a true, correct and complete copy of such contract, and that, except as contained therein or subsequently approved by Noteholder, such approval not to be unreasonably withheld, conditioned or delayed, and except as set forth on Exhibit D, there will be no other agreements, arrangements, undertakings or understandings between Maker and any other person or entity, relative to construction of the Improvements. Maker hereby represents and warrants to Noteholder that no subdivision approval or re-subdivision of the Mortgaged Property or rezoning is required for construction of the Improvements or to comply with applicable statutes, ordinances and regulations of any public authorities having jurisdiction thereof.

Section 2.5 As additional security for the performance of Maker’s obligations hereunder, Maker hereby collaterally transfers and assigns to Noteholder as set forth herein and in the Loan Documents, all of Maker’s right, title and interest in and to all present and future: (i) construction contracts (including, without limitation, the Construction Contract, as defined below), subcontracts, architectural contracts (including, without limitation, the Owner-Architect Agreement, as defined below), all guaranties of construction contracts, engineering contracts, plans and specifications including the Plans and Specifications, building permits (to the extent assignable), bonds in favor of or for the benefit of Maker, development agreements, affecting the Land and recorded or to be recorded in the applicable recording records of the jurisdiction(s) in which the Land is located), and all other present and future contracts, agreements, permits (to the extent assignable) surveys, plats (to the extent assignable), franchises, including without limitation the Franchise Agreement (to the extent assignable) and authorizations (to the extent assignable) in any way related to the development, construction and/or operation of the Improvements, including all extensions, renewals and modifications of or substitutions for any of the foregoing; (ii) income, profits, operating accounts, receipts, funds and accounts receivable to the extent related to the Improvements, held by or owing to Maker or any agent of Maker subject to a license in favor of Maker; (iii) Equipment, Inventory, Fixtures, Accounts, Contract Rights, Documents, Instruments and General Intangibles of Maker to the extent assignable, as such terms are defined in the Uniform Commercial Code as adopted in the States of Texas and Minnesota to the extent related to the Improvements; and (iv) other “Collateral” as such term is defined (respectively) in the Security Instrument.

(a) The foregoing collateral assignment in this Section 2.5, at Noteholder’s sole and absolute option, shall, to the maximum extent permitted by law (subject to Noteholder’s liens and security interests under the Loan Documents, which liens and security interests shall not merge in any such vesting), become unconditionally and absolutely vested, automatically, without notice

and without the requirement of any further action on the part of Noteholder, upon default by Maker in the performance of any of its obligations hereunder or under any of the other Loan Documents, provided that Maker has failed to cure any such default within the notice and time periods specified in Article IV hereof and/or in the other Loan Documents. In addition, the foregoing collateral assignment shall be a security agreement, and Noteholder shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as adopted in Texas and any other applicable law, including, without limitation, the right to require the personal property described in this Section 2.5 to be assembled by Maker and the right to foreclose.

(b) Notice by Noteholder of any default hereunder or under any of the other Loan Documents, Maker's failure to cure timely the same, Noteholder's exercise of its aforesaid option, and the resultant then present vesting of said transfer and assignment, given to the party or parties to such contracts, agreements, permits, franchises, etc., other than Maker, shall be conclusive evidence that such conditional transfer and assignment has in law and in fact thereupon become unconditionally and absolutely vested as a then present and effective assignment, which may be relied upon by any such other party or parties and which shall acquit and discharge such other party or parties from all liability and obligation to Maker thereafter accruing.

ARTICLE III. DISBURSEMENTS, RETENTION, RESERVES AND INSPECTIONS

Section 3.1 The Loan Proceeds shall be disbursed by Noteholder to Maker, from time to time but not more frequently than once in any 30-day period in accordance with the Project Budget and generally in accordance with the Cash Disbursement Projection for actual cash costs to permit construction of the Improvements, plus any allocation of the applicable contingency reserve (and for no other purpose) less the retainage in accordance with Section 3.4(a) below, and only after compliance by Maker with all of the terms and conditions specified in this Agreement as conditions or requirements for Advances. Advances shall only be made for the following in accordance with the Project Budget: (a) the payment of actual costs of labor and materials, equipment and services performed or supplied for the construction of the Improvements; (b) actual costs furnishing and equipping of the Improvements for its intended use as a Resident Inn by Marriott hotel and (c) payment of soft costs set forth in the Project Budget. Maker shall submit requisitions for disbursements of the Loan Proceeds at least ten (10) days prior to the date of the anticipated disbursement, excluding the Initial Advance. All requisitions for payment shall be submitted on AIA Forms G-702 and G-703, Application and Certification for Payment, or such other form as Noteholder may hereafter reasonably require.

Provided Maker has complied with all of the applicable terms, conditions and provisions set forth in this Agreement as conditions for Advances, Noteholder shall disburse the Loan Proceeds to Maker within ten (10) days after receiving Maker's request for Advance. Noteholder may, at its sole and absolute option, make any and all disbursements or portions thereof for construction expenses directly to Maker or directly to any contractor or subcontractor owed more than Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), and/or in an appropriately designated special bank account and the execution of this Agreement by Maker shall, and hereby does, constitute an irrevocable direction and authorization to so advance the funds. In the event Noteholder disburses funds to Maker, any contractor or subcontractor, Noteholder shall provide Maker with timely notice of such disbursement. No further authorization or direction from Maker shall be necessary to warrant such direct Advances to any contractor and/or subcontractor and all such Advances shall satisfy pro tanto the obligations of Noteholder hereunder and shall be secured by the Security Instrument as fully as if made to Maker, regardless of the disposition thereof by such contractor or subcontractor. Maker covenants and agrees that it will hold all Advances of Loan Proceeds it receives from Noteholder as a trust fund to be withdrawn and used solely for the payment or reimbursement of the bills for the labor, materials, fixtures, interest, fees and services used in the development of the Project and the construction of the Improvements for which such Loan funds were requested by Maker, and for no other purpose whatsoever other than the categories shown on the Project Budget. Notwithstanding the foregoing, Maker shall not have the ability to reallocate cost line items without Noteholder's express approval in Noteholder's sole and absolute discretion to fund shortfalls in one category from savings in another; provided, however, that Maker may fund shortfalls in any line item from the "Contingency" line item (other than any cost savings which have been moved into the "Contingency" line as provided in the next sentence). Maker may, with Noteholder's prior approval, not to be unreasonably withheld, delayed or conditioned, (y) move savings from line items into the Contingency line item and (z) use those cost savings to fund shortfalls in line items. Each and every request for an advance presented by Maker to Noteholder shall constitute a representation and warranty by Maker to Noteholder, with respect to the work, materials, and services for which payment is requested by Maker: that such work, materials and services have been, or will be, incorporated into the Improvements or have been or will be purchased for use in the Improvements and temporarily stored on site in a secure manner reasonably satisfactory to Noteholder, or offsite in accordance with the requirements below, and in either case, free of liens and encumbrances; that the value thereof is as estimated therein to the best of its knowledge; that to the best of its knowledge such work and materials conform in all material respects to the Franchise Agreement, the Plans and Specifications, this Agreement, and to all applicable statutes, rules, laws, ordinances and regulations; and that the sums requisitioned for such work, materials and services for which payment is requested by Maker have either (A) theretofore been in fact paid for in cash by Maker, or (B) are then due and owing by Maker and will in fact be paid in cash by Maker within ten (10) days after Maker's receipt of the requested advance, only to unrelated third parties for work performed and materials supplied for construction of the Improvements, except for any fees with affiliates that are expressly disclosed in, and shall be disbursed to Maker in accordance with, the Project Budget, or otherwise disclosed in writing to and approved by Noteholder in Noteholder's sole and absolute discretion. Approval by Noteholder of requests for Advances shall not constitute an acceptance by Noteholder of the work, materials or services for which payment is requested by Maker except to the extent that the facts contained in Maker's requests for Advances are actually as so represented and warranted.

Nothing herein shall impose upon Noteholder any obligation whatsoever to see to the proper application of any such monies by Maker. Advances for material not yet physically incorporated into the Improvements which are stored off-site are not permissible unless (I) expressly approved in writing by Noteholder in its sole and absolute discretion, or (II) (1) if required by Noteholder, such materials are stored in a bonded warehouse or other manner acceptable to Noteholder in quantities and of a valuation acceptable to Noteholder in its sole and absolute discretion, (2) such unincorporated materials are covered by the builder's risk insurance required herewith and (3) upon payment, a copy of the bill of sale for such unincorporated materials is been delivered to Noteholder in form and content and in sufficient detail to verify quantity and cost separate from installation costs for such materials.

Section 3.2 Not less than five (5) business days prior to the Initial Advance, except where a different time period is otherwise noted below, in the sole and absolute discretion of Noteholder, the following conditions shall have been satisfied by Maker, at no cost to Noteholder:

(a) On the date of the Initial Advance, Maker, Guarantor and any other parties thereto shall have executed, acknowledged (as appropriate), delivered and caused to be recorded (as appropriate), all the Loan Documents listed in Section 1.3 above.

(b) On the date of the Initial Advance, Maker shall have furnished to Noteholder a loan policy of title insurance, together with the endorsements required by Noteholder, insuring the priority of the Security Instrument securing the Note and Noteholder's interest in the Project. The amount of such policy shall be equal to the maximum principal amount of the Loan, subject to a pending disbursement endorsement and shall be issued by the Title Company. Such policy shall insure that Maker has good and indefeasible title to the Land, that the liens of the Security Instrument securing Noteholder's Loan is a valid first lien on such interest, subject only to the exceptions set forth therein as finally approved by Noteholder together with the required and approved endorsements thereto. Such policy shall contain no exception for filed mechanics' and materialmen's liens (which may be in the form of affirmative insurance, if Noteholder so approves in its sole and absolute discretion) and shall contain no survey exceptions other than shortages in area. Such policy shall be extended and the Title Company's liability increased, by written endorsement, to cover the Initial Advance and each Advance subsequent to the Initial Advance, at the time of disbursement thereof pursuant to a "pending disbursements" clause in form and substance approved in advance by Noteholder.

(c) Maker shall have furnished to Noteholder a recently dated, current survey of the Land certified to Noteholder and the Title Company by a registered surveyor in form and substance satisfactory to Noteholder, and for portions of the Land located in the State of Texas, prepared in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys and confirming the legal description of the Land, showing the location of all buildings and other improvements (then existing) and all utilities (then existing) that are above ground, roads, easements and rights of way then affecting the Land, and/or the Improvements proposed to be erected, and certifying that all existing improvements have been constructed entirely within the boundary lines of the Land and that there are no encroachments thereon.

(d) Maker and Guarantor shall have delivered to Noteholder an opinion or opinions of Maker's and Guarantor's counsel, dated contemporaneously with the execution of the Loan Documents, satisfactory in form and content to Noteholder and Noteholder's counsel.

(e) Maker shall have submitted to Noteholder, and Noteholder shall have approved, its Company Agreement and verification of good standing with the appropriate governmental authorities. In addition, Maker shall furnish evidence of the authority of (i) Maker to enter into the Commitment and to consummate the Loan, (ii) the signatories of the Loan Documents to execute and deliver the Loan Documents on behalf of Maker and (iii) appropriate certificates of good stand, incumbency and resolutions.

(f) Maker, if requested by Noteholder, shall have submitted to Noteholder, and Noteholder shall have reasonably approved, a report from a licensed, registered engineer reasonably acceptable to Noteholder describing the soil and subsoil conditions of the Land for the proposed Improvements which describes the foundations which must be constructed as part of the Improvements and to analyze and test data and make recommendations for engineered earthwork, fill and foundation design. Additionally, soil boring or other soil tests, if any, used in formulating the site condition report shall be submitted with such report. Furthermore, compaction of all engineered fill shall be supervised by such licensed, registered engineer or another such engineer reasonably acceptable to Noteholder.

(g) Noteholder shall have been furnished with evidence that the Project is not located within an area that has been identified as an area having "special flood hazards", as that term is used in the Flood Disaster Protection Act of 1973 (P.L. 93-234), or shall have been furnished with a flood insurance policy satisfactory to Noteholder, meeting the requirements of said Act, which policy shall be maintained in full force until the Loan is repaid in full.

(h) Noteholder shall have been furnished with verification of comprehensive general liability insurance coverage other than that which is to be carried by the contractor as required in Section 3.2(o) herein.

(i) Maker shall have submitted to Noteholder a fully executed copy of the Construction Contract. The Construction Contract may be amended from time to time pursuant to Noteholder's prior written consent not to be unreasonably denied, delayed or conditioned (any non-material amendments to any of the contracts or agreements referred to above shall not require Noteholder's consent or approval provided that such non-material amendments (a) are in accordance with the Project Budget, and (b) do not involve, when taken together

with any other non-material amendments to the Construction Contract which have not been previously expressly consented to by Noteholder, more than Fifty Thousand and No/100 Dollars (\$50,000.00) in the aggregate).

(j) Maker shall have obtained and submitted to Noteholder an agreement and consent to the assignment of the Construction Contract, defined below, executed by Contractor (or such other contractors, as applicable, engaged by Maker from time to time for construction of any the Improvements not performed by Contractor) and Maker which shall be in form and substance satisfactory to Noteholder in its sole and absolute discretion. Such agreement and consent shall include without limitation, that such assignment shall be effective at the option of Noteholder upon any Event of Default under this Agreement or any of the Loan Documents which is not cured within any applicable cure periods and shall include the Contractor's agreement that in the event of Maker's default at Noteholder's request, to continue construction of the Improvements in accordance with the terms of the Construction Contract for Noteholder or Noteholder's successors and assigns.

(k) Maker shall have submitted to Noteholder the Owner-Architect Agreement. The Owner-Architect's Agreement may be amended from time to time pursuant to Noteholder's prior written consent; not to be unreasonably withheld, delayed or conditioned, provided that any nonmaterial amendments to any Owner-Architect's Agreement shall not require Noteholder's consent or approval provided that such non-material amendments (i) are in accordance with the Project Budget, and (ii) do not involve, when taken together with any other non-material amendments to the Owner-Architect Agreement which have not been previously expressly consented to by Noteholder, more than Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) in the aggregate.

(l) Maker shall have obtained and submitted to Noteholder an agreement and consent to the assignment of the Owner-Architect Agreement executed by Architect and Maker in form and substance reasonably satisfactory to Noteholder and shall include, without limitation, (i) Architect's consent to Noteholder's use of the Plans and Specifications, without cost in excess of the cost contemplated by the Owner-Architect Agreement in the event of a default by Maker under any of the Loan Documents which is not cured within any applicable cure periods and (ii) the Architect shall also each agree, at the election of Noteholder, to continue performance of the terms of the Owner-Architect Agreement for Noteholder or Noteholder's assigns in the event of any default by Maker under the Loan or Loan Documents which is not cured within any applicable cure periods.

(m) Maker shall have submitted to Noteholder the Owner-Engineer Agreement. The Owner-Engineer's Agreement may be amended from time to time pursuant to Noteholder's prior written consent; not to be unreasonably withheld, delayed or conditioned, provided that any nonmaterial amendments to any Owner-Engineer's Agreement shall not require Noteholder's consent or approval provided that such non-material amendments (i) are in accordance with the Project Budget, and (ii) do not involve, when taken together with any other non-material amendments to the Owner-Engineer Agreement which have not been previously expressly consented to by Noteholder, more than Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) in the aggregate.

(n) Maker shall have obtained and submitted to Noteholder an agreement and consent to the assignment of the Owner-Engineer Agreement executed by Engineer and Maker in form and substance reasonably satisfactory to Noteholder and shall include, without limitation, (i) Engineer's consent to Noteholder's use of the Plans and Specifications, without cost in excess of the cost contemplated by the Owner-Engineer Agreement in the event of a default by Maker under any of the Loan Documents which is not cured within any applicable cure periods and (ii) the Engineer shall also each agree, at the election of Noteholder, to continue performance of the terms of the Owner-Engineer Agreement for Noteholder or Noteholder's assigns in the event of any default by Maker under the Loan or Loan Documents which is not cured within any applicable cure periods.

(o) Maker shall have furnished to Noteholder evidence that builder's risk, workmen's compensation, rent loss (as of the date of Completion) for at least twelve (12) months, fire, hazard, comprehensive public liability and property damage insurance have been placed, paid for, and remain in force on the Project in a sufficient amount to protect Noteholder's interest, as agreed between Noteholder and Maker based on such insurance coverages customarily obtained on similar projects. Maker's policy of casualty insurance on the Project shall include comprehensive coverage and builder's risk coverage (which may be carried by the Contractor) on a completed value, non-reporting form with permission to complete and occupy, covering the Project and all personal property of Maker therein. Coverage contained within the casualty insurance policy or policies shall be subject to Noteholder's review and reasonable approval but shall not be less than that encompassed by "Fire, Extended Coverage and Vandalism and Malicious Mischief" perils broadened to include the so-called "All Risk of Physical Loss Coverage" and a collapse endorsement including "XCU" coverage or coverage equivalent thereto. All policies shall be issued by a company or companies licensed in the State of Texas and maintaining an A.M. Best's Rating of "A-" or better and an A. M. Best's financial rating of X or better, and certificates thereof (certified as true and correct by the issuing agent) shall be deposited with Noteholder throughout the entire term of the Loan, and shall be in an amount sufficient to prevent the application of any co-insurance contribution to any loss. The casualty insurance policy or policies shall in no event be for an amount less than one hundred percent (100%) of the full replacement cost of the Improvements without application of any co-insurance provision. Noteholder shall be named as mortgagee on all casualty insurance policies by means of a "standard" mortgage clause. The casualty insurance policy will provide for thirty (30) days written notice to Noteholder prior to expiration or cancellation shall be deposited with Noteholder. Notwithstanding anything herein contained to the contrary, in the event of any conflict to the applicable insurance requirements contained herein, in any of the Security Instrument or in the Commitment, the provisions of the Security Instrument shall control.

(p) Maker shall have submitted the Plans and Specifications to Noteholder, together with written evidence of the approval thereof, if required by the Franchisor, if required by the Franchise Agreement, and all appropriate governmental authorities.

(q) The Plans and Specifications, Project Budget and Construction Contract shall have been delivered by Maker to the Inspecting Engineer who shall review such Plans and Specifications on behalf of Noteholder, and the Inspecting Engineer shall have approved the Plans and Specifications and provided his written certification to Noteholder that the Improvements may be constructed for construction costs set forth in the Project Budget. Maker shall contract with Inspecting Engineer to provide the services required under this Agreement by separate written contract at Maker's cost.

(r) On the date of the Initial Advance from proceeds of the Initial Advance, Maker shall have submitted evidence satisfactory to Noteholder that any and all fees due and owing to any broker (other than Maker or any affiliate of Maker) involved with obtaining the Loan have been paid in accordance with the Project Budget.

(s) Maker shall have submitted evidence reasonably satisfactory to Noteholder that it has obtained site plan approval and foundation approval including, if applicable, a site development and foundation permit satisfactory to Noteholder.

(t) Maker shall have furnished to Noteholder, and Noteholder shall have reasonably approved a complete cost breakdown for construction of the Improvements including a "construction trade breakdown," which shall be prepared on AIA Form 0702 and G702A in such detail and broken down into such categories as Noteholder may reasonably require. The construction trade breakdown shall not exceed, in its total amount, the amount of Loan Proceeds allocated to construction costs as set forth in the Project Budget. Such breakdown shall be based on actual contracts obtained to date plus the best estimate of unsigned contracts. As soon as Maker becomes aware of any state of facts which materially changes the total of all items or any line item in the Budget, Maker shall notify Noteholder, in writing, of such facts and the actual or anticipated change and the reasons therefor which may be amended from time to time with the prior written consent of Noteholder. Noteholder's consent to any such allocation of contingency items shall not be unreasonably withheld, conditioned or delayed.

(u) Maker shall have delivered to Noteholder the Cash Disbursement Projection which may be amended from time to time with notice to Noteholder, which consent shall not be unreasonably withheld, conditioned or delayed which outlines the projected principal amount of the Loan Proceeds outstanding under the Loan on the first day of each calendar month.

(v) Maker shall have furnished to Noteholder reasonable written evidence of: (i) satisfactory governmental approvals of the Land for construction of the Improvements in accordance with the Plans and Specifications without the need for any special exceptions or approvals by any zoning board or body and that there are no pending proceedings, either administrative, legislative or judicial, which would in any manner adversely affect the status of any then current zoning of the Land; (ii) the future availability of all utilities including potable water, sanitary and storm sewer, electricity and telephone, in quantities sufficient for the successful construction, occupancy, and operation of the Improvements, including if applicable easements and service agreements therefor; (iii) the future availability of parking spaces in no event less than the number required by applicable law; and (iv) the availability of all permits, licenses or approvals necessary in connection with commencement and completion of construction of the Improvements (or, if not yet issued, the same shall be furnished prior to commencement of construction of the Improvements).

(w) Maker shall have funded Maker's Equity.

(x) Borrower shall have submitted to Lender an acceptable performance bond bonding the construction of the Improvements in accordance with the Plans and Specifications and an acceptable payment bond guaranteeing payment to the Contractor and subcontractor pursuant to the Construction Contract.

Section 3.3 Not less than ten (10) days prior to each advance subsequent to the Initial Advance of Loan Proceeds hereunder, in the reasonable discretion of Noteholder, and in addition to the conditions of Section 3.2 above, all of which shall then have been finally satisfied, the following conditions shall have been satisfied, at no cost to Noteholder:

(a) No Event of Default shall exist hereunder.

(b) Construction of the Improvements to such date shall have been in accordance with the provisions of Article II hereof, as certified in writing by the Inspecting Engineer, but subject at Noteholder's option, with respect to each Advance, to verification by the Inspecting Engineer confirming that: (i) the status of construction is progressing satisfactorily and in accordance with the Franchise Agreement's requirements, (ii) the amount requested, plus amounts previously disbursed and not yet repaid, do not exceed the percentage of the Project completed as of the requisition date, and (iii) the undisbursed portion of the Loan together with any other amounts previously deposited with Noteholder and Maker's Equity is sufficient to complete the Improvements in accordance with the Plans and Specifications except as otherwise provided in Section 3.7(a).

(c) Maker shall have furnished to Noteholder and to the Title Company from the Contractor and all subcontractors under contracts for Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) or more dealing directly with Contractor or Maker, copies of all invoices and change orders, sworn statements of payment to date and waivers or release of mechanics' liens, in form satisfactory to

Noteholder and the Title Company, covering all work done and materials furnished to the previous application for payment in connection with the construction of the Improvements.

(d) Noteholder shall have received written notice, in the form of an endorsement to Noteholder's title insurance policy, of title continuation from the Title Company indicating that since the preceding advance there has been no change, except as herein or otherwise permitted by Noteholder, in the state of title to the Project (including, without limitation, a change in the ownership of legal or equitable title or the filing of any mechanics' or materialmen's or other liens) other than as herein required (or as is hereinafter required by Noteholder in its reasonable determination as reasonably necessary for the construction of the Improvements) and that there are no survey exceptions or other exceptions to title not theretofore expressly approved by Noteholder in writing. Preliminary verbal notice to Noteholder from the Title Company, to expedite disbursements, may be affected by telephone call, at Noteholder's option.

(e) All inspections of the Improvements then required to be made by or on behalf of any public authorities shall have been made, the work shall have been approved (or will be approved based upon minor corrective work, and Maker provides Noteholder with reasonably satisfactory evidence that such corrective work will be completed in a timely manner) and satisfactory evidence thereof submitted to Noteholder.

(f) All permits, licenses, clearances, consents, bonds (if any) and approvals, and any waivers, terminations or modifications to recorded documents, as are necessary to commence and continue construction of the Improvements as of the time in question shall have been or continue to be duly issued and outstanding and no notice of violation or stop work order shall have been issued against the construction of the Improvements or any portion thereof.

(g) Maker determines, in its reasonable judgment that all material portions of the work completed at the time of the application for an Advance shall have been performed in accordance with the Plans and Specifications and the Franchise Agreement and no uncured default by Maker exists under the Franchise Agreement.

(h) Any outstanding, due, unpaid taxes, assessments or other governmental or municipal charges, assessments or impositions shall have been paid by Maker prior to delinquency (unless being contested in accordance with Section 11.8 below).

(i) No proceeding shall have been commenced by an authority having the power of eminent domain to condemn any part of the Land which Noteholder, in its reasonable discretion, deems substantial and would have a material adverse effect on Maker's ability to construct the Improvements or comply with the Franchise Agreement.

