

File No. 210411

Committee Item No. 1

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Budget & Finance Committee

Date May 19, 2021

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input type="checkbox"/> | <input type="checkbox"/> | Ordinance |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget and Legislative Analyst Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Youth Commission Report |
| <input type="checkbox"/> | <input type="checkbox"/> | Introduction Form |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
| <input type="checkbox"/> | <input type="checkbox"/> | MOU |
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| <input type="checkbox"/> | <input type="checkbox"/> | Award Letter |
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OTHER (Use back side if additional space is needed)

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Completed by: Linda Wong

Date May 14, 2021

Completed by: Linda Wong

Date _____

1 [Contract Amendment - Hyatt Corporation - Hotel Management for On-Airport Hotel - Not to
2 Exceed \$23,841,880]

3 **Resolution approving the Fourth Modification to the Hotel Management Agreement with**
4 **Hyatt Corporation for management of the on-airport hotel at San Francisco**
5 **International Airport, to reduce the management fees paid to Hyatt Corporation during**
6 **Hotel operating years 2021 and 2022, extend the trigger dates for certain performance**
7 **termination events, extend the initial term by two years, and increase the contract**
8 **amount for a new total amount not to exceed \$23,841,880 to commence upon Board**
9 **approval.**

10
11 WHEREAS, On September 22, 2015, by Resolution No. 15-0178, the Airport
12 Commission awarded Contract No. 50006, the Hotel Management Agreement (the "HMA"), to
13 Hyatt Corporation ("Hyatt") to manage the on-airport hotel (the "Hotel") at San Francisco
14 International Airport (the "Airport"), with a term of ten years and one five-year option to extend
15 at the discretion of the Commission, and a not to exceed compensation amount of
16 \$19,945,418 plus reimbursement of expenses; and

17 WHEREAS, On December 1, 2015, by Resolution No. 434-15, the Board of
18 Supervisors approved the execution and delivery of the HMA; and

19 WHEREAS, The Airport Commission and Hyatt have entered into three previous
20 modifications to the HMA to clarify certain matters, including a First Modification, dated as of
21 June 1, 2017, a Second Modification, dated as of August 1, 2017, and a Third Modification,
22 dated as of May 9, 2018; and

23 WHEREAS, The Hotel opened on October 4, 2019 and has been operating at a loss
24 since the onset of the COVID-19 pandemic in March 2020 due to substantially reduced guest
25 reservations and event facility bookings; and

1 WHEREAS, The HMA provides for Hyatt to receive compensation in the form of a
2 management fee for its services as Hotel manager, according to a fixed fee schedule, with a
3 portion (the “Base Management Fee”) being paid from gross Hotel revenue, and a portion (the
4 “Subordinate Management Fee”) being paid from net Hotel revenue after funding certain
5 reserves and paying debt service on special facility bonds issued to finance the Hotel; and

6 WHEREAS, In light of the significant financial challenges to the Hotel arising out of the
7 COVID-19 pandemic, Airport staff have negotiated a Fourth Modification to the HMA to
8 (1) reduce the Base Management Fees paid to Hyatt by 60% for 2021 and by 30% for 2022,
9 for a total fee reduction of \$1,158,535; (2) extend the trigger dates for certain performance
10 termination events that allow the Airport Commission to terminate the HMA due to Hyatt’s
11 performance as manager; (3) extend the initial HMA term by two years, for a new initial term
12 of 12 years while retaining one 5-year option to extend at the discretion of the Airport
13 Commission; (4) provide for payment from Hotel revenues of additional management fees of
14 \$5,054,997 to compensate Hyatt for its management services during years 11 and 12 of the
15 initial HMA term; and (5) make changes necessary to preserve the tax-exempt status of
16 interest on the related bonds, among other changes; and

17 WHEREAS, On April 6, 2021, by Resolution No. 21-0092 (the “Commission Fourth
18 Modification Resolution”), the Airport Commission approved the Fourth Modification to the
19 HMA and authorized the Airport Director to execute and deliver the Fourth Modification to the
20 HMA and to take certain actions relating to consent of the trustee for the special facility bonds
21 secured by net revenue of the Hotel; and

22 WHEREAS, The Fourth Modification to the HMA, the Commission Fourth Modification
23 Resolution, and the HMA as previously modified are all on file with the Clerk of the Board of
24 Supervisors in File No. 210411; now, therefore, be it

1 RESOLVED, That the Board of Supervisors hereby declares that each of the foregoing
2 recitals is true and correct and is a representation of the Board; and, be it