(j) If, at the time of such request for an Advance, the foundations of the Improvements have been completed and Maker has not already delivered to Noteholder a survey showing the location of the foundation(s), Maker shall deliver to Noteholder a foundation survey of the location of the Improvements upon the Land showing no state of facts reasonably objectionable to Noteholder. Maker shall have submitted to Noteholder upon completion, a report from the applicable engineer that the earthwork, engineered fill and foundation substantially are in accordance with the Plans and Specifications approved by Noteholder.

(k) Intentionally Deleted.

(l) Noteholder may, in its sole and absolute discretion, require that it be provided with an updated Closing Certification by Maker and/or a Closing Certification by Guarantor and such additional evidence as Noteholder may reasonably require that: (i) the matters set forth in the original Maker's Closing Certificate and/or Guarantor's Closing Certificate, as applicable are true and accurate in all material respects or if not, the reasons why; and (ii) there has been no change that has not been previously approved, if required, by Noteholder in any line item of the Project Budget.

(m) Maker shall have submitted evidence satisfactory to Noteholder that all necessary approvals have been obtained with respect to the design and use of the Project from all parties required to provide such consents as may be required for the then current state of construction as may be reflected in any restrictions or encumbrances recorded in the office of the governing entity in which the Land is located.

(n) Maker shall have submitted to Noteholder a complete listing, on AIA Document G805, of all contracts then in effect relating to the construction of the Project. Such listing of contractors shall be updated by Maker and promptly delivered to Noteholder as additional contracts are let.

(o) During construction of all earthwork, engineered fill and foundation work and until all such work is complete as verified by a compliance report as required in this subsection, Maker shall have furnished to Noteholder with periodic compliance reports not less than monthly in a form and substance reasonably satisfactory to Noteholder from a qualified architect or engineer reasonably satisfactory to Noteholder verifying that such earthwork, engineered fill and foundation work constructed through the date of such report has been constructed in accordance with Plans and Specifications.

(p) Maker otherwise shall have complied with all other terms and conditions of this Agreement applicable to the Initial Advance.

Section 3.4 Notwithstanding anything to the contrary contained herein, the disbursements of Loan Proceeds, including the Initial Advance to the extent applicable, shall be subject to the following:

(a) All disbursements of Loan Proceeds for labor, materials and other so called hard construction costs in the Project Budget and all other disbursements are subject to a holdback of Retainage of ten percent (10%) of the amount of each requested disbursement of Loan Proceeds. The Retainage shall be disbursed by Noteholder to Maker, for payment to the Contractor, upon satisfaction of the conditions contained in Section 3.4(b) below.

(b) The final advance of all remaining Retainage which has not theretofore been disbursed by Noteholder shall be disbursed by Noteholder to Maker thirty-five (35) days after all of the following conditions, in addition to the conditions of Section 3.3, have been satisfied, at no cost to Noteholder;

(i) at least fifteen (15) days prior to the date for which such final disbursement is requested, the Inspecting Engineer, or such other person as Noteholder may approve, has certified to Noteholder on standard AIA forms that the Improvements have been substantially completed, subject to minor punch list items reasonably acceptable to Noteholder, in accordance with the Plans and Specifications and a set of As-Built Plans and Specifications has been submitted to Noteholder certified as such by the Architect or Inspecting Engineer;

(ii) at least fifteen (15) days prior to the date for which such final disbursement is requested, all material conditions of the Construction Contract and Architectural Contract have been fully satisfied other than final payment;

(iii) at least fifteen (15) days prior to the date for which such final disbursement is requested, the Architect has certified to Noteholder on standard AIA forms that the Improvements have been substantially completed;

(iv) at least fifteen (15) days prior to the date for which such final disbursement is requested, Noteholder has received evidence reasonably satisfactory to it that all work requiring inspection by governmental or regulatory authorities having or claiming jurisdiction has been duly inspected and approved by such authorities as applicable, including, but not limited to, if required, the approval of an As-Built Site Plan from the appropriate public authority;

(v) at least fifteen (15) days prior to the date for which such final disbursement is requested, receipt and approval by Noteholder of final certificates of occupancy, if applicable, and, if applicable, other certificates from appropriate governmental authorities evidencing compliance with all zoning, building, or other government codes and regulations and all other operating, use and occupancy permits, licenses or certificates, have been obtained to permit the full and complete utilization of the Project;

(vi) at least fifteen (15) days prior to the date for which such final disbursement is requested, receipt and approval of Completion Reports and Certifications executed by Architect and Contractor in a form and substance reasonably acceptable to Noteholder certifying that all Improvements have been substantially completed, subject to minor punch list items reasonably acceptable to Noteholder, in accordance with Plans and Specifications, the requirements of all applicable zoning, building, and other governmental codes and regulations and The Americans With Disabilities Act;

(vii) at least thirty (30) days prior to the date for which such final disbursement is requested, receipt and approval of a satisfactory updated as-built survey of current date for the Project prepared by a licensed surveyor containing a full legal metes and bounds description showing lot, lot lines, building, street lines, driveways, flood plain information, locations of all plottable easements and other matters of record and the location of all Improvements in place and the total square footage of both the Land and the Improvements thereon, all access thereto from public roads, with the dimensions thereof, all of which must be identified by indicating thereon book and page number of the recording thereof and certified as true and correct by the surveyor (having affixed thereto his seal and registered number) to Noteholder and the Title Company, including, without limitation, certification of the land area, the non-existence of any encroachments, the date of the survey and identification of adjacent and contiguous streets in form and substance reasonably satisfactory to Noteholder;

(viii) no Event of Default exists under any of the Loan Documents;

(ix) any and all other requirements and conditions required to be met as of the date of the final Advances of the Loan Proceeds, as set forth herein and in the other Loan Documents, have been satisfied;

(x) at least fifteen (15) days prior to the date for which such final disbursement is requested, receipt and approval of an endorsement to Noteholder's loan title insurance policy from the Title Company increasing the coverage thereof to the disbursed amount of Note insuring the first lien priority of the lien of the Security Instrument securing such amount without exception for payments of mechanic's and materialmen's liens or pending disbursements or completion of the Improvements, and otherwise in a form and substance reasonably satisfactory to Noteholder;

(xi) at least fifteen (15) days prior to the date for which such final disbursement is requested, receipt of photographs of the completed Improvements by Noteholder;

(xii) at least fifteen (15) days prior to the date for which such final disbursement is requested, receipt of policies of fire, extended coverage, liability, vandalism, malicious mischief, rental and rental value insurance and such other insurance as required under the Security Instrument to insure the completed Improvements;

(xiii) at least fifteen (15) days prior to the date for which such final disbursement is requested, Noteholder or Noteholder's representative shall have inspected the Improvements and determined that the Improvements have been properly completed in accordance with this Agreement;

(xiv) at least fifteen (15) days prior to the date for which such final disbursement is requested, Maker shall deliver an updated appraisal or letter update from the initial appraiser. In the event an escrow is established pending completion of any part of the improvements, the appraiser shall, upon full completion of the Improvements, submit a report addressed to Noteholder indicating his current opinion of the subject property value. The form of such updated appraisal letter or report, apart from the amount of the appraised value therein, must be reasonably satisfactory to Noteholder;

(xv) at least fifteen (15) days prior to the date for which such final disbursement is requested, receipt and approval of an updated environmental report updating the Environmental Reports (as defined in the Environmental Indemnity) and certifying no new additional environmental matters and otherwise in a form and substance satisfactory to Noteholder;

(xvi) at least thirty (30) days prior to the date for which such final disbursement is requested, copies of all warranties and maintenance agreements with respect to the completed Improvements; and

(xvii) a report, conducted in accordance with ASTM E 2018-08, Standard Guide for Property Condition Assessment, from a professional engineer reasonably approved by Lender, stating that in all material respects the property and improvements continue unimpaired, not reduced, undamaged, and free from all settling or other structural defects and that the property is in compliance with the Americans with Disabilities Act in all material respects; and

(xviii) Maker shall have submitted a statements from the Architect and Contractor in form and substance reasonably satisfactory to Noteholder acknowledging the portion of his or her fees that have accrued as of the date thereof which are then due and payable. The Architect's statement shall include, without limitation, a certification: (i) that construction of the Improvements is in accordance with the Plans and Specifications, complies in all material respects with applicable building, zoning, subdivision, ecological and environmental laws, ordinances, regulations and other applicable requirements imposed by all governmental authorities having jurisdiction over the Project; (ii) upon completion of the Improvements, the gross square footage and leasable square footage of the Improvements; and (iii) that construction of the Improvements in accordance with the Plans and Specifications shall comply in all material respects with all applicable federal, state and local laws affecting (A) the discharge of chemical wastes into sewage systems, (B) discharge of air pollutants, (C) solid waste disposal and (D) underground storage tanks, and any other codes or regulations affecting the construction and/or proposed use of the Improvements.

Upon Maker's request, Noteholder shall give written confirmation to Maker when Completion has occurred.

Section 3.5 Noteholder shall be entitled to advance or to deduct from any advance requested by Maker, if not previously paid when due and, with respect to all of the following, after any applicable notice and cure periods,: interest due on the Note, such amounts as may be necessary to pay any encumbrances, taxes, easements, or any other charges or liens upon the Land and/or Improvements, (subject to the right to insure or bond over any of the preceding and to contest any of the preceding in accordance with Section 11.8 herein) whether existing before or accruing after the date of this Agreement; any premium on any insurance policy affecting the Land or the Improvements; any fees, costs and/or expenses due to Noteholder or Noteholder's counsel from Maker provided in connection with the Loan Maker has been provided with a description of such costs in reasonable detail and fails to pay same within twenty (20) days thereof; and all due and overdue interest on the Loan. Such Advances and/or deductions shall be for the account of Maker as if said Advances and/or deductions were made upon the requisition of Maker.

Section 3.6 Any and all inspections, reviews and approvals of the work made by Noteholder or its agents, employees and/or representatives or the Inspecting Engineer shall be solely for Noteholder's own information and shall not be deemed to have been made for or on account of Maker or any other party; and Maker hereby specifically relieves Noteholder, its agents, employees and representatives and the Inspecting Engineer of any and all liability or responsibility relating in any way whatsoever to (a) the construction of the Improvements, including, but not limited to, the work thereon, the material or labor supplied in connection therewith, and (b) any errors, inconsistencies or other defects in the approved Plans and Specifications or the Franchise Agreement. Noteholder shall have the right to withhold Advances on the basis of unsatisfactory inspection results as determined by Noteholder in its reasonable discretion, but such withholding shall only be in an amount of the portion of the advance for which there is a claim of unsatisfactory inspection results.

Section 3.7 Notwithstanding anything to the contrary contained herein, Noteholder shall not make any disbursement if, in Noteholder's opinion, or in the opinion of the Inspecting Engineer:

(a) the undisbursed portion of the Loan Proceeds remaining after such disbursements together with any other amount previously deposited with Noteholder would be insufficient to complete construction of the Improvements and any other related construction and development described or referred to on the Project Budget. In such event, Noteholder shall not make any further Advances until Maker has provided funds or evidence of the availability of funds sufficient to complete the construction of the Improvements; and

(b) any portion of the work that is the subject of the advance at the time of the application for an advance has not been performed in a good and workmanlike manner, but such withholding shall only be in an amount of the portion of the advance for which there is a claim of unsatisfactory inspection results and all materials and fixtures usually furnished and installed at that stage of construction have not been furnished and installed, or any uncured monetary or non-monetary default remains under any of the Loan Documents.

Section 3.8 If, during the progress of the work, Maker neglects or refuses to employ adequate watchman service for the protection of the Project, and such service is necessary, in Noteholder's reasonable judgment, Noteholder may, after any notice and opportunity to cure to Maker as Noteholder determines as reasonable under the circumstances, employ or engage such service. Any amounts thus expended shall be deemed to be Advances to Maker.

Section 3.9 Whenever so requested by Noteholder, Maker will promptly furnish Noteholder written evidence satisfactory to Noteholder that all monies theretofore advanced by Noteholder under the Loan have actually been applied in payment of the cost of construction of the Improvements and in payment of the other items of costs for which such funds were advanced by Noteholder, and until such evidence is produced, at the option of Noteholder, no future or additional payments or Advances of Loan Proceeds need be made hereunder. Maker shall segregate all of its records relating to the Loan and construction of the Improvements and shall make those records available to Noteholder for inspection upon Noteholder's request during usual business hours.

Section 3.10 Noteholder shall not be responsible, liable or obligated to any contractors, subcontractors, suppliers, materialmen, laborers, architects, engineers, or to any other parties, for services or work performed, or for goods delivered by them or any of them, for the Project or employed directly or indirectly in the construction of the Improvements, or for any debts or claims whatsoever accruing in favor of any such parties and against Maker or others. It is distinctly understood and expressly agreed that Maker is not and shall not be an agent of Noteholder for any purpose whatsoever. Without limiting the generality of the foregoing, advances made, at Noteholder's option, directly to the Contractor or to any other contractor, subcontractor or supplier of labor and/or materials, or to any other party, shall not be deemed a recognition by Noteholder of any third party beneficiary status of any such person or entity.

ARTICLE IV. DEFAULT BY MAKER

Section 4.1 The occurrence of any of the following events shall, at Noteholder's option, after the expiration of any applicable notice, cure and/or grace period, constitute an Event of Default hereunder: (a) if Maker shall be in default (i) in payment of any amounts due to Noteholder beyond any applicable notice and cure periods provided in the Security Instrument (respectively), or (ii) in the performance of any of its undertakings hereunder, or the breach of any representation, that continues for thirty (30) days (or such longer number of days, up to a maximum of ninety (90) days in the aggregate, as are reasonably necessary to cure such default, provided that Maker promptly commences and continuously and diligently pursues such cure) after written notice of such default to Maker, or under the Security Instrument or any of the other Loan Documents beyond the applicable notice and cure periods provided in the Security Instrument or applicable Loan Document; (b) if Maker or any Guarantor shall become insolvent or be adjudicated bankrupt or shall make an assignment for the benefit of creditors or file or have filed against it a petition for bankruptcy or reorganization or arrangement (provided, however, that in the case of any such involuntary petition, such petition is not discharged or dismissed, vacated, set aside or stayed within ninety (90) days of its filing); (c) if a receiver, conservator, or trustee shall be appointed for Maker or Guarantor, or any substantial portion of their property; (d) if there shall occur a termination of existence or dissolution of Maker or sale out of the ordinary course of business by Maker of all or a substantial part of its assets other than permitted in the Security Instrument; (e) if any representation, warranty or statement heretofore or hereafter made by or on behalf of Maker and contained in any Loan Document is false or misleading in any material respect; (f) if construction of the Improvements shall be abandoned as determined by Noteholder in its reasonable judgment, or at any time construction of the Improvements shall cease or be suspended for more than thirty (30) consecutive business days, except for Force Majeure; (g) if Completion of the Project has not occurred on or before the Completion Deadline, plus any additional time due to Force Majeure or to satisfy the requirements of Section 3.4(b), but not later than twenty-four (24) months after the date hereof, or any earlier applicable Franchise Construction and Delivery Deadlines, as the same may be extended; (h) if Maker neglects, fails or refuses to keep in full force and effect any material permit, approval or license issued with respect to the construction of the Improvements, unless such permit approval or license is not necessary for the construction of the Improvements, or if any such permit, approval or license shall be revoked or suspended, or if any stop work order is issued against construction of the Improvements or any material aspect thereof, and such suspension, revocation or order is not rescinded by the governmental agency having authority within ninety (90) days of the date issued; (i) if there should occur an event of default which continues beyond any applicable notice and cure period by Maker under the Owner-Architect Agreement or the Construction Contract and Maker is not diligently contesting same; (j) Maker shall have failed to have satisfied all of the conditions precedent for the next advance of Loan Proceeds within ninety (90) days after the date of the last advance of Loan Proceeds

except to the extent due to Force Majeure; or (k) if the Franchise Agreement is terminated for any reason. The occurrence of an Event of Default hereunder shall automatically be deemed to be a default under the Note, Security Instrument, and each and every one of the other Loan Documents, without any additional notice or grace period being given to Maker.

Section 4.2 If any such default is not completely cured within the applicable grace period, if any, set forth in this Article IV, time being of the essence in this Agreement, and is continuing the Noteholder, at its option, may exercise any or all of the following remedies:

- (a) withhold disbursement of all or any part of the Loan Proceeds;
- (b) terminate its obligation to make any further disbursements of the Loan Proceeds, except such as it may elect to make under Article V below;
- (c) declare the entire indebtedness of Maker to Noteholder hereunder and under the other Loan Documents, together with interest thereon at the then applicable rate and all other fees and charges due thereunder, to be immediately due and payable, without further notice;
- (d) exercise any and all rights and remedies in respect of a default by Maker that are provided for herein or in the Note, or in the Security Instrument, or in the Guaranty or in any of the other Loan Documents, or as provided by law or at equity, including appointment of a receiver. It is expressly understood and agreed that Noteholder may exercise its rights under the Security Instrument, or under any other security document providing security for the Loan without exercising its rights or affecting the security afforded by any other security document, and it is further understood and agreed that Noteholder may proceed against all or any portion or portions of the collateral security for the Loan in such order, and at such time, as Noteholder, in its sole and absolute discretion, sees fit; and Maker hereby expressly waives any rights under the doctrine of marshaling of assets; and/or
- (e) with or without entry upon the Project, in the name and on behalf of Maker, as Maker's agent, cause construction of the Improvements to be completed, and Noteholder for such purposes may use all available materials and equipment on the Land, all contracts, licenses, arrangements and agreements assigned to it, and may purchase all other necessary materials and employ contractors and other employees. All sums expended by Noteholder for such purpose shall constitute disbursements pursuant hereto for Maker's account and shall be secured by the Security Instrument and other Loan Documents and shall forthwith be due and payable by Maker to Noteholder with interest thereon at seventeen percent (17%) per annum not to exceed the Maximum Nonusurious Rate (as defined below). The authority conferred hereby upon Noteholder shall be deemed to create a power coupled with an interest and shall be irrevocable.

ARTICLE V. MECHANIC'S LIENS

Section 5.1 Maker shall keep title to the Project free and clear of any encumbrance not set forth on the attached Exhibit F or specifically approved in writing by Noteholder, which approval shall not be unreasonably, withheld, conditioned or delayed.

Section 5.2 In the event any mechanic's lien or other lien encumbrance shall be filed or attach against the Land or the Improvements thereon without the prior written consent of Noteholder in each instance, Maker covenants and agrees that, within thirty (30) days after Maker receives notice of the filing of such lien, Maker will discharge the same by payment or filing bond or otherwise as permitted by law; and if Maker fails to do so, Noteholder may, at its option, subject to Maker's right to contest as provided in Section 11.8 below, in addition to, and not in limitation of, all other rights and remedies of Noteholder in an Event of Default by Maker, and without regard to the priority of said mechanic's lien or other lien or encumbrance, pay the same, and all amounts expended by Noteholder for such purpose shall constitute Advances to Maker and shall be secured by the Security Instrument and the other Loan Documents, and be due and payable forthwith by Maker to Noteholder with interest thereon at a rate per annum thereon at seventeen percent (17%), but not to exceed the Maximum Nonusurious Rate, if applicable.

ARTICLE VI. RIGHT OF ENTRY AND ACCESS TO BOOKS, RECORDS AND PLANS

Section 6.1 Noteholder shall at all reasonable times during normal business hours and upon at least one (1) business day's prior notice have the right of entry and free access to the Project subject to the rights of tenants for the purpose of inspecting the same, and also to inspect all drawings, plans, books, records and contracts maintained or otherwise available to Maker relating to the Project.

Section 6.2 Maker shall maintain at the Project a copy of all sealed drawings, specifications, approved shop drawings, change orders and other modifications, together with all written or graphic interpretations and clarifications thereto in good order and marked to include all changes made during construction of the Improvements. These documents shall be available to the Noteholder at all reasonable times.

**ARTICLE VII.
PAYMENT OF LOAN COSTS**

Section 7.1 Maker shall pay all fees and charges reasonably incurred by Noteholder in connection with the closing of the Loan and the making of all Advances hereunder, and in connection with any enforcement by Noteholder of this Agreement and all of the other Loan Documents, including, without limitation, the following:

(a) All recording fees, title insurance premiums, title company charges, title examination charges, escrow charges, surveyor's charges, appraisal fees, credit report fees; and

(b) All reasonable costs of the Loan closing and all other costs in connection with this Agreement including, without limitation, Maker's and Noteholder's reasonable attorneys' fees and expenses, Inspecting Engineer's fees and expenses and all other charges and costs.

**ARTICLE VIII.
ASSIGNMENT**

Section 8.1 Maker may not, without the prior written consent of Noteholder, assign or otherwise transfer this Agreement, the Loan or any of Maker's rights in and to the Loan Commitment or the Loan, except that Maker may pay or otherwise transfer any Loan Proceeds to Contractor or any other third party in connection with the construction of the Improvements.

Section 8.2 Noteholder, without any notices whatsoever to anyone, may sell, assign or otherwise transfer all or any part of the Loan, but Noteholder may elect to remain the servicing agent for the Loan. If Noteholder is no longer the servicing agent for the Loan, Noteholder shall promptly notify Maker of the identity and address of its successor. In addition to its rights to sell, assign or otherwise transfer Noteholder shall have the right to enter into a participation agreement with any lending institution with respect to the Note.

Section 8.3 All covenants and undertakings herein of Maker and Noteholder shall be binding upon Maker and Noteholder and their successors and assigns, and shall inure to the benefit of the successors and assigns of Maker and Noteholder, and any and all participants in the Loan.

**ARTICLE IX.
NOTICES**

All notices and communications which are required or are permitted hereunder shall be in writing and shall be either hand delivered, or by national, overnight receipted courier service (such as Federal Express or UPS) with delivery charges prepaid by sender, or mailed by certified U.S. mail, return receipt requested, postage prepaid, or in any other manner as herein provided, and addressed to the parties as follows:

Noteholder:	American National Insurance Company Attn: Mortgage and Real Estate Investment Department 2525 South Shore Blvd., Suite 207 League City, Texas, 77573
Maker:	RI II MC-HOU, LLC 6363 Woodway, Suite 110 Houston, Texas 77057 Attn: Brett C. Moody

or to such other address as either party shall designate by written notice to the other in the manner provided herein. All such notices shall be effective and be deemed given and received on the earlier of actual receipt, the third business day after being deposited in the U.S. Mail as aforesaid or the next business day after deposit in such overnight receipted courier service as aforesaid or via facsimile transmission as described above.

**ARTICLE X.
COMMITMENT SUPERSEDED**

All of the terms, conditions, and provisions of the Commitment are hereby superseded and all terms, conditions and provisions of this Agreement and all of the other Loan Documents, shall control.

ARTICLE XI. MISCELLANEOUS

Section 11.1 Noteholder has not engaged any broker in connection with the Loan. Noteholder shall not be required to pay any brokerage fee or Commission arising out of the issuance of the Commitment, the making of the Loan or the Franchise Agreement and **MAKER HEREBY INDEMNIFIES AND AGREES TO HOLD NOTEHOLDER HARMLESS** against any and all expenses (including reasonable attorney's fees), liabilities and losses arising from any such claims.

Section 11.2 Noteholder shall not be responsible, liable or obligated to any contractors, subcontractors, suppliers, materialmen, laborers, architects, engineers, or to any other parties, for services or work performed, or for goods delivered by them or any of them, for the Project or employed directly or indirectly in the construction of the Improvements, or for any debts or claims whatsoever accruing in favor of any such parties and against Maker or others. It is distinctly understood and expressly agreed that Maker is not and shall not be an agent of Noteholder for any purpose whatsoever. Without limiting the generality of the foregoing, Advances made, at Noteholder's option, directly to the Contractor or to any other contractor, subcontractor or supplier of labor and/or materials, or to any other party, shall not be deemed a recognition by Noteholder of any third party beneficiary status of any such person or entity.

Section 11.3 Neither the failure nor the delay of either party to exercise any right, option, power or privilege under this Agreement nor any advance hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any such right, option, power or privilege by either party operate as a waiver of any such right, option, power or privilege.

Section 11.4 All personal pronouns used herein, whether used in the masculine, feminine or neuter gender, shall include all other genders. The singular shall include the plural unless the context of the Loan Agreement shall specifically provide to the contrary.

Section 11.5 Time shall be of the essence of this Agreement.

Section 11.6 The provisions of this Agreement cannot be waived or modified or amended unless such waiver or modification or amendment is in writing and signed by Noteholder and Maker. Once an agreement, contract, appraisal, budget, plat, plan, specification, survey, document or other matter has been approved or accepted by Noteholder unless otherwise provided herein to the contrary, there shall be no subsequent change, amendment or modification (other than merely ministerial changes) thereto without the prior written approval of Noteholder not to be unreasonably delayed, conditioned or denied. Maker and Noteholder agree that any non-material amendments to any of the contracts or agreements referred to above shall not require Noteholder's consent or approval provided that such non-material amendments (a) are in accordance with the Project Budget, and (b) do not involve, when taken together with any other non-material amendments to the contract in question which have not been previously expressly consented to by Noteholder, more than Twenty-Five Thousand and 00/100 Dollars (\$25,000.00) in the aggregate.

Section 11.7 After the execution of this Agreement, any and all publicity releases to newspapers of general or limited circulation or trade publications announcing any of the financing by Noteholder described herein shall be issued by, or subject to the prior approval of, Noteholder. Maker agrees to erect, within 60 days after the date of this Agreement, at Maker's expense, a sign on the Land to advertise the fact that Noteholder is providing the financing for the project and to maintain such sign until the construction of the Improvements described in the Plans and Specifications and the Construction Contract has been substantially completed. The sign may also include the names of other parties involved in the project, such as Maker, Architect, Contractor, project engineers and subcontractors. Any such sign shall comply with any applicable sign ordinance.

Section 11.8 Maker may in good faith contest, by proper legal proceedings, the validity or amount of any tax, assessment, charge or levy which Maker has agreed to pay pursuant to the provisions of this Agreement, or any third party liens or claims upon the Mortgaged Property or compliance with any laws, orders, rules or regulations and may delay payment, performance or discharge thereof during the period in which the same is being contested; provided, however, that if payment, performance or discharge is delayed: (a) such proceedings must suspend the collection thereof from Maker, the Noteholder, or either of them, and the Mortgaged Property; (b) in any such event Maker shall deposit with the Noteholder, or court, as applicable, as security for the payment or discharge of such contested item, an amount equal thereto plus interest, penalties, and costs reasonably estimated in connection therewith or provide a bond reasonably satisfactory to Noteholder in said amount; (c) such contested item and all costs and penalties, if any, shall have been paid at least thirty (30) days before the date on which the Mortgaged Property, or any portion thereof, may be sold in order to satisfy any such contested items; and (d) in the case of any matter described above for which criminal or civil liability might accrue to Maker or the Noteholder, neither Maker nor Noteholder, nor any of them, would be in any danger of any criminal or civil liability for failure to comply therewith.

Section 11.9 The headings used herein are inserted only for convenience of reference and in no way define, limit or describe the scope or intent of this Agreement or of any particular paragraph or section hereto.

Section 11.10 This Agreement and the rights and indebtedness hereby secured shall be construed and enforced according to, and governed by, the laws of the State of Texas except to the extent preempted by Federal law, without regard to any conflicts of law provisions.

Section 11.11 If any clause or provision herein contained operates or would prospectively operate to invalidate this Agreement in whole or in part, then such clause or provision only shall be held for naught, as though not herein contained, and the remainder of this Agreement shall remain operative and in full force and effect.

Section 11.12 This Agreement and all of the other Loan Documents were created by the joint efforts of Maker and Noteholder and their respective legal counsel. As both Noteholder and Maker and their respective counsel have participated in the creation of this Agreement and the other Loan Documents, it is represented and agreed by both Noteholder and Maker that any rule of law requiring the interpretation of a contract against the party who drafted it is not to be, and cannot be, applied to this Agreement or to any of the other Loan Documents.

Section 11.13 Except as otherwise expressly provided in any of the Loan Documents, Noteholder shall not be liable to (a) Maker except as a result of breach of contract, fraud, gross negligence or willful misconduct or bad faith, or (b) any other party, in any event, for any act or omission by Noteholder pursuant to the provisions of this Agreement, the Commitment, the Franchise Agreement or any Loan Document (except as a result of fraud, gross negligence or willful misconduct) or as a result of its actions or inactions, or in reliance on any certificate or document, or in reliance on any certificate or other paper believed by the Noteholder to be genuine, or in reliance on an opinion of counsel of Noteholder's selection. By accepting or approving anything required to be observed, performed or fulfilled by Maker or to be given to Noteholder pursuant to the terms of the Commitment, including without limitation, any certificate, balance sheet, statement of profit and loss or other financial statement, survey, receipt, appraisal, insurance policy or plans or specifications, the Noteholder shall not be deemed to have warranted or represented the sufficiency, legality, effectiveness or legal effect of the same, or of any term, provision or condition thereof, and such acceptance or approval thereof shall not be or constitute any warranty or representation to any party with respect thereto by Noteholder. Nothing contained in the Commitment, this Agreement or the Loan Documents shall be construed in a manner to create any relationship of Maker and Noteholder except for that of lender and borrower, and Maker and the Noteholder shall not be considered partners or co-venturers for any purpose.

Section 11.14 Noteholder shall have the rights and remedies granted in the Loan Documents available at law or in equity. These rights or remedies shall be cumulative and not exclusive and may be pursued separately, successively, concurrently against Maker, any guarantor and any Mortgaged Property covered thereby, at the sole discretion of Noteholder. Any exercise or failure to exercise any right or remedy shall not constitute a waiver, release thereof or of any right or remedy and the same shall be non-exclusive.

Section 11.15 In no event shall Noteholder's rights and interests under the Loan Documents be construed to give Noteholder the right to control, or be deemed to indicate that Noteholder is in control of, the business, management or properties of Maker or has power over the daily management functions and operating decisions made by Maker.

Section 11.16 Notwithstanding any provision in this Agreement to the contrary, it is expressly provided that in no case or event should the aggregate amounts, which by applicable law are deemed to be interest with respect to this Agreement, the Note or any document securing, evidencing or relating to the Note ever exceed the "Maximum Nonusurious Rate" (as defined in the Note). In this connection, it is expressly stipulated and agreed that it is the intention of Noteholder and Maker to contract in strict compliance with applicable usury laws of the State of Texas and/or of the United States (whichever permits the higher rate of interest) from time to time in effect. Nothing in this Agreement, the Note or any document securing, evidencing or relating to the Note shall ever be construed to create a contract to pay, as consideration for the use, forbearance or detention of money, interest at a rate in excess of the Maximum Nonusurious Rate. If under any circumstances the aggregate amounts contracted for, charged or paid with respect to the Note which by applicable law are deemed to be interest, would produce an interest rate greater than the Maximum Nonusurious Rate, Maker and any other person obligated to pay the Note, stipulates that the amounts will be deemed to have been paid, charged or contracted for as a result of an error on the part of Maker, any other person obligated for the payment of the Note and the Noteholder and upon discovery of the error or upon notice thereof from Maker or the party making such payment, the Noteholder or the party receiving such excess payment shall, at its option, refund the amount of such excess payment or credit the excess payment against any other amount due under the Note. In addition, all sums paid or agreed to be paid to the holder of the Note for the use, forbearance or detention of monies shall be, to the extent permitted by applicable law, amortized, prorated, allocated and spread through the term of the Note. At all times, if any, as Title Four of the Texas Finance Code or other applicable law shall establish the Maximum Nonusurious Rate, the Maximum Nonusurious Rate shall be the "weekly ceiling" (as defined in Title Four of the Texas Finance Code or such other applicable law) from time to time in effect; but the Noteholder may from time to time, as to current or future balances, implement any other ceiling under such Title or revise the index, formula or the provisions of law used to compute the Maximum Nonusurious Rate by notice to Maker, if and to the extent permitted by, in the manner in, such Title or other applicable law.

Section 11.17 **PURSUANT TO THE COLLATERAL PROTECTION INSURANCE NOTICE PROVISIONS OF TEXAS FINANCE CODE, SECTION 307.052**, and without limiting any of Maker's obligations in Section 3.2, or elsewhere in this Agreement:

(a) **MAKER IS REQUIRED UNDER THIS AGREEMENT:**

(i) **TO KEEP THE MORTGAGED PROPERTY INSURED AGAINST DAMAGE IN THE AMOUNTS SPECIFIED BY NOTEHOLDER IN SECTION 3.2 HEREOF;**

(ii) TO PURCHASE THE INSURANCE FROM AN INSURER THAT IS FULLY LICENSED AND AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS; AND

(iii) TO NAME NOTEHOLDER AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF A LOSS;

(b) MAKER SHALL, IF REQUESTED BY NOTEHOLDER, DELIVER TO NOTEHOLDER A COPY OF THE POLICY AND PROOF OF THE PAYMENT OF PREMIUMS; AND

(c) IF MAKER FAILS TO MEET ANY REQUIREMENT LISTED IN PARAGRAPHS (a) OR (b) OF THIS SECTION 11.17, NOTEHOLDER MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF MAKER AT MAKER'S EXPENSE.

Section 11.18 Reference is made to the Note for the provisions regarding any limitation of Maker's recourse hereunder but nothing in this Agreement or the Note or any other Loan Document shall limit or affect any recourse of Maker against Guarantor under the Guaranty.

Section 11.19 This Agreement may be executed in multiple counterparts, each of which shall be an original instrument and which, taken together, constitutes one and the same agreement.

It is understood and agreed that this Agreement shall become effective concurrently with the Note and the Security Instrument.

[THE REMAINDER OF PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF, Maker and Noteholder, intending to be legally bound, have executed and delivered this Agreement under seal as of the day and year first above written.

MAKER:

RI II MC-HOU, LLC,
a Delaware limited liability company

By: /s/ Brett C. Moody
Name: Brett C. Moody
Title: CEO

NOTEHOLDER:

AMERICAN NATIONAL INSURANCE COMPANY,
a Texas insurance company

By: /s/ Robert J. Kirchner
Name: Robert J. Kirchner
Title: Vice President

Exhibits attached hereto and made a part hereof:

Exhibit A — Legal Description
Exhibit B — Project Budget
Exhibit C — List of Plans and Specifications
Exhibit D — Additional Professional
Agreements Exhibit E — Cash Disbursement
Projection Exhibit F — Permitted Title
Exceptions Exhibit G — Defined Terms

EXHIBIT A

Legal Description

Unrestricted Reserve "A", in Block 1, of RESIDENCE INN MEDICAL CENTER, in Harris County, Texas, according to the map or plat thereof, recorded under Film Code No. 674452, of the Map Records of Harris County, Texas.

EXHIBIT B

Project Budget

[to be attached]

SCHEDULE OF VALUES

Residence Inn - Medical Center

PERIOD TO:
PROJECT: **RI Med Ctr**
TMG Job #: 1710

A DIV NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUES	D WORK FROM PREVIOUS APPLICATIONS (D+E)	E COMPLETED THIS PERIOD	F REIMBUR AMOUNT STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G/C)	H BALANCE TO FINISH (C-G)	I Reimbursable
01	Pre-Construction/ Scheduling Consultant	\$ 30,000	0.00	0.00	0.00	0.00	0%	30,000	—
01	Traffic Controls/Professional Surveyor	\$ 36,850	0.00	0.00	0.00	0.00	0%	36,850	—
02	Tower Crane/Manlift/Power & Set-up	\$ 679,500	0.00	0.00	0.00	0.00	0%	679,500	—
03	Turnkey Building Concrete/Garage/Piles	\$ 8,180,112	0.00	0.00	0.00	0.00	0%	8,180,112	—
04	Masonry Block/Stone Veneer	\$ 349,772	0.00	0.00	0.00	0.00	0%	349,772	—
05	Structural & Misc Steel/Stairs/Erection	\$ 911,481	0.00	0.00	0.00	0.00	0%	911,481	—
06	Rough Carpentry/Casework/Count ertops	\$ 1,235,810	0.00	0.00	0.00	0.00	0%	1,235,810	—
07	Dam proofing/EIFS/Insulation/ Roofing	\$ 1,672,977	0.00	0.00	0.00	0.00	0%	1,672,977	—
08	DR,FR,HWMindows/ Storefronts/Entry Locks	\$ 1,331,906	0.00	0.00	0.00	0.00	0%	1,331,906	—
09	Gypsum Wall Systems/Flooring/Ceilings	\$ 3,962,009	0.00	0.00	0.00	0.00	0%	3,962,009	—
10	Bath Acc./Acc. Part/CNR Guards/Entry	\$ 311,100	0.00	0.00	0.00	0.00	0%	311,100	—
11	Roof Davit System	\$ 57,200	0.00	0.00	0.00	0.00	0%	57,200	—
12	Tub Surroundings	\$ 152,785	0.00	0.00	0.00	0.00	0%	152,785	—
13	Swimming Pool	\$ 65,000	0.00	0.00	0.00	0.00	0%	65,000	—
14	Elevator & Linen Shoot	\$ 1,121,195	0.00	0.00	0.00	0.00	0%	1,121,195	—
21	Fire Suppression System	\$ 484,800	0.00	0.00	0.00	0.00	0%	484,800	—
22	Plumbing System	\$ 2,201,511	0.00	0.00	0.00	0.00	0%	2,201,511	—
23	Heating, Ventilating and Air Conditioning	\$ 2,350,000	0.00	0.00	0.00	0.00	0%	2,350,000	—
26	Electrical/Generator/ Lighting Protection	\$ 3,350,911	0.00	0.00	0.00	0.00	0%	3,350,911	—
28	Fire Alarm System	\$ 201,079	0.00	0.00	0.00	0.00	0%	201,079	—
31	Earthwork/Excavation/ Stabilization/SWPP	\$ 181,256	0.00	0.00	0.00	0.00	0%	181,256	—
32	Concrete Paving/Striping/Pavers/ LAN. & IRR.	\$ 275,590	0.00	0.00	0.00	0.00	0%	275,590	—
33	Dom and Fire Water/Storm/Sanitary Utilities	\$ 405,650	0.00	0.00	0.00	0.00	0%	405,650	—
01	General Requirements	\$ 1,368,000	0.00	0.00	0.00	0.00	0%	1,368,000	—
01	General Liability Ins./ Safety/Builders Risk Ins.	\$ 417,373	0.00	0.00	0.00	0.00	0%	417,373	—
	Contractors Fee	\$ 940,016	0.00	0.00	0.00	0.00	0%	940,016	—
	Construction Project Total	\$ 32,273,883							
	Guestroom/Lobby FF&E	\$ 2,950,000	0.00	0.00	0.00	0.00	0%	2,950,000	—
	Supplies Textiles Tech	\$ 100,000	0.00	0.00	0.00	0.00	0%	100,000	—
	Pre-Opening	\$ 150,000	0.00	0.00	0.00	0.00	0%	150,000	—

A DIV NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUES	D WORK FROM PREVIOUS APPLICATIONS (D+E)	E COMPLETED THIS PERIOD	F REIMBUR AMOUNT STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G/C)	H BALANCE TO FINISH (C-G)	I Reimbursable
	Interest Carry	\$ 913,408	0.00	0.00	0.00	0.00	0%	913,408	—
	Atty Fees	\$ 50,000	0.00	0.00	0.00	0.00	0%	50,000	—
	Appraisal	\$ 9,500	0.00	0.00	0.00	0.00	0%	9,500	—
	Phase I	\$ 2,500	0.00	0.00	0.00	0.00	0%	2,500	—

SCHEDULE OF VALUES

Residence Inn - Medical Center

PERIOD TO:
PROJECT: **RI Med Ctr**
TMG Job #: 1710

A DIV NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUES	D WORK FROM PREVIOUS APPLICATIONS (D+E)	E COMPLETED THIS PERIOD	F REIMBUR AMOUNT STORED (NOT IN D OR E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)	% (G/C)	H BALANCE TO FINISH (C-G)	I Reimbursable
	Survey	\$ 4,000	0.00	0.00	0.00	0.00	0%	4,000	—
	Grandbridge Fee	\$ 218,250	0.00	0.00	0.00	0.00	0%	218,250	—
	Lender Fee	\$ 291,000	0.00	0.00	0.00	0.00	0%	291,000	—
	Title Policy	\$ 113,411	0.00	0.00	0.00	0.00	0%	113,411	—
	Subtotal	\$ 4,802,069							
	Architect	\$ 30,000	0.00	0.00	0.00	0.00	0%	30,000	—
	Engineering	\$ 475,000	0.00	0.00	0.00	0.00	0%	475,000	—
	Miscellaneous	\$ 95,000	0.00	0.00	0.00	0.00	0%	95,000	—
	Subtotal	\$ 600,000							
	Contingency	\$ 321,117	0.00	0.00	0.00	0.00	0%	321,117	—
	Impact Fees	\$ 250,000	0.00	0.00	0.00	0.00	0%	250,000	—
	Duke Construction Fee	\$ 320,000	0.00	0.00	0.00	0.00	0%	320,000	—
	Subtotal	\$ 891,117							
	Land	\$ 6,200,000	0.00	0.00	0.00	0.00	0%	6,200,000	—
	Project Development Total	44,767,069.00	0.00	0.00	0.00	0.00		44,767,069.00	—

EXHIBIT C

List of Plans and Specifications

[to be attached]

.16 11252.
A51.1 1.0330•1 and NT.
A5.10 1001.4.343 NAPS A.
P.5400411013 AL) A63 A.
QA.. 5.

DRAWING INDEX 1

EXHIBIT D

List of Professional Agreements

Agreement for Services Between Architect and Owner for a Small Commercial Project between Maker, as owner, and David Baca Studio, L.L.C., a Texas limited liability company, as architect, dated effective August 2, 2016.

Professional Services Agreement between Maker and Jones & Carter, as engineer, dated effective April 28, 2016, as amended by letter agreement dated December 21, 2016; and

Modified Form of Agreement Between Owner and Design-Builder — Lump Sum between Maker, as owner, and ARCO/Murray National Dallas, Inc., a Delaware corporation, as design-builder, dated February 16, 2017.

EXHIBIT E

Cash Disbursement Projection

[to be attached]

EXHIBIT F

Permitted Title Exceptions

1. Restrictive Covenants as set forth in Film Code No. 674452, of the Map Records of Harris County, Texas.
2. The following matters reflected on the recorded plat filed under Film Code No. 674452, of the Map Records of Harris County, Texas:
 - (a) An easement for drainage purposes extending 15 feet on each side of the centerline of all natural drainage courses.
 - (b) Building set back line(s) 25 feet in width along the front property line.
 - (c) Houston Lighting and Power Company easement, 10 feet in width along the Southeasterly property line, together with an aerial easement 5 feet wide from a plane 20 feet above the ground attached thereto; and as set out in instrument(s), filed under Harris County Clerk's File No(s). D953829.

EXHIBIT G

Defined Terms

“Advance” means any disbursements of the Loan Proceeds by Noteholder to or for the benefit of Maker.

“Architect” means MITCHELL CARLSON STONE, INC., a Texas corporation, or another licensed, qualified architect(s) employed by Maker from time to time in connection with the construction of the Improvements.

“Assignment of Plans and Specifications” means the Assignment of Plans and Specifications and Rights Contracts dated of even date from Maker for the benefit of Noteholder, as amended modified, restated or supplemented from time to time.

“Cash Disbursement Projection” means the cash disbursement projection attached hereto as Exhibit E and incorporate herein by this reference for all purposes.

“Closing Certificate” means the Closing Certificate by Maker dated of even date herewith from Maker in favor of Noteholder, together with any subsequent affirmations thereof required herein, given to Noteholder.

“Commitment” means the loan commitment entitled “Mortgage Loan Application” and referencing Construction/Permanent Loan Application, refereeing Loan Application No. 17-052, as amended modified, restated or supplemented from time to time.

“Completion” means Maker has satisfied all of the conditions in Section 3.4(b) with respect to Improvements.

“Completion Guaranty” means the Absolute, Unconditional Completion Guaranty of even date herewith executed by Guarantor in favor of Noteholder, as amended modified, restated or supplemented from time to time.

“Construction Contract” means a complete contract for construction of the Improvements with a guaranteed maximum price construction contract to be executed by Maker, as owner and the Contractor, as well as all other subcontractors engaged by Maker, if any, from time to time to construct the Improvements not covered by such contract with Contractor, in a form and substance approved in advance in writing by Noteholder, such approval not to be unreasonably withheld, delayed or conditioned, together with any amendments as may be approved in advance in writing by Noteholder or otherwise permitted herein.

“Contractor” means ARCH-CON CORPORATION, a Texas corporation, the general contractor for the Project, or any other general contractor engaged by Maker and approved by Noteholder.

“Engineer” means CENTURY ENGINEERING, INC., a Texas corporation, or another licensed, qualified engineer(s) employed by Maker from time to time in connection with the construction of the Improvements.

“Environmental Indemnity” means the Certificate and Indemnity Agreement Regarding Hazardous Substances dated of even date herewith from Maker for the benefit of Noteholder, as amended modified, restated or supplemented from time to time.

“FF&E” means all construction materials, equipment, fixtures, furnishings, supplies, inventory and other personal property owned by Maker, from time to time, and located on or used in connection with the construction, use, occupancy, operation and sale of the Project.

“Financing Statement” means the UCC-1 Financing Statement to be recorded to perfect Noteholder’s security interest in all personal property of Maker that is part of the Project.

“Force Majeure” means cessations or suspensions caused by fire, unavailability of labor or materials, casualty, unusual weather that is not reasonably anticipatable, or if, war, terrorist attacks, failure of power, acts of public enemies, riots, insurrections, civil commotion, governmental delays in permitting, action or inaction of governments affecting the work of construction of the Improvements, or other unforeseeable causes beyond the reasonable control of Maker.

“Franchise Agreement” means that certain Residence Inn By Marriott Franchise Agreement between Maker as franchisee and Franchisor as franchisor with an effective dated effective of or about December 15, 2015, which shall permit the Project to be operated as a Residence Inn by Marriott with a term of at least thirty (30) years from completion of construction, as amended with the consent of Noteholder.

“Franchise Construction and Delivery Deadlines” means any deadlines for completion of construction required to be performed under the Franchise Agreement, as the same may be extended, or the date by which such Franchise Agreement will terminate or be cancelled for failure to complete any construction.

“Franchisor” means Marriott International Inc., a Maryland corporation.

“Guarantor” means BRETT C. MOODY, an individual.

“Guaranty” means, individually and collectively, as the context requires, the Completion Guaranty, the Payment Guaranty and the Tax Lien Guaranty.

“Improvements” means the approximately 182-room Residence Inn by Marriott hotel to be constructed on the Land in accordance with the Plans and Specifications.

“Initial Advance” means the first advance of Loan Proceeds hereunder.

“Inspecting Engineer” means Eland Development Corporation or any other third-party consultant engaged by Noteholder as its inspecting engineer.

“Land” means those parcels of land more particularly described in Exhibit A attached hereto and made a part hereof by reference, together with the easements, estates and rights described in the Security Instrument.

“Lease Assignment” means the Absolute Assignment of Leases and Rents to be recorded in Harris County, Texas of even date herewith from Maker in favor of Noteholder, as amended modified, restated or supplemented from time to time.

“Loan” means the loan in amount of \$29,100,000.00, which is evidenced by the Note.

“Loan Documents” means this Agreement, the Commitment, the Assignment of Leases and Rents, the Assignment of Plans and Specifications, the Closing Certificate, the Security Instrument, the Environmental Indemnity, the Financing Statement, the Guaranty, the Note and any and all other documents now or at any time hereafter evidencing, securing and/or relating to the Loan.

“Loan Proceeds” means all proceeds of the Loan.

“Maker’s Equity” means Maker’s funds of at least \$15,667,069.00, of which \$6,200,000.00 will be the value of the Land and \$9,467,069.00 will be cash, together with any additional amounts required of Maker hereunder and actually contributed by or on behalf of Maker.

“Note” means the Promissory Note dated of even date herewith, made by Maker and payable to the order of Noteholder in the original principal amount of TWENTY-NINE MILLION ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$29,100,000.00), as amended modified, restated or supplemented from time to time.

“Owner-Architect Agreement” means a fully executed copy of the agreement concerning the Improvements between Maker and Architect, in a form and substance approved in advance in writing by Noteholder, such approval not to be unreasonably withheld, delayed or conditioned, together with any material amendments as may be approved in advance in writing by Noteholder or otherwise permitted herein, such approval not to be unreasonably withheld, delayed or conditioned.

“Owner-Engineer Agreement” means a fully executed copy of the agreement concerning the Improvements between Maker and Engineer, in a form and substance approved in advance in writing by Noteholder, such approval not to be unreasonably withheld, delayed or conditioned, together with any material amendments as may be approved in advance in writing by Noteholder or otherwise permitted herein, such approval not to be unreasonably withheld, delayed or conditioned.

“Payment Guaranty” means the Absolute, Unconditional Payment Guaranty of even date herewith executed by Guarantor in favor of Noteholder, as amended modified, restated or supplemented from time to time.

“Plans and Specifications” means the plans and specifications for construction of the Improvements prepared by the Architect and Contractor and submitted to and approved by Noteholder in the application of its reasonable judgment, such approval not to be unreasonably denied, delayed or conditioned, together with all material additions, modifications and amendments thereto approved by Noteholder, such approval not to be unreasonably denied, delayed or conditioned, which are generally described in Exhibit C attached to this Agreement and made a part hereof.

“Project” means, collectively, the Land and the Improvements.

“Project Budget” means the project budget submitted to and approved by Noteholder and set forth on Exhibit B attached hereto and made a part hereof.

“Retainage” means statutory retainage of ten percent (10%) of the amount of each Advance, or such other amount as is set forth in the Construction Contract approved by Noteholder.

“Security Instrument” means that certain the Deed of Trust, Security Agreement and Financing Statement to be recorded in Harris County, Texas, dated of even date herewith from Maker to the trustee named therein, including a first priority assignment of leases, rents, profits and issues of that portion of the Project described herein and a first priority security interest in all FF&E located thereon, as amended modified, restated or supplemented from time to time.

“Tax Lien Guaranty” means the Guaranty Regarding Taxes and Tax Liens of even date herewith executed by Guarantor in favor of Noteholder, as amended modified, restated or supplemented from time to time.

“Title Company” means Moody National Title Company, L.P., as agent for Old Republic National Title Insurance Company.

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

After Recording Return To:
Greer, Herz & Adams, L.L.P.
2525 South Shore Blvd., Suite 203
League City, Texas 77573
Attention: Meredith Bates

STATE OF TEXAS

COUNTY OF HARRIS

DEED OF TRUST, SECURITY AGREEMENT AND FINANCING STATEMENT

This Deed of Trust, Security Agreement and Financing Statement (hereinafter termed "Deed of Trust") is entered into on September 13, 2017, between RI II MC-HOU, LLC, a Delaware limited liability company (hereinafter termed "Maker"), whose mailing address is 6363 Woodway, Suite 110, Houston, Texas 77057, to Darryl H. Levy, as trustee (hereinafter termed "Trustee"), for the benefit of AMERICAN NATIONAL INSURANCE COMPANY, a Texas insurance company, whose mailing address is Attn: Mortgage and Real Estate Investment Department, 2525 South Shore Boulevard, Suite 207, League City, Texas 77573 (hereinafter termed "Noteholder").

I. **DEFINITIONS**

A. The term "Indebtedness" shall mean and include:

(1) Any and all sums becoming due and payable pursuant to the Note, as hereinafter defined;

(2) Any and all other sums becoming due and payable by Maker to Noteholder including, but not limited to, such sums as may hereafter be borrowed by Maker from Noteholder (it being contemplated that such future indebtedness may be incurred), including, but not limited to, advancements or expenditures made by Noteholder pursuant to the terms and conditions of this Deed of Trust or any other document evidencing, securing or otherwise relating to the Note;

(3) Any and all obligations, covenants, agreements and duties of any kind or character of Maker now or hereafter existing, known or unknown, arising out of or in connection with the Note, this Deed of Trust or any other document or instrument evidencing, securing or relating to the Note; and

(4) All renewals, extensions, modifications, increases, consolidations and rearrangements of any or all of the obligations, covenants, agreements and duties of Maker arising out of or connected with the note or this Deed of Trust, whether or not Maker executes any renewal, extension, modification, increase, consolidation or rearrangement.

B. The term "Collateral" shall mean and include all of Maker's rights in and to: (a) all of the goods, articles of personal property, accounts, general intangibles, instruments, documents, furniture, furnishings, equipment and/or fixtures of every kind and nature whatsoever (including without limitation, the items described in subsections (b) through (h) below but expressly excluding the Franchise Agreement, defined below, if and to the extent such exclusion is required by the Franchise Agreement) now or hereafter owned by Maker, in or hereafter placed in, or used or which may become used, in connection with or in the use, enjoyment, ownership or operation of the Mortgaged Premises (hereinafter defined) including, without limitation, the hotel operation to be conducted therein (the "Hotel"), together with all additions thereto, replacements thereof, substitutions therefor and all proceeds thereof, but excluding any such items owned by Franchisor or any Hotel guests or any hotel operator in accordance with its rights under any hotel management agreement consented to in writing by Noteholder; (b) all rents (including, without limitation, all "Rents" as defined below), rentals, payments, compensations, revenues, profits, incomes, leases, licenses, concession agreements, parking agreements, insurance policies, plans and specifications, contract rights (including, without limitation, all construction contracts, architect's contracts and engineering contracts but specifically excluding the Franchise Agreement if and to the extent such exclusion is required in order to comply with the Franchise Agreement), accounts (including, without limitation, the advance reservations and bookings for the Hotel, as the same may be amended, canceled and renewed by Maker or any hotel operator in accordance with its rights under any hotel management agreement and advance deposits made in respect thereof, and all accounts receivable arising from the operation of the Hotel, including, without limitation, any and all accounts receivable owing from any guests of the Hotel incurred during that guest's stay), all escrowed funds

(including, without limitation, the FF&E Replacement Reserve, as defined below), and general intangibles in any way relating to the Mortgaged Premises or used or useful in the use, enjoyment, ownership or operation of the Mortgaged Premises; (c) to the extent Maker has a right to grant a security interest therein, all names, trade names, signs, marks and trademarks under or by which the Mortgaged Premises may at any time be operated or known, all rights to carry on business under any such names, trade names, signs, marks and trade marks, or any variant thereof, any goodwill in any way relating to the Mortgaged Premises and all of Maker's rights to carry on the business of Winkler and the Hotel under all such names, trade names, signs, marks and trade marks, or any variant thereof; (d) all telephones (including all of Maker's interest as tenant in any leases thereof), televisions (including all of Maker's interest as tenant in any leases thereof), bedding, bed linens, towels, window treatments, safety equipment and the tangible articles of personal property owned or leased by Maker used or useful in the use, enjoyment, ownership or operation of the Mortgaged Premises, all inventories of supplies used in connection with the operation of the business of the Hotel including, without limitation, paper goods, brochures, office supplies, food and beverage inventory (to the extent the transfer of same is permissible under applicable law), chinaware, glassware, flatware, table linens, soap and other operational and guest supplies located at the Hotel, all of the books, records, files, budgets, projections, strategic plans, business plans and specifications, drawings, test reports, inspections and engineering reports, guest registers, employment records, maintenance records, rental and reservation records, and any customer or frequent guest lists of Maker in connection with the use, enjoyment, ownership or operation of the Mortgaged Premises; (e) all governmental permits relating to construction on the Mortgaged Premises, and all other consents, authorizations, variances or waivers, licenses, permits and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality in respect of the Hotel, held or used by Maker relating to the Hotel; (f) all deposits, awards, damages, payments, escrowed monies, insurance proceeds, condemnation awards or other compensation, and interests, fees, charges or payments accruing on or received from or to be received on any of the foregoing in any way relating to the Mortgaged Property, or the ownership, enjoyment or operation of the Mortgaged Property together with all proceeds of all of the foregoing described in this Section 1 (B); and (g) all products, proceeds, substitutions, renumberings and replacements of any of the collateral described in this paragraph. Notwithstanding anything to the contrary in the foregoing provisions of this Section 1(B), to the extent required in order to comply with the Franchise Agreement, the Franchise Agreement is expressly excluded from the term "Collateral".

C. The term "Mortgaged Premises" shall mean and include (a) that certain parcel of real property situated in the County of Harris, State of Texas, described in Exhibit A, which is attached hereto and incorporated herein by reference for all purposes, together with all Maker's right in and to buildings and improvements of every kind and description now or hereafter erected or placed thereon and all materials now or hereafter placed thereon including, without limitation, (i) any and all of the title, estates, interests or rights of Maker which Maker now or may at any time acquire in and to the streets, alleys and rights of way adjoining or adjacent to the Mortgaged Property and specifically including easements for vehicular and pedestrian ingress to and egress from all surrounding public streets and over all privately owned roadways adjoining or adjacent to the Mortgaged Property, and (ii) any and all materials now or hereafter placed thereon intended for construction, reconstruction, alteration and repairs of such buildings and improvements, all of which materials shall be deemed to be included as a part of said real property immediately upon the delivery thereof; and (b) all Maker's right in and to any and all fixtures now or hereafter owned by Maker and attached to, contained in or used in connection with said real property, and any and all renewals and replacements thereof, including but not limited to (i) all equipment, apparatus, machinery, motors, elevators, fittings and radiators, (ii) all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment, (iii) all awnings, storm windows and doors, mantels, cabinets, rugs, carpeting, linoleum, stoves, shades, draperies, blinds and water heaters, (iv) such other goods and chattels and personal property as are usually furnished by landlords in letting an unfurnished building, or which shall be attached to said buildings and improvements by nails, screws, bolts, pipe connections, masonry or in any other manner and (v) all built-in equipment as may be shown by plans and specifications.

D. The term "Mortgaged Property" shall mean both the Mortgaged Premises and the Collateral.

E. The term "Note" shall mean that one certain Promissory Note of even date herewith in the original principal amount of \$29,100,000.00 executed by Maker and made payable to the order of Noteholder, payable with interest in installments as stipulated therein with final the maturity date of September 1, 2024, and providing for the right to declare the unpaid principal balance due and payable upon the occurrence of an Event of Default (as defined herein) and otherwise as provided therein and providing for reasonable attorneys' fees, and any and all notes given in renewal, extension, modification, increase, consolidation or rearrangement of said Note or any portion thereof

F. The term "Loan Agreement" shall mean that certain Construction Loan Agreement of even date herewith executed by Maker and Noteholder concerning the Note.

G. The term "Payment Guaranty" shall mean that certain Absolute, Unconditional Payment Guaranty of even date herewith executed by Guarantor, in favor of Noteholder with respect to the Note.

H. The term "Payment Guaranty" shall mean that certain Absolute, Unconditional Payment Guaranty of even date herewith executed by Guarantor, in favor of Noteholder with respect to the Note.

I. The term "Guarantor" shall mean BRETT C. MOODY, an individual.

J. The term “Guaranty” shall mean, collectively, the Payment Guaranty, the Completion Guaranty, the Tax Lien Guaranty and any other guaranty by Guarantor for the benefit of Noteholder.

K. The terms “attorneys’ fees”, “attorneys’ fees and expenses”, “costs and expenses of enforcement” and other terms of similar import shall mean and include support staff costs as an element of reasonable attorneys’ fees, and the amounts expended in litigation preparation and computerized research, telephone and telefax expenses, mileage, depositions, postage, photocopies, process service, video tapes and the like as part of the reasonable costs of collection and enforcement, and any and all costs associated with environmental testing, audits, reviews, inspections, remediation and clean-up and any other costs associated with preparing the Mortgaged Property for sale as part of the costs of foreclosure and/or enforcement.

L. The term “Tax Lien Guaranty” shall mean that certain Guaranty Regarding Taxes and Tax Liens of even date herewith executed by Guarantor, in favor of Noteholder with respect to Maker’s property tax payment obligations for the Mortgaged Property.

II. CONVEYANCE IN TRUST

In consideration of Ten and 00/100 Dollars (\$10.00) cash in hand paid, of Noteholder’s advancing or extending to Maker the funds or credit constituting a part of the Indebtedness, and the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, Maker hereby conveys to Trustee the above-described Mortgaged Premises, in trust, for the purpose of securing the Indebtedness, and the full and complete performance of each and every obligation, covenant, duty and agreement of Maker contained herein or in the Note or any other document executed by Maker pertaining to the Note or as security therefor; TO HAVE AND TO HOLD the Mortgaged Premises, together with the rights, privileges and appurtenances thereto belonging unto Trustee and his substitutes or successors forever, and Maker is hereby bound to warrant and forever defend the Mortgaged Premises unto Trustee, his substitutes or successors and their assigns, against the claims of any and all persons claiming any interest in the Mortgaged Premises or any part thereof, save and except only these items identified on Exhibit B attached hereto and incorporated herein by reference for all purposes (the “Permitted Exceptions”).

III. ADDITIONAL SECURITY

As further security for the Indebtedness and the full and complete performance of each and every obligation, covenant, agreement and duty of Maker contained herein or contained in any other document executed by Maker pertaining to the Note or the security therefor:

A. Security Interest. Maker hereby grants and conveys to Noteholder a security interest in and to and lien on all of the Collateral. This Deed of Trust shall serve as a Security Agreement established pursuant to the Texas Business and Commerce Code, as may be amended (the “TBCC”), and Noteholder shall have and may exercise any and all rights, remedies and powers of a secured party under the TBCC. Maker hereby represents, warrants and covenants that (1) Maker is the owner and holder of the Collateral free and clear of any adverse claim, security interest or encumbrance, except those created herein; (2) Maker will defend its right, title and interest in and to the Collateral, and the priority of the security interest created herein as a valid first security interest against any and all claims and demands of any person at any time claiming the same or any interest therein; (3) there are no financing statements affecting the Collateral executed by Maker, as debtor, now on file in any public office except those financing statements which are being released contemporaneously with the delivery of this transaction or which have been authorized by Noteholder; (4) Maker authorizes Noteholder to file or record any and all other and further agreements, financing statements and assignments in such offices and at such times as it is deemed by Noteholder to be necessary or desirable; and (5) Maker shall execute and deliver to Noteholder such other and further agreements, financing statements and assignments as Noteholder may request.

This Deed of Trust is intended to constitute a fixture filing in accordance with the applicable provisions of the TBCC. The debtor is Maker and the secured party is Noteholder and their addresses are those set forth at the beginning of this Deed of Trust. Certain of the Mortgaged Property is or will become “fixtures” (as that term is defined in the TBCC), and this Deed of Trust, upon being filed of record in the real estate records of the county wherein the Mortgaged Premises are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of the TBCC upon such Mortgaged Property that is or may become fixtures.

B. Assignment of Condemnation Awards. To the extent of the full amount of the Indebtedness secured hereby and of the costs and expenses (including, without limitation, reasonable attorneys’ fees and expenses) incurred by Noteholder in the collection of any award or payment, Maker hereby assigns to Noteholder any and all awards or payments, including, without limitation, all interest thereon, together with the right to receive the same, which may be made with respect to the Mortgaged Property as a result of (1) the exercise of the right of eminent domain, (2) the alteration of the grade or of any street or (3) any other injury to or decreased value in the Mortgaged Property, as well as the right, but not the obligation, to, at Maker’s expense, participate in and make decisions concerning the progress of any proceeding involving any such award or payment. Maker shall give Noteholder written notice of any such action or proceeding immediately upon Maker’s becoming aware of same. All such damages, condemnation proceeds and consideration shall be paid directly and solely to Noteholder whether or not an Event of Default has at such time occurred, and after first applying said sums to the payment of all costs and expenses (including, without limitation, reasonable attorneys’ fees and expenses) incurred by

Noteholder in obtaining such sums, Noteholder may, at its option, apply the balance on the Indebtedness, in any order and whether or not then due, without prepayment or penalty, or to the restoration of the Mortgaged Property, or release the balance to Maker, provided, however, that said application or release shall not cure or waive any such Event of Default.

IV. ABSOLUTE ASSIGNMENT OF RENTS

In further consideration for the indebtedness evidenced by the Note, Maker hereby absolutely and unconditionally assigns to Noteholder any and all rents, revenues, profits and incomes from the Mortgaged Property or any portion thereof; provided, however, that, for so long as no Event of Default has occurred, Maker is hereby granted a license to collect and retain the currently accruing rents, revenues, profits and incomes from the Mortgaged Property, but in no event may Maker collect same for more than one (1) month in advance of the date upon which such amounts become due. If an Event of Default shall occur, however, thereupon, and at any time thereafter the underlying default is continuing beyond any applicable cure period expressly provided herein, Noteholder may terminate such license and may, without any liability to Maker, take possession and control of the Mortgaged Property and/or receive and collect all rents, revenues, profits and incomes, accrued or accruing thereafter so long as any of the Indebtedness remains unpaid, applying so much thereof as may be collected first to the expenses incident to taking possession and/or the collection thereof, second, to the payment of the Indebtedness other than the Note and third to the amount of the Note then remaining unpaid, at Noteholder's discretion, either principal or interest, in any order, and whether then matured or not, paying the balance, if any, to Maker. It is intended by Maker and Noteholder that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only, and that Noteholder shall be entitled to exercise its rights hereunder whether or not Noteholder is in possession of the Mortgaged Property at such time. Maker agrees to fulfill or perform each and every covenant of any and all leases and guaranties of leases of the Mortgaged Property so as to keep them at all times in full force and effect. Maker agrees not to enter into any new lease, and not to make any modification, consent to any modification of, or cancel, terminate or consent to the surrender of any lease of all or any part of the Mortgaged Property or any guaranty of such lease after such lease or guaranty has been executed by Maker and the lessee or guarantor, as applicable, without the prior written consent of Noteholder, which consent shall not be unreasonably withheld, delayed or conditioned, the failure to fulfill or perform any such covenant or the making of or consent to any such modification or cancellation, termination or surrender shall be an Event of Default. Nothing contained in this Deed of Trust or in any other document securing, evidencing or relating to the Indebtedness shall preclude Noteholder from taking any action to cure or remedy any default of the landlord under any lease of all or any portion of the Mortgaged Property or under any guaranty of lease, or any act, omission of Landlord or occurrence, which, but for the passage of time, the giving of notice or both, would be a default under any such lease or guaranty of lease or take any other action in connection therewith, and any amounts expended by Noteholder in connection with such cure or remediation including, without limitation, reasonable attorneys' fees and expenses, shall be an advance under and secured by this Deed of Trust and shall be included in the Indebtedness and shall be paid by Maker to Noteholder on demand. The preceding sentence shall not be construed to obligate Noteholder to cure any such actual or potential lease defaults or any guaranty of lease defaults.

V. MAKER'S REPRESENTATIONS AND WARRANTIES

In order to induce Noteholder to lend the funds evidenced by the Note, Maker represents and warrants that:

A. Accurate Loan Information. Any and all information and financial statements furnished or to be furnished to Noteholder by or on behalf of Maker in connection with the Indebtedness secured by this Deed of Trust is or at the time of delivery will be complete and accurate in all material respects.

B. Valid Title. Maker is the lawful owner of the Mortgaged Property and has good right and lawful authority to mortgage and pledge the same.

C. Freedom from Encumbrances. The Mortgaged Property is free from any and all liens and encumbrances save and except only the Permitted Exceptions, and Maker does warrant and will defend title to the Mortgaged Property against any and all claims or demands by third parties whatsoever save and except only the Permitted Exceptions.

D. Maintenance of Lien Priority. Maker shall take any and all steps as are necessary to preserve and protect the validity and priority of the liens on the Mortgaged Property created hereby. Maker shall execute, acknowledge and deliver such additional documents or instruments as Noteholder may deem necessary in order to preserve, protect, continue, extend or maintain the liens and security interests created hereby as first liens on the Mortgaged Property. Any and all costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the security interest and the liens herein created as valid first and subsisting liens shall be paid in full by Maker.

E. Value of the Mortgaged Property. Maker acknowledges that the value of the Mortgaged Property, as established by an appraisal submitted to Maker and provided to Noteholder, is substantially in excess of the Indebtedness secured hereby. Maker acknowledges that but for the Mortgaged Property having a value in excess of the amount of the Indebtedness, Noteholder would not make the loan evidenced by the Note and advance the funds hereunder. Maker agrees that Noteholder shall at all times have the benefit of the Mortgaged Property as the security for the Indebtedness even though the value thereof may now or in the future exceed the amount of the Indebtedness secured hereby.

F. Representations, Warranties and Covenants of a Limited Partnership. Maker hereby represents, warrants and covenants that:

(1) Maker is a Delaware limited liability company created under that certain Certificate of Formation filed with the Delaware Secretary of State on November 4, 2013 and there are no amendments thereto and is governed by that certain Operating Agreement made and entered into to be effective as of November 4, 2013 (the "Operating Agreement"), as amended by First Amendment to Operating Agreement dated _____, 2017, and as of the date hereof there are no other operating agreements or amendments thereto.

(2) The only member of Maker is Duke Construction Consulting, LLC. The sole member of Duke Construction Consulting, LLC is 4MCH, LLC. The members of 4MCH, LLC are the Carter E. Moody Trust, the Chloe G. Moody Trust, the Catherine A. Moody and the Duke C. Moody Trust.

(3) Brett Moody, as President of Maker, is authorized to execute and deliver the Note, this Deed of Trust and any and all other documents or instruments which Noteholder may now or at any time and from time to time hereafter require to be executed on behalf of Maker in connection with the Note, this Deed of Trust or the Indebtedness, including but not limited to any and all renewals, extensions, modifications, increases, consolidations and rearrangements of the Note or this Deed of Trust, and no signature or any other action of any other person or entity shall be required to bind Maker.

(4) Maker shall not modify, amend or terminate the Operating Agreement in any way adverse to Noteholder nor, except for a Permitted Transfer (as defined below), permit any interest of any limited or general partner to be sold, transferred, conveyed, encumbered or otherwise become the subject of any Transaction (as defined below).

(5) Except for a Permitted Transfer, Maker shall not permit any interest of any Constituent Owner (as defined below) to be sold, transferred, conveyed, encumbered or otherwise the subject of any Transaction.

(6) Maker is and shall continue to be (a) duly organized and existing under the laws of the State in which it is formed and (b) duly qualified to transact business in each state where the conduct of its business requires it to be qualified.

G. Construction and Materials. Maker hereby warrants, represents and covenants that all persons and entities who have provided labor or materials to or for the benefit of the Mortgaged Property by, through or under Maker or otherwise at Maker's direction or request at any time prior to the date of this Deed of Trust have been timely paid in full.

H. Hazardous Waste. Maker hereby represents and warrants that, after due and diligent inquiry, Maker is not aware of any facts or circumstances which may give rise to any litigation, proceedings, investigations, citations or notices of violations resulting from the use, presence, generation, manufacture, storage, discovery or disposition of, on, under or about the Mortgaged Property or the transport to or from the Mortgaged Property of any Hazardous Materials (as defined below) (other than permitted legal amounts). Maker hereby represents and warrants that, to the best of its actual knowledge, except as may be disclosed in any environmental reports delivered to Noteholder prior to the date hereof, the Mortgaged Property is not in violation of and Maker covenants and agrees not to use or permit the use of the Mortgaged Property for any purpose which would be in violation of any federal, state or local health or environmental statute, regulation, rule, ordinance or publication which is presently in effect or that may be promulgated in the future, as such statutes, regulations, ordinances and publications may be amended from time to time relating to Hazardous Materials, including, without limitation, with respect to industrial hygiene or to health or environmental conditions on, under or about the Mortgaged Property (including, but not limited to, soil and ground water conditions) or with respect to the owners or occupants thereof. The foregoing representations and warranties shall survive foreclosure under this Deed of Trust and shall constitute continuing representations and warranties to Noteholder, and its successors and assigns, as to conditions existing prior to foreclosure or a deed in lieu of foreclosure only. The term "Hazardous Materials" as used in this Deed of Trust shall include but not be limited to:

- (1) petroleum, petroleum based products and oil;
- (2) asbestos of any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls (pcb);
- (3) tanks, whether empty, filled or partially filled with any substance, material, chemical or other waste;
- (4) any substance, material, chemical or other waste including, without limitation, any explosive, flammable substances, explosives or radioactive materials, hazardous or toxic waste, hazardous or toxic materials, hazardous, toxic or radioactive substances, contaminants or pollutants and any of the preceding which are defined as or included in the definition of "Hazardous Substance", "Hazardous Waste", "Hazardous Material" or "Toxic Substance" or other similar or related terms under any applicable local, state or federal statute, regulation, ordinance or publication including but not limited to the following, as such statutes, regulations, ordinances and publications may be amended from time to time:

(a) Resource Conservation and Recovery Act of 1976 (commonly referred to as the Solid Waste Disposal Act), 42 U.S.C. sec. 6901 et as amended by the Superfund Amendments and Reauthorization Act of 1986, Pub.L. No. 99-499, 100 Stat. 1613;

(b) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. sec. 9601 et seq.;

tpl Clean Air Act, 42 U.S.C. sec. 7401 Pt sen.;

(d) the Water Pollution Prevention and Control Act (commonly referred to as the Clean Water Act) 33 U.S.C. sec. 1251 et

(e) Hazardous Materials Transportation Act, 49 U.S.C. sec. 1801 et seq.;

(f) Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. sec. 136 et m.;

(g) Toxic Substances Control Act, 15 U.S.C. sec. 2601 et seq.;

(h) Safe Drinking Water Act, 42 U.S.C. sec. 300(f) et seq.;

(i) the Texas Water Code, including, without limitation:

(i) the Texas Water Quality Act, Texas Water Code Ann. sec. 26.01 - 26.407;

(ii) the Texas Hazardous Substances Spill Prevention and Control Act, Texas Water Code Ann. sec. 26.261-26.268; and

(iii) the Texas Underground and Above Ground Storage Act, Texas Water Code Ann. sec. 26.341 - 26.359; and the Texas Health and Safety Code, including, without limitation:

(i) the Texas Solid Waste Act, Texas Health and Safety Code Ann. sec. 361.001-361.510;

(ii) the Texas Clean Air Act, Texas Health and Safety Code Ann. sec. 382.001-382.141; and

(iii) the Texas Low-Level Radioactive Waste Disposal Authority Act, Texas Health and Safety Code Ann. sec. 402-001-402.094.; and

(5) any other material, substance, chemical or other waste, exposure to which is prohibited, limited or regulated from time to time by any federal, Texas or local statute, regulation, ordinance or publication or may pose a hazard to health or is related to the industrial hygiene or environmental conditions of the Mortgaged Property or any other adjacent or nearby property.

NOTWITHSTANDING ANY NON-RECOURSE LANGUAGE IN THE NOTE OR THIS DEED OF TRUST, Maker hereby agrees to INDEMNIFY AND HOLD HARMLESS Noteholder, and all of its directors, officers, employees, attorneys, contractors and agents, and any successors and assigns, their directors, officers, employees and agents (individually and collectively the "Indemnitees"), from and against any and all loss, damage, expense or liability (including reasonable attorneys fees and investigatory expenses) incurred arising out of the use, occurrence, generation, storage, transportation or disposal of Hazardous Materials on or about the Mortgaged Property by Maker, its present tenants or any future tenants, any prior owner, operator or tenant of the Mortgaged Property, or any third party, including, without limitation, (i) all foreseeable and unforeseeable consequential damages, directly or indirectly arising out of the use, occurrence, generation, storage, transportation or disposal of Hazardous Materials by Maker, past, present or future tenants, owners or operators of the Mortgaged Property, or any third party, and (ii) the cost of any required or necessary repair, cleanup or detoxification, claimed, threatened or asserted against any such Indemnatee; SUCH INDEMNITY AND HOLD HARMLESS SPECIFICALLY INCLUDES ANY LOSS, DAMAGE, EXPENSE OR LIABILITY CAUSED BY OR ATTRIBUTABLE TO THE ORDINARY OR SIMPLE NEGLIGENCE, AS OPPOSED TO THE GROSS NEGLIGENCE, OF ANY OF THE INDEMNITEES AND FOR ANY ACTION OR OCCURRENCE FOR WHICH THE INDEMNITEES MAY INCUR STRICT LIABILITY, but such indemnity and hold harmless shall not apply with respect to any Hazardous Substances caused by acts or omissions occurring on the Mortgaged Property after any foreclosure of this Deed of Trust or conveyance in lieu thereof or to the extent that such loss, damage, expense or liability is caused by or attributable to such Indemnatee's gross negligence or willful misconduct (including, without limitation, that of Noteholder). Maker's obligations pursuant to the foregoing indemnification and agreement to hold harmless shall survive any termination of the estate created by this Deed of Trust whether as a result of the exercise by Noteholder of any default remedies available to it at law or in equity or otherwise. Maker acknowledges and agrees that as a condition precedent to making the

loan to Maker evidenced by. the Note secured by this Deed of Trust, Noteholder has required that Maker provide to the Indemnites the indemnification and agreement to hold harmless set forth herein, and that Noteholder would not consummate the loan without this indemnification and agreement to hold harmless and that the indemnification and agreement to hold harmless contained herein is a material inducement for Noteholder's agreement to make the loan. Further, Maker agrees that the foregoing indemnification and agreement to hold harmless is separate, independent of and in addition to its undertakings as Maker under the Note, as Maker under this Deed of Trust, as Maker under the Absolute Assignment of Leases and Rents and any and all other documents, agreements and undertakings executed by Maker in favor of Noteholder pursuant to the Note. Maker agrees that a separate action may be brought to enforce the provisions of this indemnification and agreement to hold harmless, which shall in no way be deemed to be an action on the Note or under this Deed of Trust, whether or not Noteholder would be entitled to a deficiency judgment following a foreclosure sale of the Mortgaged Property.

VI. ADDITIONAL COVENANTS OF MAKER

As long as any of the Indebtedness remains unpaid, Maker covenants and agrees that:

A. Payment of Indebtedness. Maker shall pay the Indebtedness promptly when due and payable.

B. Payment of Taxes and Other Assessments. Maker will pay any and all taxes, assessments and other governmental, municipal or other public dues, charges, fines, or impositions imposed or levied upon the Mortgaged Property or on the interest created by this Deed of Trust, or any tax or excise on rents or other tax, however described, assessed or levied by any state, federal or local taxing authority as a substitute, in whole or in part, for taxes assessed or imposed on the Mortgaged Property or on the interest created by this Deed of Trust, and at least ten (10) days before said taxes, assessments and other dues, charges, fines or impositions are due and payable and shall exhibit receipts therefor to Noteholder. If any tax or assessment is levied, assessed or imposed on Noteholder as a legal holder of the Note or any interest in the documents securing, evidencing or relating to the Note by any governmental authority, then unless all such taxes or assessments are paid by Maker as they become due and payable and in the opinion of the General Counsel for Noteholder, such payment by Maker is lawful and does not place Noteholder in violation of any law, Noteholder may, at its option, declare the Indebtedness immediately due and payable, but in this event no prepayment premium shall be due or payable.

C. Insurance. Maker shall keep the Mortgaged Property insured against any and all loss or damage by fire, windstorm, extended coverage perils, flood (in the event any of the Mortgaged Premises is within a 100-year flood plain and flood insurance is available pursuant to the United States Flood Disaster Protection Act of 1973 or any similar or successor statute or successor governmental authority), vandalism, malicious mischief and such other hazards, casualties or other contingencies and in such amounts (but in no event less than the greater of the amount of the Indebtedness from time to time secured hereby or the full replacement value thereof) as from time to time may be reasonably required by Noteholder, and maintain, or cause to be maintained, rents or rental value insurance coverage, in an amount at least adequate to cover twelve (12) months' principal and interest installments on the Note and together with twelve (12) months' property taxes and insurance premiums, with respect to the Mortgaged Property covering the risk of loss due to the occurrence of any of the foregoing hazards, in each case and in such amounts, in such manner and in such companies as Noteholder may reasonably approve, and all such policies shall contain a waiver of subrogation and provide that any losses payable thereunder shall (pursuant to standard Noteholder clauses without contribution, including one providing that such insurance as to the interest of Noteholder shall not be invalidated by any act or omission or neglect of Maker, to be attached to each policy) be payable to Noteholder. The term "full replacement value" shall mean actual replacement value (exclusive of value of land, excavation and earthwork, site preparation, sewer inlets and cisterns, foundations, and concrete paving). Maker shall cause duplicate originals of any and all such insurance policies to be deposited with Noteholder or certificates of insurers under such policies evidencing same. Maker will also carry public liability insurance, in such form, amounts and with such companies as Noteholder may from time to time reasonably require, with Noteholder included thereon as a named insured. Any or all of such policies may be provided under a blanket policy or policies provided such blanket policies allocate the amount of insurance required hereunder to the Mortgaged Property. Maker shall cause duplicate originals of any and all such insurance policies to be deposited with Noteholder, or certificates of the insurers under such policies evidencing same. At least ten (10) days prior to the date the premiums on any such policy or policies shall become due and payable, Maker shall furnish to Noteholder evidence of the payment of such premiums. Each of such policies shall contain an agreement by the insurer that the same shall not be canceled or modified without at least ten (10) days' prior written notice to Noteholder. In the event of loss under any such policy, Maker shall give immediate written notice to the insurance carrier and to Noteholder. With respect to all insurance policies except public liability insurance, Noteholder is hereby authorized, but not required, on behalf of and at the expense of Maker, whether or not an Event of Default has then occurred, to make proof of loss, to collect for, adjust or compromise any losses under any insurance policy on the Mortgaged Property, to appear in and prosecute any action arising from any of such insurance policies and to apply, at Noteholder's option, the loss proceeds (less expenses of collection) on the Indebtedness, in any order and whether due or not, or to the restoration of the Mortgaged Property, or to be released to Maker, but any such application or release shall not cure or waive any default. In the event of a sale pursuant to the foreclosure provision hereunder, or any conveyance of all or any portion of the Mortgaged Property in extinguishment of the Indebtedness, complete title to all insurance policies on or related to the Mortgaged Property, and the unearned premiums of same shall pass to and vest in the purchaser or Noteholder of the Mortgaged Property.

D. Escrow for Taxes and Insurance. The requirements for escrows for taxes and insurance have been conditionally waived by Noteholder so long as no Termination of Escrow Waiver Event occurs. A “Termination of Escrow Waiver Event” means one or more of the following has occurred: (i) an Event of Default has occurred and is continuing; (ii) the taxes and/or insurance on all or any portion of the Mortgaged Property have not paid prior to delinquency; and (iii) Maker does not own the Mortgaged Property or the subject loan has been assumed by a borrower without Noteholder’s prior written approval, which approval may be given or withheld in Noteholder’s sole and absolute discretion. If a Termination of Escrow Waiver Event occurs, thereafter Maker shall pay, in addition to the installments payable under the Note, on the same day as such installments are due and payable, a sum equal to 1/12th of the estimated annual taxes, hazard and rental insurance premiums, and special assessments, if any, next due on the Mortgaged Property, to be held by Noteholder in escrow. If the amount so paid is not sufficient to pay such taxes, insurance premiums and assessments prior to delinquency, then Maker will immediately deposit with Noteholder amounts sufficient to pay the same. Funds deposited by Maker pursuant to this provision shall be used to pay such taxes, insurance premiums and assessments when due, provided that Maker has furnished Noteholder with all tax statements, premium notices and other such notices at least thirty (30) days prior to the date that any such taxes, premiums and assessments may be due. If there is an Event of Default under the provisions of the Note or of this Deed of Trust, Noteholder may elect, at any time after default, to apply the funds accumulated under this provision against the Indebtedness in any manner or order. No interest shall accrue or be allowed on any payments under the provisions of this paragraph. Noteholder shall not be required to deposit or hold monies in an account special or separate from its general funds. Maker expressly releases Noteholder from any and all liability to Maker arising out of the maintenance by Noteholder of an escrow as provided herein or for payment of any sums out of such escrow. Maker further indemnifies Noteholder against claims arising out of payment of taxes or insurance premiums where Maker has failed to provide Noteholder with tax statements and premium notices as required hereby. The maintenance by Noteholder of an escrow for taxes and insurance shall not relieve Maker of its obligations under this Deed of Trust respecting taxes and insurance on the Mortgaged Property.

A charge of \$200.00 per month for administration expenses shall be assessed against Maker for each successive month that all paid tax receipts and insurance policies are not delivered to Noteholder within thirty (30) days after notice to Maker of failure to deliver such documents.

E. Patriot Act.

(1) As of the date of this Deed of Trust, Maker is, and during the term of this Deed of Trust shall remain, in full compliance with any and all of the applicable laws and regulations of the United States of America that prohibit, regulate or restrict financial transactions, including, but not limited to, conducting any activity or failing to conduct any activity, if such action or inaction constitutes a money laundering crime, including any money laundering crime prohibited under the Money Laundering Control Act, 18 U.S.C. sec. 1956, 1957, or the Bank Secrecy Act, 31 U.S.C. sec. 5311 et s q. and any amendments or successor statutes thereto and any applicable rates or regulations promulgated thereunder.

(2) Maker represents and warrants that (i) neither Maker, nor any of its partners, or any officer, director, member, manager, or employee, is or will become named as a “Specially Designated National and Blocked Person” as designated by the United States Department of the Treasury’s Office of Foreign Assets Control or as a person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; (ii) Maker is not owned or controlled, directly or indirectly, by the government of any country that is subject to any United States embargo; (iii) Maker is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a “Specially Designated National and Blocked Person,” or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit or supports terrorism; and that Maker is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation; (iv) no funds will be used to make any payments due hereunder or pursuant to the Note which were obtained directly or indirectly from a “Specially Designated National and Blocked Person” or otherwise derived from a country that is subject to any United States embargo; and (v) to Maker’s knowledge, no current or future tenant of any portion of the Mortgaged Property, nor any officer, director, member, manager, partner or Constituent Owner of such tenant, is or will be named a “Specially Designated National and Blocked Person”; provided, however, that, in the event that a tenant of any portion of the Mortgaged Property is a publicly-traded company whose shares are listed on a national stock exchange, such representation and warranty shall not apply to shareholders of such tenant.

(3) Maker acknowledges that it understands and has been advised by legal counsel on the requirements of the applicable laws referred to above, including, without limitation, the Money Laundering Control Act (18 U.S.C. sec. 1956, 1957); the Bank Secrecy Act (U.S.C. sec. 5311 et seq.) and the applicable rules or regulations promulgated thereunder; and the Foreign Assets Control Regulations (31 C.F.R. sec. 500 et seq.).

(4) Maker shall notify Noteholder immediately upon receipt of any information indicating a breach of this Section 6(E) or if Maker or any officer, director, partner, manager, member, employee or Constituent Owner is custodially detained on charges relating to money laundering, whereupon Noteholder shall be entitled to take any and all actions necessary so that Noteholder is in compliance with all anti-money laundering regulations. Any and all loss, damage, liability, penalty, fine or expense (including, without limitation, reasonable attorneys’ fees and investigatory expenses) incurred by Noteholder in connection therewith, including, but not

limited to, attorney's fees, shall be included in the Indebtedness secured hereunder and shall immediately be due and payable by Maker to Noteholder.

F. Waste, Demolition, Alteration or Replacement. Maker will cause the Mortgaged Property and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, will not commit or permit waste thereon, will not remove, demolish or alter the design or structural character of any building now or hereafter erected on the Mortgaged Premises, without the prior written consent of Noteholder, and will comply with any and all laws, rules and regulations of any governmental authority with reference to the Mortgaged Property and the manner and use of the same, and will at any time and from time to time make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. Maker agrees not to remove any of the fixtures or personal property included in the Mortgaged Property without the prior written consent of Noteholder unless immediately replaced with like-kind property of at least equal value. Maker shall act as necessary to continue or cause the continuance of such income producing activity as is presently conducted upon or contemplated for the Mortgaged Property.

G. Inventory of Personal Property. Upon the request of Noteholder, Maker shall deliver to Noteholder an inventory describing and showing the make, model, serial number and location of any and all fixtures and personal property owned by Maker and from time to time used exclusively in the management, maintenance and operation of the Mortgaged Property (other than inventory or property, if any, expressly excluded from the operation of this Deed of Trust by separate written agreement), with a certification by Maker that said inventory is a true and complete schedule of such fixtures and personal property owned by Maker and used in the management, maintenance and operation of the Mortgaged Property and that such items specified in the inventory constitute all of the fixtures and personal property required in the management, maintenance and operation of the Mortgaged Property, and, except as previously disclosed and agreed to in writing, that such items are owned by Maker free and clear of security interests, liens, conditional sales contracts or title retention arrangements. Maker hereby grants to Noteholder a security interest in all such items of fixtures and personal property owned by Maker under the terms and conditions of this Deed of Trust.

H. Financial Statement. For purposes of this Deed of Trust, April 30th of each and every year is the "Financial Statement Due Date". The requirement for certified financial statements has been conditionally waived by Noteholder so long as no Termination of Certified Statement Waiver Event occurs. A "Termination of Certified Statement Waiver Event" means the occurrence of one or more of the following: (i) an Event of Default has occurred and is continuing; or (ii) on or before the Financial Statement Due Date, Maker has failed to deliver to Noteholder (A) annual operating information relating to the Mortgaged Property for each calendar year (or, with respect to the year in which this Deed of Trust was executed by Maker, the portion of the year for which Maker owned the Mortgaged Property) in the form required by the most recent version of the CRE Finance Council Investor Reporting Package, or such other form as required by Noteholder from time to time, signed by the Manager, which includes the certification that, to the best of Maker's knowledge, during the period of time covered by the particular statement, (B) no activity has been conducted upon the property in violation of any state, federal or local law, ordinance or regulation pertaining to toxic or hazardous materials, industrial hygiene or environmental conditions, (C) the Mortgaged Property complies in all material respects with the Americans with Disabilities Act of 1990, as it may be amended from time to time, or any state-level equivalent statute (collectively, the "ADA") and (D) a detailed listing of all tenants leasing space in the Mortgaged Property (such as for any gift shops, restaurants or kiosks but expressly excluding hotel guests) which listing evidences the rate, the Willi, the amount of space, annual rent, any other reimbursements paid by each tenant, and, where appropriate, sales information provided by such tenant on the form attached hereto as Exhibit C attached hereto and incorporated herein for all purposes (or such other form as required by Noteholder from time to time) signed by the Manager. If a Termination of Certified Statement Waiver Event occurs, thereafter Maker shall furnish to Noteholder on or before Financial Statement Due Date until the Indebtedness secured hereby has been fully paid, annual financial statements prepared by or for Maker pertaining to Maker's operation of the Mortgaged Property, each such statement prepared in accordance with generally accepted accounting or management principles customarily used in the commercial real estate industry, consistently applied. The financial statements referenced herein shall also contain Maker's certification that, during the period of time covered by the particular statement, to Maker's knowledge, (y) no activity has been conducted upon the Mortgaged Property in violation of any state, federal or local law, ordinance or regulation pertaining to Hazardous Materials, industrial hygiene or environmental conditions and (z) the Mortgaged Property complies in all material respects with the ADA.

If Maker does not deliver the financial statements as and when required by this paragraph, there shall be added to the Indebtedness and Maker agrees to pay upon demand Two Hundred and 00/100 Dollars (\$200.00) for each calendar month or part thereof until the required financial statements are delivered to Noteholder.

I. Restrictions upon Sale, Transfer or Mortgaging the Mortgaged Property or the Interest in Maker. Except for Permitted Transfers, Maker agrees and covenants not to sell, lease, trade, transfer, assign, exchange, convey, mortgage, pledge or encumber all or any part of the Mortgaged Property, and all holders of any ownership interest in Maker (each a "Constituent Owner" and all the "Constituent Owners") agree that they shall not do or permit any of the foregoing to occur with respect to their respective ownership interests in Maker, absolutely or as security for a debt or other obligation, whether done in a direct or indirect method or enter into any contractual arrangements to do so. Maker further agrees that the foregoing restriction shall be effective and remain in full force and effect throughout the term of this Deed of Trust and shall be applicable to Maker, all partners of Maker and their respective heirs,

administrators, executors, successors and/or assigns. Further, Maker agrees that the waiver of this restriction as to any one transfer, conveyance or encumbrance shall not waive or forfeit the right of Noteholder to enforce the restriction as applicable to any other transaction. Maker agrees that this covenant and all remedies of Noteholder pursuant hereto shall be absolute and unconditional irrespective of whether or not any transfer, conveyance or encumbrance might diminish the value of the security for the Indebtedness or increase the likelihood of an Event of Default or increase the likelihood of Noteholder having to resort to any other security for the Indebtedness after default or add or remove liability of any party for the payment or performance of the Indebtedness. Maker further covenants and agrees that to give written notice to Noteholder in the event there occurs any transaction which would violate the terms and conditions of this provision. The term "Transaction" shall include any voluntary or involuntary act or omission of Maker or any Members. If, as a result of the breach of this Section 6(I), Noteholder elects to declare the entire amount of the Indebtedness immediately due and payable, Maker shall have a period of twenty (20) days to pay the full sum of the Indebtedness, including, without limitation, principal and interest and such failure shall give rise to an Event of Default under the terms and conditions of this Deed of Trust for which Noteholder may require Trustee to sell the Mortgaged Property as provided for herein. Notwithstanding the provisions of this Section 6(I), the definition of "Permitted Transfers" shall include, and Noteholder's consent shall not be required in connection with, (i) a natural person's transfer by will or applicable state intestacy laws or (ii) one or a series of Transactions involving not more than forty-nine percent (49%) of the stock, the limited partnership interests or non-managing membership interests (as the case may be) in Maker or any Constituent Owner; provided, however, no such Transaction shall result in the change of control in Maker or any Constituent Owner, and as a condition to each such Transaction, Noteholder shall receive not less than thirty (30) days prior written notice of such proposed Transaction. As a condition of consenting to the Transaction and waiving its right to disapprove such particular Transaction (but not any future Transaction), Noteholder may, in its sole and absolute discretion, make one or more of the following requirements:

- (A) that the rate of interest contained in the Note be increased to a rate acceptable to Noteholder;
- (B) that a transfer fee, in an amount determined by Noteholder, be paid;
- (C) that a principal payment be made against the Note;
- (D) that the proposed transferee execute an assumption agreement or other document as Noteholder may reasonably require; or
- (E) that any other requirement deemed appropriate by Noteholder be satisfied.

Notwithstanding the above provisions of this Section I, Maker shall be permitted to make one transfer of all of the Mortgaged Property and assignment of the Note and Deed of Trust, to a Moody National Companies real estate investment trust of which Guarantor is CEO and Chairman of the Board. The transfer described in this paragraph shall be a Permitted Transfer.

J. Delivery of Substitute Note. Maker will, if the Note is mutilated, destroyed, lost or stolen, deliver to Noteholder, in substitution therefor, a new promissory note containing the same terms and conditions as the Note with a notation thereon of the unpaid principal and accrued but unpaid interest. Maker shall be furnished with satisfactory evidence of the mutilation, destruction, loss or theft of the Note, and also such security or indemnity as may be reasonably requested by Maker; provided, however, that if the original Noteholder named herein is the then noteholder under this Deed of Trust, an unqualified indemnity from the original noteholder named herein shall be deemed to be satisfactory security or indemnification.

K. Compliance with Covenants, Conditions, Restrictions and Recorded Documents. Maker shall, and shall cause the Mortgaged Property to fully and timely comply with any and all covenants, conditions, restrictions and recorded documents benefiting, burdening or imposed on the Mortgaged Property or any portion thereof or the owner of all or such portion of the Mortgaged Property.

L. ERISA. As of the date hereof and throughout the term of this Deed of Trust (1) Maker is not and will not be an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), which is subject to Title I of ERISA; (2) the assets of Maker do not and will not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA; (3) Maker is not and will not be a "governmental plan" within the meaning of Section 3(3) of ERISA; (4) transactions by or with Maker are not and will not be subject to state statutes applicable to Maker regulating investments of fiduciaries with respect to governmental plans; and (5) Maker shall not engage in any transaction which would cause any obligation or action taken or to be taken hereunder (or the exercise by Noteholder of any of its rights under this Deed of Trust or any of the other Loan Documents to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under ERISA. Maker further agrees to deliver to Noteholder such certifications or other evidence of compliance with the provisions of this section as Noteholder may from time to time request.

M. Performance of Loan Agreement. The funds advanced and secured by this Agreement shall be requisitioned and used solely for loan fees, development and construction costs and interest on the Note and for such other purposes described in and strictly in accordance with the Loan Agreement. The terms, provisions and conditions of the Loan Agreement as they pertain to the disbursement of all or a portion of the proceeds of the Note are hereby incorporated herein and made a part hereof by this specific reference and are to remain in full force and effect as terms, provisions and conditions hereof. In the event that Maker shall fail to

comply with the Loan Agreement beyond all notice and cure periods provided therein, Noteholder may at its option cause the entire Indebtedness secured by this Agreement to become immediately due and payable, and in the event of such Event of Default of Maker hereunder or under the Loan Agreement and whether or not Noteholder shall cause the Indebtedness to become immediately due and payable, Trustee, at the written request of Noteholder or Noteholder is hereby invested with full and complete authority to enter upon the Mortgaged Premises, to employ watchmen to protect the Mortgaged Premises from depredation or injury and to preserve and protect the personal property and equipment therein. All sums advanced by Noteholder (exclusive of the advances of the principal of the indebtedness secured hereby) in accordance with the Loan Agreement shall be secured hereby as a further charge and lien upon the Mortgaged Property and secured hereby, and shall be due and payable within ten (10) business days of receipt of written demand.

N. Approvals; Condemnation. Maker represents and warrants to Noteholder that Maker (a) has obtained all necessary site permits and building permits, governmental and otherwise, necessary for the construction of the Improvements, as defined in the Loan Agreement, and the occupancy and operation of such Improvements and the remainder of the Mortgaged Premises (except for the certificates of occupancy) thereto, and the conduct of its business and all required zoning, building code, land use, environmental and other similar permits have been obtained, and all of them are in full force and effect as of the date hereof and, to the knowledge of Maker, none of them are subject to any pending or anticipated revocation, suspension, forfeiture, or modification, and (b) to Maker's best knowledge and belief there is no proceeding pending (or notice of such proceeding received by Maker) for the total or partial condemnation of, or affecting, the Mortgaged Premises.

0. Single Purpose Entity/Separateness. Maker represents, warrants and covenants as follows:

(a) Limited Purpose. The sole purpose conducted or promoted by Maker is to engage in the following activities:

(i) to acquire, own, hold, lease, operate, manage, maintain, develop and improve the Mortgaged Premises (or an undivided interest therein) and to contract for the operation, maintenance, management and development of the Mortgaged Premises;

(ii) to enter into and perform its obligations under the Loan Documents;

(iii) to sell, transfer, service, convey, dispose of, pledge, assign, borrow money against, finance, refinance or otherwise deal with the Mortgaged Premises to the extent permitted under the Loan Documents; and

(iv) to engage in any lawful act or activity and to exercise any powers permitted to limited liability companies organized under the laws of the State of Delaware that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above mentioned purposes.

(b) Limitations on Debt, Actions. Notwithstanding anything to the contrary in the Loan Documents or in any other document governing the formation, management or operation of Maker, Maker shall not:

(i) guarantee any obligation of any person or entity, including any affiliate, or become obligated for the debts of any other person or entity or hold out its credit as being available to pay the obligations of any other person or entity;

(ii) engage, directly or indirectly, in any business other than as required or permitted to be performed under this Section;

(iii) incur, create or assume any debt other than (A) the loan evidenced by the Note and (B) unsecured trade payables incurred in the ordinary course of its business that are related to the ownership and operation of the Mortgaged Premises and which shall (1) not exceed two percent (2%) of the outstanding balance of the loan evidenced by the Note, (2) not be evidenced by a note, (3) be paid within 60 days, and (4) otherwise expressly be permitted under the Loan Documents;

(iv) make or permit to remain outstanding any loan or advance to, or own or acquire any stock or securities of, any person or entity, except that Maker may invest in those investments permitted under the Loan Documents;

(v) to the fullest extent permitted by law, engage in any dissolution, liquidation, consolidation, merger, sale or other transfer of any of its assets outside the ordinary course of Maker's business;

(vi) buy or hold evidence of indebtedness issued by any other person or entity (other than cash or investment-grade securities);

(vii) form, acquire or hold any subsidiary (whether corporate, partnership, limited liability company or other) or own any equity interest in any other entity;

(viii) own any asset or property other than the Mortgaged Premises (or an undivided interest therein) and incidental personal property necessary for the ownership or operation of the Mortgaged Premises; or

(ix) take any action under any bankruptcy or debtor relief law without the unanimous written approval of all members of Maker.

(c) Separateness Covenants. In order to maintain its status as a separate entity and to avoid any confusion or potential consolidation with any affiliate, Maker represents and warrants that in the conduct of its operations since its organization it has observed, and covenants that it will continue to observe, the following covenants:

(i) maintain books and records and bank accounts separate from those of any other person or entity;
(ii) maintain its assets in such a manner that it is not costly or difficult to segregate, identify or ascertain such assets;

(iii) comply with all organizational formalities necessary to maintain its separate existence;
(iv) hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;

(v) maintain separate financial statements, showing its assets and liabilities separate and apart from those of any other person or entity and not have its assets listed on any financial statement of any other Person or entity; except that Maker's assets may be included in a consolidated financial statement of its affiliate so long as appropriate notation is made on such consolidated financial statements to indicate the separateness of Maker from such affiliate and to indicate that Maker's assets and credit are not available to satisfy the debts and other obligations of such affiliate or any other person or entity;

(vi) prepare and file its own tax returns separate from those of any person or entity to the extent required by applicable law, and pay any taxes required to be paid by applicable law;

(vii) allocate and charge fairly and reasonably any common employee or overhead shared with affiliates;

(viii) not enter into any transaction with affiliates except on an arm's-length basis on terms which are intrinsically fair and no less favorable than would be available for unaffiliated third parties, and pursuant to written, enforceable agreements;

(ix) conduct business in its own name, and use separate stationery, invoices and checks;

(x) not commingle its assets or funds with those of any other person or entity;

(xi) not assume, guarantee or pay the debts or obligations of any other person or entity;

(xii) correct any known misunderstanding as to its separate identity;

(xiii) not permit any affiliate to guarantee or pay its obligations (other than limited guarantees and indemnities set forth in the Loan Documents);

(xiv) not make loans or advances to any other person or entity;

(xv) pay its liabilities and expenses out of and to the extent of its own funds;

(xvi) maintain a sufficient number of employees in light of its contemplated business purpose and pay the salaries of its own employees, if any, only from its own funds;

(xvii) maintain adequate capital in light of its contemplated business purpose, transactions and liabilities; provided, however, that the foregoing shall not require any equity owner to make additional capital contributions to Maker; and

(xviii) cause the managers, officers, employees, agents and other representatives of Maker to act at all times with respect to Maker consistently and in furtherance of the foregoing and in the best interests of Maker.

Failure of Maker to comply with any of the foregoing covenants or any other covenants contained in this Agreement shall not affect the status of Maker as a separate legal entity.

VII. OBLIGATION TO MAINTAIN AND COMPLY WITH FRANCHISE AGREEMENT

As a material inducement to Noteholder to enter into the loan secured by this Deed of Trust, Maker agrees to maintain and keep in full force and effect that certain Residence Inn By Marriott Relicensing Franchise Agreement between Maker, as franchisee, and Marriott International, Inc. (together with its successors and assigns, "Marriott" or "Franchisor"), as franchisor, with an effective date of or about the date hereof with respect to the Mortgaged Property (sometimes therein referred to as 7807 Kirby Rd., Houston, Texas 77030) for operation of a Residence Inn by Marriott (as amended with the consent of Noteholder, the "Franchise Agreement"). Maker

agrees to fulfill or perform each and every covenant of the Franchise Agreement so as to keep it at all times in full force and effect and free from default, and not to enter into any new franchise agreement nor make any modification, consent to any modification of, or cancel, terminate or consent to the surrender of the Franchise Agreement without the prior written consent of Noteholder which consent shall not be unreasonably withheld, conditioned or delayed. Nothing contained in this Deed of Trust or in any other Loan Document shall preclude Noteholder from taking any action to cure or remedy any default of Maker under the Franchise Agreement, or any act, omission or occurrence which but for the passage of time, the giving of notice, or both, would be a default under the Franchise Agreement and any amounts expended by Noteholder in connection with such cure or remediation including, without limitation, reasonable attorney's fees and expenses, shall be an advance under and secured by this Deed of Trust and shall be included in the Indebtedness and shall be paid by Maker to Noteholder on demand. The preceding sentence shall not be construed to obligate Maker to cure any such actual or potential defaults in Maker's obligations under the Franchise Agreement. Maker agrees to provide Noteholder with written notice of all written notices of default and all written notices of termination under the Franchise Agreement within five (5) business days after receipt by Maker.

VIII. FF&E REPLACEMENT RESERVE.

A. Maker shall establish and maintain in an account to be held by Noteholder at all times while the Note is outstanding, a reserve for furnishings, fixtures and equipment, which account shall include interest, if any, and dividends, if any, accrued thereon (the "FF&E Replacement Reserve"), for payment of certain replacement for furnishings, fixtures and equipment expenses, incurred by Maker in connection with the Hotel that constitutes a part of the Improvements (collectively, the "FF&E Replacements"). The FF&E Replacement Reserve constitutes Collateral as such term is defined in this Deed of Trust and Maker intends that Noteholder shall hold and have a perfected security interest in the FF&E Replacement Reserve in first lien position.

B. In addition to the monthly payments due under the Note, commencing in November 2019, and continuing monthly thereafter until the Note and all other indebtedness secured hereby is fully paid and performed, Maker shall pay to Noteholder a deposit to the FF&E Replacement Reserve in the amount equal to CIR Percentage (defined below) of all gross revenue from the Mortgaged Property (the "Gross Hotel Revenues") for the month just ended, which deposits shall be made monthly on or before the fifteenth (15th) day of the following calendar month. The term "CIR Percentage" means two percent (2%) during the period from November 1, 2019 through October 31, 2020, three percent (3%) during the period from November 1, 2020 through October 31, 2021 and four percent (4%) from and after November 1, 2022.

C. All sums in the FF&E Replacement Reserve shall be held by Noteholder in the FF&E Replacement Reserve to pay the costs and expenses of FF&E Replacements and as additional collateral for the Indebtedness. Provided there is no uncured Event of Default or an event which, with notice or the passage of time, or both, could result in an Event of Default by Maker under the Note, this Deed of Trust or any of the other Loan Documents, Noteholder shall, to the extent funds are available for such purpose in the FF&E Replacement Reserve and Noteholder has approved such disbursements in writing in advance in Noteholders reasonable discretion (provided, however, any FF&E Replacements being made in accordance with franchise standards shall be deemed approved), disburse to Maker the amount paid or incurred by Maker in performing such FF&E Replacements within ten (10) business days following: (a) the receipt by Noteholder of a written request from Maker for disbursement from the FF&E Replacement Reserve and a certification from Maker that the applicable portion of the FF&E Replacements for which a disbursement is requested has been completed or which will promptly completed; (b) the delivery to Noteholder of invoices, receipts or other evidence satisfactory to Noteholder, verifying the cost of performing the FF&E Replacements; (c) for disbursement requests in excess of \$25,000.00, the delivery to Noteholder of affidavits, lien waivers or other evidence reasonably satisfactory to Noteholder showing that all materialmen, laborers, subcontractors and any other parties who might or could claim statutory or common law liens and are furnishing or have furnished material or labor to the Hotel or other Mortgaged Property have been paid all amounts due for labor and materials furnished to the Property; (d) for disbursement requests in excess of \$25,000.00, delivery to Noteholder (unless expressly waived in writing by Noteholder for a particular request or group of requests) of a certification from an inspecting architect or other third party acceptable to Noteholder describing the completed reconstruction or replacement of such FF&E Replacements and verifying the completion of reconstruction or replacement of such FF&E Replacements and the value of the completed reconstruction or replacement of such FF&E Replacements; (e) if applicable, at the completion of any such work, delivery to Noteholder of a new certificate of occupancy for the portion of the improvements covered by reconstruction or replacement of such FF&E Replacements, if said new certificate of occupancy is required by law, or if not, a certification by Maker that no new certificate of occupancy is required; (f) such pictures of the of such FF&E Replacements as are reasonably required by Noteholder; and (g) receipt by Noteholder of an administrative fee in the amount of \$250.00.

D. Noteholder shall not be required to make advances from the FF&E Replacement Reserve more frequently than once in any thirty (30) day period. In making any payment from the FF&E Replacement Reserve, Noteholder shall be entitled to rely on such request from Maker without any inquiry into the accuracy, validity or contestability of any such amount. The FF&E Replacement Reserve shall be held by Noteholder in an unsegregated account without interest. The FF&E Replacement Reserve is solely for the protection of Noteholder and entails no responsibility on Noteholder's part beyond the payment of the costs and expenses described in this Section in accordance with the terms hereof and beyond the allowing of due credit for the sums actually received. In the event that the amounts on deposit or available in the FF&E Replacement Reserve are inadequate to pay the cost of the FF&E Replacements,

Maker shall pay the amount of such deficiency. Upon assignment of the Note by Noteholder, any funds in the FF&E Replacement Reserve shall be turned over to the assignee and any responsibility of Noteholder, as assignor, with respect thereto shall terminate. Upon the occurrence and during the continuation of an Event of Default under the Note, this Deed of Trust or any other Loan Document, Noteholder may, but shall not be obligated to, apply at any time the balance then remaining in the FF&E Replacement Reserve against the Indebtedness secured hereby in whatever order Noteholder shall reasonably determine. No such application of the FF&E Replacement Reserve shall be deemed to cure any Event of Default by Maker or Event of Default under the Note, this Deed of Trust or any other Loan Document, until Maker replaces such funds in the FF&E Replacement Reserve.

E. Within fifteen (15) days after full payment of the Indebtedness secured hereby in accordance with its terms or at such earlier time as Noteholder may elect, the balance of the FF&E Replacement Reserve then in Noteholder's possession shall be paid over to Maker and no other party shall have any right or claim thereto. Maker shall furnish FF&E Replacement Reserve accounting information relating to the Mortgaged Property to Noteholder, in form and content satisfactory to Noteholder, which shall include, without limitation, a reconciliation of cash flows for the period covered, not later than one hundred twenty (120) days after the end of the end of each calendar year. Such FF&E Replacement Reserve accounting will contain Maker's certification that, during the period of time covered by the particular statement (A) no funds have been expended for items not generally considered to be "furnishings, fixtures and equipment" in the sense of normal accounting terminology for hotel properties, and (B) the CIR Percentage of Gross Hotel Revenues has been deposited in the FF&E Replacement Reserve to the extent required by this Mortgage.

F. As used in this Section, the term "Gross Hotel Revenues" shall mean the gross revenues of any and all kind or nature attributable to the operations of the Hotel, from cash, barter and credit transactions and computed on an accrual basis (before commissions and discounts for credit cards, prompt or cash payments), including the proceeds of any business interruption insurance or other loss of income insurance attributable thereto, and excluding only sales or room taxes, or tips payable to Hotel employees.

IX. TERMINATION OF TRUST

If Maker shall well and truly pay, or cause to be paid, all of the Indebtedness and does keep and perform each and every covenant, duty, condition and stipulation herein imposed on Maker, in the Note contained, or in any other Loan Document, then this Deed of Trust and the grants and conveyances contained herein shall become null and void, and the Mortgaged Property shall revert to Maker and the entire estate, right, title and interest of Trustee and Noteholder will thereupon cease; and in such case Noteholder shall, upon the request of Maker and at Maker's sole cost and expense, deliver to Maker proper documents acknowledging satisfaction of this Deed of Trust; otherwise, this Deed of Trust shall remain in full force and effect.

X. EVENTS OF DEFAULT

A. Acts Constituting Default. Maker will be in default under this Deed of Trust upon the occurrence of any of the following events or conditions, or the happening of any other event of default as defined elsewhere in this Deed of Trust (herein individually referred to as an "Event of Default"):

(1) Maker fails to make when due any payment of principal or interest or any installment of principal and interest under the Indebtedness.

(2) Maker fails to keep or perform any of the covenants, conditions or stipulations contained in this Deed of Trust, the Note or in any of the other Loan Documents; provided, however, that the remedy for any such Event of Default defined in this Section X(A)(2) shall be subject to the provisions of Section X(B) below and, further provided, however, that no default pursuant to this Section X(A) shall be deemed to have occurred until Maker has been provided written notice of such matter constituting the Event of Default and thirty (30) days having lapsed, or in the event that such matter is not reasonably capable of being cured within such thirty (30) day period so long as is reasonably necessary to cure such matters not to exceed an additional sixty (60) days and only so long as Maker is diligently pursuing such cure.

(3) Any warranty or representation made in this Deed of Trust by Maker is untrue in any material respect.

(4) Any person, corporation or other entity that (a) owns all or any part of the Mortgaged Property; (b) is liable for the payment of all or any part of the Indebtedness; or (c) is a guarantor of all or any part of the Indebtedness (i) admits in writing its inability to pay its debts generally as they become due, (ii) files a petition or answer in bankruptcy as a debtor or seeks reorganization or an arrangement or otherwise to take advantage of any state or federal bankruptcy or insolvency law, (iii) makes an assignment for the benefit of creditors, (iv) files a petition for or consents to the appointment of a receiver for its assets or any part thereof or (v) without such party's consent has a petition filed in any bankruptcy or insolvency proceeding or an order, decree or judgment entered by a court of competent jurisdiction appointing a receiver of the Mortgaged Property or approving a petition filed against such party seeking reorganization or an arrangement of the party or its assets or debts under any bankruptcy or insolvency law and such petition, order, decree or judgment is not dismissed, vacated, set aside or stayed within forty-five (45) days from the date of entry.

(5) Except for Permitted Transfers, Maker sells, trades, conveys, transfers, mortgages, assigns, exchanges, pledges or encumbers (including, without limiting these provisions or any similar references in this Deed of Trust, the granting of a

security interest in) the Mortgaged Premises, the Collateral or any portions thereof or interests therein, or, except for Permitted Transfers, Maker or any shareholder, partner, member, trustee or beneficiary of Maker or a Constituent Owner sells, trades, conveys, transfers, mortgages, assigns, exchanges, pledges or encumbers (including, without limiting any of the provisions of this subparagraph, the granting of a security interest in) any part of its interest in Maker or any Constituent Owner, except for Permitted Transfers, or any such event occurs involuntarily to Maker or such shareholder, partner, member, trustee or beneficiary of Maker or any shareholder, partner, member, trustee or beneficiary of any Constituent Owner, all without the prior written consent of Noteholder.

(6) The authority and right of Maker to do business in the State of Texas is terminated, withdrawn or cancelled and Maker fails to reinstate within thirty (30) days after it becomes aware of such termination, withdrawal or cancellation.

(7) Maker's existence as a legal entity for any reason, by operation of law or otherwise, is modified in any way adverse to Noteholder or terminates and is not reinstated within sixty (60) days thereafter.

(8) A default beyond the passage of any applicable notice and cure periods occurs under the Guaranty.

B. Curable Non-Monetary Default. Upon any Event of Default (other than a default in payment of principal or interest under the Indebtedness, which is capable of cure (sometimes a "Curable Non-Monetary Default") and provided that the granting of such cure period does not jeopardize the lien of this Deed of Trust or the value of the Mortgaged Property, then Noteholder shall not hold a foreclosure sale or terminate Maker's license, if any, to collect rents pursuant to any assignment of rents for such Curable Non-Monetary Default until after Noteholder provides Maker with written notice of such Curable Non-Monetary Default and such Curable Non-Monetary Default remains uncured on the earlier of (1) the thirtieth (30th) day (or such longer number of days, up to a maximum of ninety (90) days, as may be reasonably necessary to cure the Curable Non-Monetary Default, provided that Maker continuously and diligently pursues such cure) after such written notice, or (2) any comparable cure period permitted by any applicable tenant leases, insurance policies or any other contracts. In no event shall Noteholder be precluded from accelerating the Indebtedness, commencing and pursuing any judicial or non-judicial foreclosure action or exercising any other right or remedy at law or in equity including, without limitation, any other right or remedy provided in this Deed of Trust or in any of the other Loan Documents during such 30-day cure period; provided, however, that in the event Noteholder accelerates the Indebtedness solely due to such Curable Non-Monetary Default and such Curable Non-Monetary Default is cured within such 30-day period, then the Indebtedness shall be reinstated pursuant to a written reinstatement agreement to be executed by the parties within thirty (30) days of such cure, such agreement to be in a form satisfactory to Noteholder. As a condition to such reinstatement, Maker shall pay Noteholder's reasonable attorney's fees and expenses in connection with preparation and negotiation of the reinstatement agreement and the premium for a so-called "T-38" title endorsement (or any such successor or similar endorsement if the so-called "T-38" is no longer offered) to the Title Policy.

XI. RIGHTS OF NOTEHOLDER UPON DEFAULT

A. Acceleration of Indebtedness. Upon the occurrence of an Event of Default or at any time thereafter, Noteholder may, at its option and without demand or notice to Maker, accelerate the maturity of the Note and declare the Indebtedness secured hereby immediately due and payable. Unless otherwise provided herein, Maker hereby waives presentment for payment, protest and demand, notice of protest, demand, dishonor and default, notice of intent to declare the Indebtedness immediately due and payable and notice of the declaration that the Indebtedness is immediately due and payable, and any and all rights Maker may have to a hearing before any judicial authority prior to the exercise by Noteholder of any of its rights under this Deed of Trust or any other agreements securing or executed in connection with the Indebtedness, all to the extent authorized by law.

B. Operation of Property by Trustee. Upon the occurrence of an Event of Default, or at any time thereafter, in addition to all other rights herein conferred on Trustee, Trustee (or any person, firm or corporation designated by Trustee) may, but will not be obligated to, enter upon and take possession of any or all of the Mortgaged Property, exclude Maker therefrom and hold, use, administer, manage and operate the same to the extent that Maker could do so. If the Mortgaged Property includes any type of business enterprise, Trustee may operate and manage such business without any liability of Noteholder to Maker resulting therefrom (excepting failure to use ordinary care in the operation and management of the Mortgaged Property); and Trustee or Trustee's designee may collect, receive and receipt for all proceeds accruing from such operation and management, and, at Maker's expense, make repairs and purchase needed additional property, and exercise every power, right and privilege of Maker with respect to the Mortgaged Property. When and if the expenses of such operation and management have been paid and the Indebtedness has been paid, the Mortgaged Property shall be returned to Maker (providing there has been no foreclosure sale). This provision is a right created by this Deed of Trust and cumulative of, and is not in any way to affect, the right of Noteholder to the appointment of a receiver given Noteholder by law or otherwise.

C. Judicial Proceedings. Upon the occurrence of an Event of Default, or at any time thereafter, or upon the breach of any covenant, ten'n or condition herein contained, Noteholder, in lieu of or in addition to causing Trustee to exercise the power of sale hereafter given, may proceed by suit for a foreclosure of its lien on the Mortgaged Property, or to sue Maker for damages on, arising out of said default or breach, or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right.

D. Foreclosure Sale.

(1) Mechanics of Sale. Upon the occurrence of any Event of Default, or at any time thereafter, Trustee, when requested to do so by Noteholder, shall sell the Mortgaged Premises at public auction to the highest bidder for cash, between the hours of 10:00 a.m. and 4:00 p.m. on the first Tuesday in any month. Such sale shall be held at the area of the courthouse in the county in which the Mortgaged Premises, or any part thereof, is situated, which area has been designated for such purpose by the county commissioners court of such county, but if no such area has been so designated as of the time of the posting of the notice for such sale as hereinafter provided, then such sale shall be conducted at the door of the courthouse of such county. Such sale shall be conducted only after Trustee or Noteholder has caused the (a) advertisement of the time, place and terms of sale and the description of the Mortgaged Premises by posting, or causing to be posted, at least twenty-one (21) consecutive days prior to the date of said sale, written or printed notices thereof at the door of the courthouse of the county in which the Mortgaged Premises, or any part thereof, is situated, which notice may be posted by Trustee or by any person acting for him, and which notice shall state the earliest time between 10:00 p.m. and 4:00 p.m. on the sale date that the sale will occur, and shall further state that the sale will be conducted at the door of the courthouse of the county in which the Mortgaged Premises, or any part thereof, is located, unless a location for such sale has been designated by the county commissioners court of such county, in which case, no specific designation of area shall be required in said notice; and (b) filing, at least twenty-one (21) days preceding the date of such sale, of a copy of the aforesaid notice in the office of the County Clerk of the county in which the sale is to be made. Such sale shall commence not later than three (3) hours after the time designated in said notice for the sale to occur. Noteholder shall, at least twenty-one (21) days preceding the date of such sale, serve or cause to be served written or printed notice of the proposed sale as described in this paragraph by certified mail on each party obligated to pay the Indebtedness (each an "obligor"), according to the records of Noteholder by the deposit of such notice, enclosed in a postpaid wrapper, properly addressed to such obligor at obligor's most recent address as shown by the records of Noteholder in a post office or official depository under the care and custody of the United States Postal Service. Trustee may postpone the sale of all or any portion of the Mortgaged Premises without public announcement, and from time to time thereafter may further postpone such sale without public announcement. Maker hereby authorizes and empowers Trustee to sell the Mortgaged Premises, as a unit or in lots or in parcels, as Trustee shall deem expedient. If the Mortgaged Premises is located in more than one (1) county, the notices shall be (y) posted at the courthouse door and (z) filed with the County Clerk of each county in which the Mortgaged Premises is located (designating the county in which the sale will be held) and the Mortgaged Premises may be sold at the door of the courthouse of any one (1) of such counties.

(2) Collateral. On the happening of any Event of Default or at any time thereafter, Noteholder or Trustee shall have and may exercise with respect to the Collateral all rights, remedies and powers of a "Secured Party" under the TBCC with reference to the Collateral or any other items in which a security interest has been granted herein, including, without limitation, the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the Collateral and any part or parts thereof in any manner to the fullest extent authorized or permitted under the TBCC after default by Maker, without regard to preservation of the Collateral or its value and without the necessity of a court order, and apply the proceeds thereof first toward the payment of all costs and expenses and reasonable attorneys' fees incurred by Noteholder or Trustee, and second the balance toward the payment of the Indebtedness whether or not then due, and in such order or manner as Noteholder may elect. Upon an Event of Default, Noteholder shall have, among other rights, the right to take possession of the Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing such items, without being guilty of or liable for trespass and without liability for damages occasioned thereby, and to take any action deemed appropriate or desirable by Noteholder, at its sole option and discretion, to repair, restore or otherwise prepare the Collateral for sale or lease or other use or disposition as authorized herein. To the fullest extent permitted by law, Maker expressly waives any notice of sale or any other disposition of the Collateral and any rights or remedies of Maker or the formalities prescribed by law relative to the sale or disposition of the Collateral or to the exercise of any other right or remedy of Noteholder existing after a default. To the fullest extent that such notice is required and cannot be waived, Maker agrees that if such notice is mailed postage prepaid to Maker at the address shown herein at least five (5) days before the time of the sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

Maker agrees that either Trustee or Noteholder may proceed to sell or dispose of both the real and personal property covered herein in accordance with the rights and remedies granted under this Deed of Trust with respect to the real or personal property covered hereby. Maker hereby grants Noteholder the right, at its sole option and discretion, after default by Maker to transfer at any time to itself or its nominee the Collateral or any part thereof and to receive the monies, income, proceeds and benefits attributable to the same and to hold the same as Collateral or to apply such amounts on the Indebtedness, whether or not then due, and in such order and manner as Noteholder may elect. Maker covenants and agrees that all recitals and any document transferring, assigning, leasing or making any other disposition of the Collateral or any part thereof shall be full proof of the matters stated therein and no further proof shall be required to establish the legal propriety of the sale or other action taken by Noteholder or Trustee and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred. All rights to a marshalling of the assets of Maker, including, without limitation, such rights with respect to the Collateral and the Mortgaged Premises, are hereby waived.

(3) Maker's Warranties After Sale. Maker hereby authorizes and empowers Trustee to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold in foreclosure sales good and sufficient deeds of conveyance thereto

by fee simple title, with covenants of general warranty, subject to any Permitted Exceptions and the title of such purchaser or purchasers when so made for itself and on behalf of Trustee, Maker, its successors and assigns binds itself to warrant and forever defend such title.

(4) Application of Proceeds. The proceeds of any and all foreclosure sales of the Mortgaged Property shall be applied as follows: (a) to the payment of all necessary actions and expenses incident to the execution of said sale or sales, including, without limitation, a reasonable fee to Trustee not exceeding five percent (5%) of the gross proceeds of the sale or sales of the Mortgaged Property; (b) to the payment of the Indebtedness in such order as determined by Noteholder, to the amount of the accrued interest and principal legally due thereon and all other sums secured hereby, and to the payment of attorneys' fees as in the Note provided; and (c) the remainder, if any, shall be paid to Maker or such other person or persons entitled thereto by law.

(5) Multiple Sales. Upon the occurrence of any Event of Default or at any time thereafter, Noteholder shall have the option to proceed with foreclosure in satisfaction of said Event of Default, either through the courts or by directing Trustee to proceed with foreclosure as provided for in this Deed of Trust, but without declaring the entire Indebtedness due, and provided that if any sale is made because of such Event of Default, such sale may be made subject to the unmatured part of the Note and Indebtedness secured by this Deed of Trust, and such sale, if so made, shall not in any manner affect the unmatured part of the Indebtedness secured by this Deed of Trust, but as to such unmatured part of the Indebtedness this Deed of Trust shall remain in full force and effect as though no sale had been made under the provisions of this Section 9(D)(5). Multiple sales may be made under the provisions of this Section 9(D)(5) without exhausting the right of sale for any remaining part of the Indebtedness whether then matured or unmatured, the purpose hereof to provide for a foreclosure and sale of the Mortgaged Property for any matured part of the Indebtedness without exhausting any power of foreclosure and the power to sell the Mortgaged Property for any other part of the Indebtedness, whether matured at the time or subsequently maturing.

(6) Waiver of Appraisal Laws. Maker waives the benefit of any and all laws now existing or hereafter enacted providing for (a) any appraisal before sale of any portion of the Mortgaged Property (commonly known as Appraisal Laws), or (b) any extension of time for the enforcement of the collection of the Indebtedness or any creation or extension of a period of redemption from any sale made in collecting the Indebtedness (commonly known as Stay Laws and Redemption Laws).

(7) Prerequisites of Sales. In the event of any foreclosure sale of the Mortgaged Property, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder, all statements of facts, or other recitals therein made as to the nonpayment of money secured or as to the request of Trustee to enforce the trust established by this Deed of Trust, or as to the proper and due appointment of any substitute trustee, or as to the advertisement of sale, or time, place and manner of sale, or as to any other preliminary fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

XII. USE OF INSURANCE PROCEEDS

A. Holding of Proceeds. Notwithstanding the provisions of Section 6(C) hereof, any insurance proceeds paid to Noteholder will be first applied in payment of the expenses, if any, incurred by Noteholder in the collection of said insurance proceeds and second the balance, if any, will be held and disbursed by Noteholder in accordance with the following provisions:

(1) (a) Should there exist an Event of Default at the time of a casualty or should there occur at any time thereafter an Event of Default; (b) should fifty percent (50%) or more of the rentable square feet of the Mortgaged Property be damaged; (c) should any insurance proceeds be remaining after the completion of all restoration work; (d) should Maker fail to comply with the requirements for disbursing the insurance proceeds; or (e) should, in Noteholder's judgment, the Mortgaged Property be unable to be restored prior to the maturity date of the Note, then in any of the said events, Noteholder may, at its option, apply the insurance proceeds on the Indebtedness, in any order and whether due or not, or to the restoration of the Mortgaged Property, or to be released to Maker, but any such application or release shall not cure or waive any default.

(2) If the insurance proceeds have not been disbursed under the provisions of Section 10(A)(1) above, or if under Section 10(A)(1) Noteholder elects to permit the insurance proceeds to be used for restoration of the Mortgaged Property, the proceeds will be held and disbursed as follows:

(a) Should the insurance proceeds be less than \$25,000.00, Maker shall immediately commence and complete the work of restoring the damaged property and Noteholder will disburse the portion of the insurance proceeds to pay actual costs to replace, repair and restore the damaged property to Maker upon (i) completion of the restoration work to a condition satisfactory to Noteholder, (ii) submission of a written report by Maker that all restoration work has been completed and (iii) receipt by Noteholder of such evidence as Noteholder may require that all mechanics and materialmen performing work or supplying materials for the restoration work have been fully paid.

(b) Should the insurance proceeds equal or be in excess of \$25,000.00, but less than \$100,000.00, Maker shall cause plans and specifications ("Plans") for the restoration of the damaged property to be submitted to Noteholder for approval. Upon receipt of Noteholder's approval, Maker shall forthwith commence and complete the restoration of the damaged property in accordance with the approved Plans. Noteholder will disburse the portion of the insurance proceeds to pay the actual costs to repair and

restore the damaged property to Maker upon (i) completion of the restoration work to a condition satisfactory to Noteholder, (ii) submission of a written report by Maker that all restoration work has been completed and (iii) receipt by Noteholder of such evidence as Noteholder may require that all mechanics and materialmen performing work or supplying materials for the restoration work have been completely paid.

(c) If the insurance proceeds are equal or in excess of \$100,000.00 (i) Plans for the restoration of the damaged property and a cost estimate will both be prepared by an architect employed by Maker and acceptable to Noteholder. The Plans and cost estimates will be submitted to Noteholder for approval. Upon receipt of Noteholder's approval, Maker will promptly commence and diligently pursue the restoration work in accordance with the approved Plans; (ii) if prior to the commencement of, or at any time during the restoration work, Noteholder shall determine that the total cost of the restoration work shall exceed the balance of the insurance proceeds held in its possession, Maker shall immediately pay, in cash, to Noteholder the amount of such excess costs. Until the amount of said excess costs is paid to Noteholder, Noteholder shall not be obligated to disburse any of the insurance proceeds held by it. The insurance proceeds and the amount of excess costs paid by Maker are hereinafter called "Construction Funds". The amount of such excess costs paid by Maker shall be disbursed prior to the disbursement of any of the insurance proceeds held by Noteholder; and (iii) the Construction Funds will be made available to Maker as restoration repair work progresses pursuant to certificates of the architect approved by Noteholder, submitted not more than once every thirty (30) days. There shall be delivered to Noteholder such other evidences as Noteholder may reasonably request, from time to time, during the restoration work, as to the progress of the work, the compliance with the approved Plans, the total cost of restoration work to date of request, the total cost needed to complete the restoration work, lien waivers or evidence of no liens against the Mortgaged Property. If at any time during the course of the restoration work, Noteholder learns of facts concerning the restoration work which is materially adverse to Noteholder, or payment or nonpayment of mechanics and materialmen, or inaccuracy of any information furnished with respect to it, Noteholder may withhold the disbursement of funds until such time as it is prudent to continue to disburse the Construction Funds or may determine not to make any further disbursements of the Construction Funds and instead to apply all such funds remaining to the payment of the Indebtedness then outstanding, whether due or not at such time, without any prepayment premium, and in such order as determined by Noteholder.

(³) Noteholder shall not be required to hold any funds received by it described in this Section 10(A) in any account special or separate from Noteholder's general account. No such funds shall be required to be placed in any interest bearing account, and any interest earned thereon shall constitute additional insurance proceeds to be applied as provided in this Deed of Trust.

B. Intentionally reserved.

X111. SPECIAL CONDITIONS

This Deed of Trust is expressly made subject to the following special conditions:

A. Successor Trustees. At the option of Noteholder, without cause or notice, successor or substitute trustees may be appointed by any officer, agent or attorney-in-fact of Noteholder, without procuring the resignation of the former Trustee and without any formality other than a designation in writing of such successor or substitute trustees, who shall thereupon become vested with and succeed to all the powers and duties given to Trustee herein named, the same as if the successor or substitute trustees had been named original Trustee herein; and such right to appoint successor or substitute trustees shall exist as often and whenever Noteholder desires.

B. Jury Trial Waiver. MAKER RECOGNIZES THAT DISPUTES ARISING OUT OF THE LOAN TRANSACTION SECURED BY THIS DEED OF TRUST ARE LIKELY TO BE COMPLEX AND WISH TO STREAMLINE AND MINIMIZE THE COST OF THE DISPUTE RESOLUTION PROCESS BY AGREEING TO WAIVE ITS RIGHT TO JURY TRIAL. MAKER HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM THAT RELATES TO OR ARISES OUT OF ANY OF THE LOAN DOCUMENTS OR THE ACTS OR FAILURE TO ACT OF OR BY MAKER IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS DEED OF TRUST OR THE OTHER LOAN DOCUMENTS.

C. Waiver and Election. The exercise of any right or remedy by Noteholder shall not be considered as a waiver of any right or remedy nor shall any acceptance by Noteholder of Maker's partial payment or partial performance of the obligations under the Note or hereunder, nor shall any failure or delay by Noteholder in exercising any of its rights or remedies as to any Event of Default which may occur, operate as a waiver by Noteholder of its rights or remedies with respect to the occurrence of any other or further Event of Default or to the recurrence of the same Event of Default. The filing of a suit to foreclose the Deed of Trust granted by this Deed of Trust, either on any matured portion of the Indebtedness or for the entirety of the Indebtedness, shall never be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the filing of the necessary notices for foreclosure, as provided in this Deed of Trust, preclude the exercise by Noteholder of any other right or remedy including, without limitation, the prosecution of a later suit thereon.

D. Landlord-Tenant Relationship. Any foreclosure sale of the Mortgaged Property (in whole or in part) under this Deed of Trust or any conveyance in lieu thereof shall, without further notice, establish the relationship of landlord and tenant at sufferance between the purchaser and Maker and any person or entity claiming an interest in the Mortgaged Property through Maker or otherwise

occupying any portion of the Mortgaged Property, and upon failure to surrender possession thereof, Maker and all such persons and entities may be removed by a writ of possession upon suit by the purchaser.

E. Usury. Notwithstanding any provision in this Deed of Trust to the contrary, it is expressly provided that in no event should the aggregate amounts, which by applicable law are deemed to be interest with respect to this Deed of Trust, the Note or any of the other Loan Documents ever exceed the Maximum Nonusurious Rate (as defined in the Note). In this connection, it is expressly stipulated and agreed that it is the intention of Noteholder and Maker to contract in strict compliance with applicable usury laws of the State of Texas and/or of the United States (whichever permits the higher rate of interest) from time to time in effect. Nothing in this Deed of Trust, the Note or any other Loan Document shall ever be construed to create a contract to pay, as consideration for the use, forbearance or detention of money, interest at a rate in excess of the Maximum Nonusurious Rate. If under any circumstances the aggregate amounts contracted for, charged or paid with respect to the Note, which by applicable law are deemed to be interest, would produce an interest rate greater than the Maximum Nonusurious Rate, Maker and any other person obligated to pay the Note, stipulates that the amounts will be deemed to have been paid, charged or contracted for as a result of an error on the part of Maker, any other such person obligated for the payment of the Note and Noteholder, and upon discovery of the error or upon notice thereof from Maker or the party making such payment, Noteholder or the party receiving such excess payment shall, at its sole option, refund the amount of such excess payment or credit the excess payment against any other amount due under the Note. In addition, all sums paid or agreed to be paid to the holder of the Note for the use, forbearance or detention of monies shall be, to the extent permitted by applicable law, amortized, prorated, allocated and spread through the term of the Note. At all times, if any, as Title Four of the Texas Finance Code, as amended ("Title Four") or other applicable law shall establish the Maximum Nonusurious Rate, then the Maximum Nonusurious Rate for purposes herein shall be the "weekly ceiling" (as defined in Title Four or such other applicable law) from time to time in effect; provided, however, that Noteholder may at any time and from time to time, as to current or future balances, implement any other ceiling under such Title Four or revise the index, formula or the provisions of law used to compute the Maximum Nonusurious Rate by notice to Maker, if and to the extent permitted by, in the manner in, such Title Four or other applicable law.

F. Enforceability. If any provision hereof is presently or at any time becomes invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of Trustee and Noteholder to effectuate the provisions hereof.

G. Application of Payments. If the trust or liens established by this Deed of Trust are invalid or unenforceable as to any part of the Indebtedness or if such lien or liens are invalid or unenforceable as to any part of the Mortgaged Property, the unsecured or partially unsecured portion of the Indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Indebtedness, and all payments made on the Indebtedness, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been first paid on and applied to the full payment of that portion of the Indebtedness which is not secured or not fully secured by the lien or liens created herein.

H. Meaning of Particular Terms. Whenever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. The words "Maker" and "Noteholder" shall include their successors and assigns, and the word "Trustee" shall include his or her successors and substitute trustees. For convenience of drafting, the following groups of words, and derivations thereof, are used interchangeably and any reference to one or more shall include the others notwithstanding anything seemingly to the contrary: (1) the words "act", "omission" and "occurrence" and (2) "instrument" and "document".

I. Advances by Noteholder. If Maker shall fail to comply with the provisions with respect to the securing of insurance, payment of taxes, assessments and other charges, the keeping of the Mortgaged Property in repair or any other term or covenant herein contained, Noteholder may, but shall not be obligated to, incur such expenses as deemed necessary by Noteholder, and make advances to perform such provisions, terms or covenants, and where necessary enter the Mortgaged Property for the purpose of performing same. Noteholder is further empowered, but not obligated, to make advances for any expenditure deemed advisable by Noteholder for the preservation of the Mortgaged Property or for the continuation of the operation thereof. Maker agrees to repay any and all sums so advanced or expended, and all expenses incurred by Noteholder in connection with the exercise of any of its rights under this Deed of Trust, upon demand, with interest from the date such advances or expenditures are made, determined on the same basis as matured principal in the Note and all sums so advanced or expended, with interest, shall be secured hereby.

J. Release or Extension by Noteholder. Noteholder, with notice, may release any part of the Mortgaged Property or any person liable for the Indebtedness without in any way affecting the trust or the liens hereof on any part of the Mortgaged Property not expressly released and may agree in writing with any party with an interest in the Mortgaged Property to extend the time for payment of all or any part of the Indebtedness or to waive the prompt and full performance of any term, condition or covenant of any document securing, evidencing or relating to the Indebtedness.

K. Partial Payments. Acceptance by Noteholder of any payment of less than the amount due on the Indebtedness shall be deemed acceptance on account only, and the failure to pay the entire amount then due shall be and continue to be a default herein; and at any time thereafter and until the entire amount due on the Indebtedness has been paid, Noteholder shall be entitled to exercise all rights conferred on it by the terms of this Deed of Trust upon the occurrence of such an Event of Default.

L. Titles not to be Considered. All section, subsection, paragraph or other titles contained in this Deed of Trust are for reference purposes only and this Deed of Trust shall be construed without reference to said titles.

M. Construction of Deed of Trust. This Deed of Trust may be construed as a mortgage, deed of trust, chattel mortgage, fixture filing, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract or any one or more of them, in order to fully effectuate the trust and lien hereof and the purposes and agreements herein set forth.

N. Additional Taxes and Indemnification. Maker agrees that if any state, federal or municipal government, or any of its subdivisions having jurisdiction, shall levy, assess or charge any tax, assessment or imposition upon this Deed of Trust or the credit or indebtedness secured hereby or the Note or the interest of Noteholder in the Mortgaged Premises or upon Noteholder by reason of any of the foregoing (excepting therefrom any income tax on interest payments on the principal portion of the Indebtedness secured hereby), then Maker shall pay all such taxes to or for Noteholder as they become due and payable, and provided further that in the event of passage of any law or regulation permitting, authorizing or requiring the tax, assessment or imposition to be levied, assessed or charged, which law or regulation prohibits Maker from paying the tax, assessment or imposition, to or for Noteholder, then all sums hereby secured shall become immediately due and payable at the option of Noteholder. Maker agrees to exhibit to Noteholder at any time upon request, official receipts showing payment of all taxes, assessments and charges which Maker is required or elects to pay hereunder. Maker agrees that if the government of the United States or any department or bureau thereof shall at any time require revenue stamps to be affixed to the Note or this Deed of Trust, Maker will upon demand pay for stamps in the required amount and deliver them to Noteholder and Maker agrees to INDEMNIFY and HOLD HARMLESS Noteholder from and against any and all losses, damages, liabilities or expenses (including, without limitation, reasonable attorneys' fees and investigatory expenses) on account of such revenue stamps, whether such loss, damage, liability or expense arises before or after payment of the Note and any termination of the estate created by this Deed of Trust whether as a result of the exercise by Noteholder of any default remedies available to it at law or in equity or otherwise; SUCH INDEMNIFICATION AND AGREEMENT TO HOLD HARMLESS SPECIFICALLY INCLUDES ANY LOSS, DAMAGE, EXPENSE OR LIABILITY CAUSED BY OR ATTRIBUTABLE TO THE STRICT LIABILITY OR THE ORDINARY OR SIMPLE NEGLIGENCE, AS OPPOSED TO THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OF AN INDEMNITEE, but such INDEMNIFICATION and AGREEMENT TO HOLD HARMLESS shall not apply to the extent that such loss, damage, expense or liability is caused by or attributable to Noteholder's gross negligence or willful misconduct.

O. INDEMNIFICATION. MAKER AGREES TO INDEMNIFY AND HOLD HARMLESS NOTEHOLDER FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES AND EXPENSES, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND INVESTIGATORY EXPENSES, INCURRED IN CONNECTION WITH ANY SUIT OR PROCEEDING IN OR TO WHICH NOTEHOLDER MAY BE MADE A PARTY FOR THE PURPOSE OF PROTECTING THE TRUST AND LIEN OF THIS AGREEMENT, INCLUDING LOSSES, DAMAGES AND EXPENSES RESULTING FROM NOTEHOLDER'S STRICT LIABILITY OR NEGLIGENCE, EXCEPT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF NOTEHOLDER. Maker's obligations pursuant to the foregoing indemnification and agreement to hold harmless shall survive any termination of the trust or estate established by this Deed of Trust, whether as a result of the exercise by Noteholder of any default remedies available to it at law or in equity or otherwise.

P. Additional Documents. Maker agrees that upon request of Noteholder Maker shall execute, acknowledge and deliver all such additional documents and further assurances of title and will do or cause to be done all such further acts and things as may be necessary to fully effectuate the intent of this Deed of Trust. Maker within ten (10) days upon request in person or by mail will furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Deed of Trust, the date to which interest has been paid and stating either that no offsets or defenses exist against the debt secured hereby, or, if such offsets or defenses are alleged to exist, the nature thereof.

Q. Disclosure. Maker agrees to disclose to Noteholder upon request, the then ownership of the beneficial interest in any trust which then holds legal title to the Mortgaged Property and shall cause the owner(s) of such beneficial interest to furnish sufficient evidence to Noteholder for it to determine the identity of all of the parties which compose such owner(s).

R. Subrogation. In the event that the Note is given for money advanced in the payment of a sum owing upon another note or indebtedness, Maker hereby acknowledges that it has requested and does hereby request Noteholder to advance the money necessary to pay such Note or Indebtedness, whether or not a release or transfer of said other note or indebtedness has been or will be executed by the owner and holder thereof, and Maker hereby agrees that Noteholder and Noteholder's successors and assigns shall be, and are hereby, subrogated to any and all of the rights, liens, remedies, equities, superior title and benefits held, owned, possessed or enjoyed at any time by any owner or holder of said other note or indebtedness, to secure payment to Noteholder of the Note hereby secured and, accordingly, any such other note and indebtedness, and all liens securing same are hereby extended to the maturity date of the Note hereby secured in order to additionally secure such Note. Nothing in this Section 11(Q) shall alter any obligation of Maker hereunder or under the Note.

S. Time. Time is of the essence of this Deed of Trust.

T. Multiple Counterparts. This Deed of Trust may be executed in multiple counterparts, each of which shall be an original document and which, taken together, shall constitute one and the same agreement.

U. Governing Law. THIS DEED OF TRUST AND THE OTHER LOAN DOCUMENTS AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL IN ALL RESPECTS BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS (WITHOUT GIVING EFFECT TO TEXAS' PRINCIPLES OF CONFLICTS OF LAW), EXCEPT TO THE EXTENT (a) OF PROCEDURAL AND SUBSTANTIVE MATTERS RELATING ONLY TO THE CREATION, PERFECTION, FORECLOSURE AND ENFORCEMENT OF RIGHTS AND REMEDIES AGAINST THE MORTGAGED PROPERTY, WHICH MATTERS SHALL BE GOVERNED BY THE LAWS OF THE STATE IN WHICH THE MORTGAGED PROPERTY IS LOCATED ("APPLICABLE STATE LAW"), AND (b) THAT THE LAWS OF THE UNITED STATES OF AMERICA AND ANY RULES, REGULATIONS, OR ORDERS ISSUED OR PROMULGATED THEREUNDER, APPLICABLE TO THE AFFAIRS AND TRANSACTIONS ENTERED INTO BY NOTEHOLDER, OTHERWISE PREEMPT APPLICABLE STATE LAW OR VIRGINIA LAW; IN WHICH EVENT FEDERAL LAW SHALL CONTROL.

V. Notices. All notices required to be given hereunder shall be in writing and shall be deemed served and received on the date of deposit in United States mail and sent certified mail, return receipt requested, postage prepaid, and addressed to the applicable party at the addresses specified in the introductory paragraph of this Deed of Trust, or such other addresses as may from time to time be designated by written notice given as herein required. The parties hereto agree that a single notice sent to Maker at its address set forth herein (or designated in accordance with this Section 11(T)) shall be deemed notice to all parties constituting Maker. Personal delivery to a party or to any officer, trustee, partner, agent or employee of such party at its address herein shall constitute receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall also constitute receipt. Notwithstanding the foregoing, no notice of change of address shall be effective until thirty (30) days after the date of receipt thereof

W. Deficiency Statute. To the maximum extent permitted by law, the following shall be the basis for the finder of fact's determination of the fair market value of the Mortgaged Premises as of the date of the foreclosure sale in proceedings governed by Sections 51.003, 51.004 and 51.005 of the Texas Property Code (as amended from time to time): (1) the Mortgaged Premises shall be valued in an "as is" "where is" and "with all faults" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Premises will be repaired or improved in any manner before a resale of the Mortgaged Premises after foreclosure; (2) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Mortgaged Premises for cash promptly (but no later than twelve (12) months) following the foreclosure sale; (3) all reasonable closing costs customarily borne by seller in commercial real estate transactions should be deducted from the gross fair market value of the Mortgaged Premises, including, without limitation, brokerage commissions, title insurance, a survey of the Mortgaged Premises, tax prorations, attorneys' fees, and marketing costs; (4) the gross fair market value of the Mortgaged Premises shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Premises pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in item (3) above), and other maintenance, operational and ownership expenses; and (5) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Mortgaged Premises must be given by persons having at least five (5) years experience in appraising property similar to the Mortgaged Premises and who have conducted and prepared a complete written appraisal of the Mortgaged Premises taking into consideration the factors set forth above.

X. COLLATERAL PROTECTION INSURANCE NOTICE.

PURSUANT TO THE COLLATERAL PROTECTION INSURANCE NOTICE PROVISIONS OF TEXAS FINANCE CODE, SECTION 307.052, and without limiting any of Maker's obligations in Section VI.C. or elsewhere in this Deed of Trust:

(a) MAKER IS REQUIRED UNDER THIS DEED OF TRUST:

(i) TO KEEP THE MORTGAGED PROPERTY INSURED AGAINST DAMAGE IN THE AMOUNTS SPECIFIED BY NOTEHOLDER IN SECTION 6.3 HEREOF;

(ii) TO PURCHASE THE INSURANCE FROM AN INSURER THAT IS FULLY LICENSED AND AUTHORIZED TO DO BUSINESS IN THE STATE OF TEXAS; AND

(iii) TO NAME NOTEHOLDER AS THE PERSON TO BE PAID UNDER THE POLICY IN THE EVENT OF A LOSS;

(b) MAKER SHALL, IF REQUESTED BY NOTEHOLDER, DELIVER TO NOTEHOLDER A COPY OF THE POLICY AND PROOF OF THE PAYMENT OF PREMIUMS; AND

(c) IF MAKER FAILS TO MEET ANY REQUIREMENT LISTED IN PARAGRAPHS (a) OR (b) OF THIS SECTION, NOTEHOLDER MAY OBTAIN COLLATERAL PROTECTION INSURANCE ON BEHALF OF MAKER AT MAKER'S EXPENSE.

X. CONSENT TO JURISDICTION. TO INDUCE NOTEHOLDER TO MAKE THE LOAN AS EVIDENCED BY THE NOTE, MAKER IRREVOCABLY AGREES THAT, SUBJECT TO NOTEHOLDER'S SOLE AND ABSOLUTE ELECTION, ANY RECEIVERSHIP, OTHER ACTIONS OR PROCEEDINGS ARISING OUT OF OR RELATED TO THIS DEED OF TRUST WHICH ARE REQUIRED TO BE LITIGATED IN THE STATE IN WHICH THE MORTGAGED PROPERTY IS LOCATED, WILL BE LITIGATED IN COURTS HAVING SITUS IN THE COUNTY IN WHICH THE MORTGAGED PROPERTY IS LOCATED AND ALL OTHER ACTIONS SHALL BE LITIGATED IN COURTS HAVING SITUS IN HARRIS COUNTY, TEXAS. EXCEPT FOR ACTIONS REQUIRING LITIGATION IN THE COUNTY IN WHICH THE MORTGAGED PROPERTY IS LOCATED, MAKER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN HARRIS COUNTY, TEXAS, WAIVES PERSONAL SERVICE OF PROCESS UPON MAKER, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO MAKER AT THE ADDRESS STATED HEREIN.

Y. Conditional Recourse Limitations. Without limiting in any way the obligations of Guarantor under the Guaranty and except as provided in the Guaranty, Noteholder's sole recourse against Maker shall be against the Mortgaged Property described in this Deed of Trust and such other Loan Documents, and Noteholder shall not be entitled to recover any deficiency judgment against Maker if the foreclosure or recovery of such Mortgaged Property is not sufficient to pay the amount owed by Maker. Notwithstanding the foregoing limitation of liability, Maker shall be fully liable for (a) the amount of any loss or damages suffered by Noteholder as a result of fraud or material misrepresentation made by Maker in connection with the Note or any document securing, evidencing or relating to the payment of the Note or the apparent purpose of which is to deprive Noteholder of the security for the Note; (b) failure to pay when due taxes, assessments, charges for labor or materials or any other charges which can create liens on any portion of the Mortgaged Property (less any money held by Noteholder in an escrow account established as a reserve for such payment); (c) the amount of any loss or damages suffered by Noteholder as a result of the misapplication of (i) proceeds of insurance covering any portion of the Mortgaged Property, (ii) proceeds of the sale or condemnation of any portion of the Mortgaged Property or (iii) rentals and security deposits received by or on behalf of Maker subsequent to the date on which Noteholder gives written notice of the posting of foreclosure notices or the exercise of Noteholder's assignment of rents; (d) failure to maintain, repair or restore the Mortgaged Property in accordance with any document securing, evidencing or relating to the payment of the Note (less any money held by Noteholder in an escrow account established as a reserve for such payment); (e) for any act or omission knowingly or intentionally committed or permitted by Maker which results in the material waste, damage or destruction to the Mortgaged Property, but only to the extent such events are not covered by insurance proceeds which are received by Noteholder; (f) the return to Noteholder of all unearned advance rentals and security deposits paid by tenants of the Mortgaged Property or any guarantors of the leases of such tenants which are not rightfully refunded to or which are forfeited by such tenants or guarantors; (g) the return of, or reimbursement for Maker's personal property taken from the Mortgaged Property by or on behalf of Maker; (h) any liability of Maker pursuant to the provision contained in this Deed of Trust pertaining to hazardous or toxic materials or substances; (i) any liability of Maker pursuant to the Certificate and Indemnity Regarding Hazardous Substances executed by Maker and delivered to Noteholder in connection with the indebtedness evidenced by the Note; (j) any damages, liabilities, costs and expenses incurred by Noteholder due to any intentional delay caused by Maker in deeding over the Mortgaged Property to Noteholder or failure to cooperate in a consensual foreclosure within ninety (90) days of Noteholder's request; (k) the amount of any loss or damage suffered by Noteholder as a result of the failure to maintain or alter the Mortgaged Property in compliance with the ADA; and (l) for any and all court costs and reasonable attorneys' fees incurred in connection with the enforcement of one or more of the above items (a) through (k), inclusive.

[REMAINDER OF PAGE INTENTIONALLY BLANK.]

IN WITNESS WHEREOF, Maker has executed and delivered this Deed of Trust, Security Agreement and Financing Statement on the date set forth in the acknowledgment below, to be effective as of date first written above.

MAKER:

RI II MC-HOU, LLC,
a Delaware limited liability company

By: /s/ Brett C. Moody

Name: Brett C. Moody

Title: President

THE STATE OF TEXAS
COUNTY OF HARRIS

BEFORE me, the undersigned Notary Public, on this day personally appeared Brett C. Moody, the President of RI II MC-HOU, LLC, a Delaware limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same for the purposes and consideration therein expressed on behalf of said limited liability company.

Given under my hand and seal of office this 5th day of September, 2017.

NOTARY PUBLIC – State of Texas

EXHIBIT A

Mortgaged Premises

Unrestricted Reserve "A", in Block 1, of RESIDENCE INN MEDICAL CENTER, in Harris County, Texas, according to the map or plat thereof, recorded under Film Code No. 674452, of the Map Records of Harris County, Texas.

EXHIBIT B

Permitted Exceptions

1. Restrictive Covenants as set forth in Film Code No. 674452, of the Map Records of Harris County, Texas.
2. The following matters reflected on the recorded plat filed under Film Code No. 674452, of the Map Records of Harris County, Texas:
 - (a) An easement for drainage purposes extending 15 feet on each side of the centerline of all natural drainage courses.
 - (b) Building set back line(s) 25 feet in width along the front property line.
 - (c) Houston Lighting and Power Company easement, 10 feet in width along the Southeasterly property line, together with an aerial easement 5 feet wide from a plane 20 feet above the ground attached thereto; and as set out in instrument(s), filed under Harris County Clerk's File No(s). D953829.

Foiifi of Annual Detailed Listing of Tenants and Lease and Rental Information

Loan Application of:

Name of Lessee or Tenant and guarantor, if any (Where applicable, list national tenants first, then regional then local.)	Type of Business	Date Lease Expires	Guaranteed Minimum Annual Rent	Actual Annual Overage Rent (If any)	Number of Sq. Ft. Leased	Guaranteed Rent per Sq. Ft.	Has Lease Been Signed?
Total							

Remarks: _____

Date: 20

Exhibit C Deed of Trust, Security Agreement and Financing Statement

RP-2017-405008
Pages 44
09/13/2017 01:50 PM
e-Filed & e-Recorded in the
Official Public Records of
HARRIS COUNTY
STAN STANART
COUNTY CLERK
Fees \$184.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law. THE STATE OF TEXAS

COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Stan Stanart

COUNTY CLERK
HARRIS COUNTY, TEXAS

PROMISSORY NOTE

\$22,550,000.00

April 29, 2019

FOR VALUE RECEIVED, MOODY NATIONAL OPERATING PARTNERSHIP II, LP, a Delaware limited partnership ("Borrower"), hereby promises to pay to the order of RI II MC-HOU, LLC, a Delaware limited liability company (together with any and all of its successors and assigns and/or any other holder of this Note, "Lender"), without offset, in immediately available funds in lawful money of the United States of America, the principal sum of TWENTY-TWO MILLION FIVE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$22,550,000.00) (or the unpaid balance of all principal advanced against this Note, if that amount is less), together with interest on the unpaid principal balance of this Note from day to day outstanding as hereinafter provided.

Section 1. Payment Schedule and Maturity Dates. Principal and interest on this Note shall be payable as follows:

- (a) On April 29, 2019, Borrower shall pay \$7,824,082.00 toward the principal sum.
- (b) Beginning on May 15, 2019 and occurring on the 15th day of each month thereafter through and including October 15, 2019, Borrower shall pay \$2,000,000.00.
- (c) The entire principal balance of this Note then unpaid, together with all accrued and unpaid interest and all other amounts payable hereunder, shall be due and payable in full on December 15, 2019 (the "Maturity Date").

Section 2. Interest Rate. Interest on the outstanding principal balance of, and all other sums owing under this Note, which are not past due, shall accrue and be payable at a per annum rate which is equal to the lesser of (i) the Maximum Lawful Rate (as defined below), or (ii) the Note Rate (as defined below). Interest shall be computed for the actual number of days which have elapsed, on the basis of a 360-day year. The term "Note Rate" shall mean three percent (3.00%) per annum. The term "Maximum Lawful Rate" shall mean the maximum lawful rate of interest which may be contracted for, charged, taken, received or reserved by Lender in accordance with the applicable laws of the State of Texas (or applicable United States federal law to the extent that such law permits Lender to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law). If any amount payable by Borrower hereunder is not paid when due, such amount shall thereafter bear interest at the Past Due Rate (as defined below) to the fullest extent permitted by applicable law. Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable on demand, at a rate per annum (the "Past Due Rate") equal to the lesser of (y) eighteen percent (18%), or (z) the Maximum Lawful Rate.

Section 3. Prepayment. Upon five (5) days advanced written notice to Lender, Borrower may prepay all or any portion of the principal amount of this Note without penalty. In connection with any such prepayment of principal, Borrower acknowledges and agrees that interest shall always be calculated and paid through the last day of the month in which the prepayment occurs. Any prepayments shall be applied to amounts owed under this Note in the order set forth in Section 5 below.

Section 4. Late Charges. If Borrower shall fail to make any payment under the terms of this Note (other than the payment due at maturity) within five (5) days after the date such payment is due, Borrower shall pay to Lender on demand a late charge equal to five percent (5%) of the amount of such payment. Such five (5) day period shall not be construed as in any way extending the due date of any payment or the Maturity Date. The late charge is imposed for the purpose of defraying the expenses of Lender incident to handling such delinquent payment. This charge shall be in addition to, and not in lieu of, any other amount that Lender may be entitled to receive or action that Lender may be authorized to take as a result of such late payment.

Section 5. Certain Provisions Regarding Payments. All payments on this Note shall, at the sole option of Lender, be applied at any time and from time to time and in any order, to the following: (a) the payment or reimbursement of any expenses, late charges, costs or obligations (other than the principal hereof and interest hereon) for which Borrower shall be obligated or Lender entitled pursuant to the provisions hereof, (b) the payment of accrued but unpaid interest hereon, and (c) the payment of all or any portion of the principal balance then outstanding hereunder. Remittances shall be made without offset, demand, counterclaim, deduction, or recoupment (each of which is hereby waived) and shall be accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Lender of any payment in an amount less than the amount then due on any indebtedness shall be deemed an acceptance on account only, notwithstanding any notation on or accompanying such partial payment to the contrary, and shall not in any way (a) waive or excuse the existence of an Event of Default (as hereinafter defined), (b) waive, impair or extinguish any right or remedy available to Lender hereunder, or (c) waive the requirement of punctual payment and performance or constitute a novation in any respect. Payments received after 2:00 p.m. shall be deemed to be received on, and shall be posted as of, the following Business Day. Whenever any payment under this Note falls due on a day which is not a Business Day, such payment may be made on the next succeeding Business Day.

Section 6. Events of Default. The occurrence of any one or more of the following shall constitute an "Event of Default" under this Note:

(a) Borrower fails to pay when and as due and payable any amounts payable by Borrower to Lender under the terms of this Note.

(b) Borrower fails to timely perform, observe or keep any covenant, agreement or condition in this Note and (other than a monetary payment under (a) above) and such failure continues uncured for a period of thirty (30) days after notice from Lender to Borrower.

Section 7. Remedies. Upon the occurrence of an Event of Default, Lender may at any time thereafter exercise any one or more of the following rights, powers and remedies:

(a) Lender may accelerate the Maturity Date and declare the unpaid principal balance and accrued but unpaid interest on this Note, and all other amounts payable hereunder, at once due and payable, and upon such declaration the same shall at once be due and payable.

(b) Lender may set off the amount due against any and all accounts, credits, money, securities or other property now or hereafter on deposit with, held by or in the possession of Lender to the credit or for the account of Borrower, without notice to or the consent of Borrower.

(c) Lender may exercise any of its other rights, powers and remedies at law or in equity.

Section 8. Remedies Cumulative. All of the rights and remedies of Lender under this Note are cumulative of each other and of any and all other rights at law or in equity, and the exercise by Lender of any one or more of such rights and remedies shall not preclude the simultaneous or later exercise by Lender of any or all such other rights and remedies. No single or partial exercise of any right or remedy shall exhaust it or preclude any other or further exercise thereof, and every right and remedy may be exercised at any time and from time to time. No failure by Lender to exercise, nor delay in exercising, any right or remedy shall operate as a waiver of such right or remedy or as a waiver of any Event of Default.

Section 9. Costs and Expenses of Enforcement. Borrower agrees to pay to Lender on demand all reasonable costs and expenses incurred by Lender in seeking to collect this Note, including court costs and reasonable attorneys' fees and expenses, whether or not suit is filed hereon, or whether in connection with bankruptcy, insolvency or appeal. Nothing in this Note shall affect the right of Lender to serve process in any manner otherwise permitted by law and nothing in this Note will limit the right of Lender otherwise to bring proceedings against Borrower in the courts of any jurisdiction or jurisdictions.

Section 10. Heirs, Successors and Assigns. The terms of this Note shall bind and inure to the benefit of the heirs, devisees, representatives, successors and assigns of the parties. The foregoing sentence shall not be construed to permit Borrower to assign the Note.

Section 11. General Provisions. Time is of the essence with respect to Borrower's obligations under this Note. If more than one person or entity executes this Note as Borrower, all of said parties shall be jointly and severally liable for payment of the indebtedness evidenced hereby. Borrower and each party executing this Note as Borrower hereby severally (a) waive demand, presentment for payment, notice of dishonor and of nonpayment, protest, notice of protest, notice of intent to accelerate, notice of acceleration and all other notices (except any notices which are specifically required by this Note), filing of suit and diligence in collecting this Note or enforcing any of the security herefor; (b) agree to any substitution, subordination, exchange or release of any such security or the release of any party primarily or secondarily liable hereon; (c) agree that Lender shall not be required first to institute suit or exhaust its remedies hereon against Borrower or others liable or to become liable hereon or to perfect or enforce its rights against them or any security herefor; (d) consent to any extensions or postponements of time of payment of this Note for any period or periods of time and to any partial payments, before or after maturity, and to any other indulgences with respect hereto, without notice thereof to any of them; and (e) submit (and waive all rights to object) to non-exclusive personal jurisdiction of any state or federal court sitting in the state and county in which payment of this Note is to be made for the enforcement of any and all obligations under this Note; (f) waive the benefit of all homestead and similar exemptions as to this Note; (g) agree that their liability under this Note shall not be affected or impaired by any determination that any title, security interest or lien taken by Lender to secure this Note is invalid or unperfected; and (h) hereby subordinate any and all rights against Borrower and any security for the payment of this Note, whether by subrogation, agreement or otherwise, until this Note is paid in full. A determination that any provision of this Note is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Note to any person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other persons or circumstances. This Note may not be amended except in a writing specifically intended for such purpose and executed by the party against whom enforcement of the amendment is sought. Captions and headings in this Note are for convenience only and shall be disregarded in construing it. This Note and its validity, enforcement and interpretation shall be governed by the laws of the State of Texas (without regard to any principles of conflicts of laws) and applicable United States federal law. Whenever a time of day is referred to herein, unless otherwise specified such time shall be the local time of the place where payment of this Note is to be made. The term "Business Day" shall mean any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of Texas. The words "include" and "including" shall be interpreted as if followed by the words "without limitation."

Section 12. No Usury. Interest on the debt evidenced by this Note will not exceed the maximum rate or amount of nonusurious interest that may be contracted for, taken, reserved, charged, or received under law. Any interest in excess of that maximum amount will be credited on the unpaid principal of this Note, if the principal has been paid, refunded. On any acceleration or required or permitted prepayment, any excess interest will be cancelled automatically as of the acceleration or prepayment or, if the excess interest has already been paid, credited on the principal or, if the principal has been paid, refunded. This provision overrides any conflicting provisions in this Note. Borrower hereby agrees that as a condition precedent to any claim seeking usury remedies or penalties against Lender, Borrower will provide written notice to Lender, advising Lender in reasonable detail of the nature and amount of the violation and Lender shall have sixty days after receipt of such notice in which to correct such usury violation, if any, by either refunding such excess interest to Borrower or crediting such excess interest against the Note then owing by Borrower to Lender. To the extent that Lender is relying on Chapter 303 of the Texas Finance Code to determine the Maximum Lawful Rate payable on the Note or any other portion of the Indebtedness, Lender will utilize the weekly ceiling from time to time in effect as provided in such Chapter 303, as amended. To the extent United States federal law permits Lender to contract for, charge, take, receive or reserve a greater amount of interest than under Texas law, Lender will rely on United States federal law instead of such Chapter 303 for the purpose of determining the Maximum Lawful Rate. Additionally, to the extent permitted by applicable law now or hereafter in effect, Lender may, at its option and from time to time, utilize any other method of establishing the Maximum Lawful Rate under such Chapter 303 or under other applicable law by giving notice, if required, to Borrower as provided by applicable law now or hereafter in effect. In no event shall the provisions of Chapter 346 of the Texas Finance Code (which regulates certain revolving credit loan accounts and revolving triparty accounts) apply to the Note.

16. Further Assurances and Corrections. From time to time, at the request of Lender, Borrower will (i) promptly correct any defect, error or omission which may be discovered in the contents of this Note or in the execution or acknowledgement thereof; (ii) execute, acknowledge, deliver, record and/or file (or cause to be executed, acknowledged, delivered, recorded and/or filed) such further documents and instruments (including, without limitation, further deeds of trust, security agreements, financing statements, continuation statements and assignments of rents) and perform such further acts and provide such further assurances as may be necessary, desirable, or proper, in Lender's opinion, (A) to carry out more effectively the purposes of this Note and the transactions contemplated hereunder, (B) to confirm the rights created under this Note, and (C) to protect and further the validity, priority and enforceability of this Note; and (iii) pay all costs in connection with any of the foregoing.

17. Rate Change for Failure to Provide Financial Information. Borrower shall provide Lender from time to time with current financial information for Borrower, as such financial information is reasonably requested by Lender. In the event Borrower shall fail to provide such financial information to Lender whether pursuant to a request from Lender, Borrower and Lender acknowledge and agree that the Note Rate shall increase by one percent (1.00%).

18. Debtor and Creditor Relationship. Notwithstanding any prior business or personal relationship between Borrower and Lender, or any officer, director or employee of Lender that may exist or have existed, the relationship between Borrower and Lender is solely that of debtor and creditor. Lender has no fiduciary or other special relationship with Borrower. Borrower and Lender are not partners or joint venturers, and no term or condition of this Note shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

APPLICABLE LAW. THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TEXAS AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA.

WAIVER OF JURY TRIAL. BORROWER AND LENDER (BY ACCEPTANCE OF THIS NOTE) WAIVE TRIAL BY JURY IN RESPECT TO ANY DISPUTE AND ANY ACTION ON SUCH DISPUTE. THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY BORROWER AND LENDER, AND BORROWER AND LENDER HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THIS NOTE. BORROWER AND LENDER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. BORROWER FURTHER REPRESENTS AND WARRANTS THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS NOTE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

BALLOON PAYMENT. THIS NOTE IS PAYABLE IN FULL ON DECEMBER 15, 2019. YOU MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE NOTE AND UNPAID ACCRUED INTEREST THEN DUE. THE LENDER IS UNDER NO OBLIGATION TO REFINANCE THE NOTE AT THAT TIME. YOU WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS YOU MAY OWN, OR YOU WILL HAVE TO FIND A LENDER WILLING TO LEND YOU THE MONEY AT PREVAILING MARKET RATES, WHICH MAY BE CONSIDERABLY HIGHER OR LOWER THAN THE INTEREST RATE ON THIS NOTE. IF YOU REFINANCE THIS NOTE AT MATURITY, YOU MAY HAVE TO PAY SOME OR ALL CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN EVEN IF YOU OBTAIN REFINANCING FROM THE SAME LENDER.

ENTIRE AGREEMENT. THIS NOTE CONTAINS THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO ORAL AGREEMENTS AMONG THE PARTIES.

(remainder of page intentionally left blank; signature page follows)

IN WITNESS WHEREOF, Borrower has duly executed this Note under seal as of the date first above written.

BORROWER:

MOODY NATIONAL OPERATING PARTNERSHIP II, LP, a
Delaware limited partnership

By: Moody National REIT II, Inc., a Maryland corporation, its
general partner

By: /s/ Brett C. Moody

Name: Brett C. Moody

Title: CEO