3 FURTHER RESOLVED, That the Fourth Modification to HMA in the form presented
4 and on file with the Clerk of the Board is hereby approved, and that the Airport Director and
5 other appropriate Airport officials are hereby authorized to execute and deliver the Fourth
6 Modification to HMA; and, be it

7 FURTHER RESOLVED, That within thirty (30) days of the Fourth Modification to the
8 HMA being executed by all parties, the Airport Director shall provide copies of the executed
9 document to the Clerk of the Board for inclusion into the official file; and, be it

10 FURTHER RESOLVED, That all actions heretofore taken by the officers, agents and
11 employees of the Airport Commission and the City to carry out the intents and purposes of the
12 Commission Fourth Modification Resolution, and of this Resolution, as consistent with this
13 Resolution, are hereby ratified, approved and confirmed; and, be it

14 FURTHER RESOLVED, That the Airport Commission and its proper officers, agents
15 and employees and those of the City are hereby authorized to take such actions or execute
16 such certificates, documents and agreements, in consultation with the City Attorney, as may
17 be necessary or desirable to carry out the intents and purposes of this Resolution and the
18 transactions contemplated hereby (the "Other Documents"), without the need for further
19 approval by the Board of Supervisors; provided, that any such other actions or execution of
20 any such Other Documents are intended solely to further the purposes of this Resolution, and
21 are subject in all respects to the terms of this Resolution; and provided further, that no such
22 actions or execution of such Other Documents shall increase the risk to the Airport
23 Commission or the City or require the Airport Commission or the City to expend any resources
24 not otherwise authorized hereby; and, be it

1 FURTHER RESOLVED, That should the application of any provision of this Resolution
2 to any particular facts or circumstances be found by a court of competent jurisdiction to be
3 invalid or unenforceable, then (a) the validity of other provisions of this Resolution shall not be
4 affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent
5 possible so as to effect the intent of this Resolution.

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Item 1**File 21-0411****Department:** San Francisco International Airport**EXECUTIVE SUMMARY****Legislative Objectives**

- The proposed resolution would approve the Fourth Modification to the Hotel Management Agreement between the Airport and the Hyatt Corporation (Hyatt) to (1) reduce the Management Fees paid through the Agreement to Hyatt in CY 2021 and CY 2022; (2) extend the trigger dates for certain performance termination events; (3) extend the initial term by two years; and (4) increase the Agreement amount to not-to-exceed \$23,841,880.

Key Points

- Hyatt operates a 351-room on-site Hotel built and owned by the Airport. In 2015, the Board of Supervisors approved the Hotel Management Agreement between the Airport and Hyatt for a 10-year term, commencing following opening of the on-site Hotel in October 2019 with one five-year option to extend at the discretion of the Airport. The Management Agreement provided for a fBase Management Fee paid to Hyatt from Hotel operating revenues to cover the costs of services provided from the Hyatt central office, with amounts set according to a fixed schedule over the initial 10-year term of the Agreement, not-to-exceed \$19,945,418; and in the years in which revenues exceed costs, Hyatt would be entitled to a Subordinate Management Fee payment from net profit after deductions to fund various capital reserves and the costs of debt service
- Since the beginning of the COVID-19 pandemic in March 2020, Hotel expenses have exceeded Hotel revenues. In order to reduce Hotel expenses, the proposed Fourth Modification reduces the Base Management Fee paid to Hyatt over CY 2021 and CY 2022 by \$1,158,535. In exchange, the initial Hotel Management Agreement term would be extended by two years, for a total 12-year term. The two-year agreement extension would increase the total Management Fees paid to Hyatt to not-to-exceed \$23,841,880.

Fiscal Impact

- Approval of the proposed resolution reduces the Airport's Base Management Fee payment to Hyatt by \$1,158,535 for CY 2021 and CY 2022.

Policy Consideration

- Hotel Bonds were restructured earlier this year, following Board approval. There are no debt service payments due on the Hotel Bonds until April 2023, allowing time for the travel industry and for Hotel revenues to recover from the COVID-19 pandemic.
- The Hotel currently has \$2,500,000 in its Working Capital Reserve Fund and \$349,299 in the Operating Account (Lockbox) that may be used, if necessary, to support Hotel operating expenses such as payroll. The resolution will provide additional financial buffer.

Recommendation

- Approve the proposed resolution.

MANDATE STATEMENT

City Charter Section 9.118(a) states that contracts entered into by a department, board, or commission that (i) have anticipated revenues of \$1 million or more, or (ii) that have anticipated revenues of \$1 million or more and requires modifications, are subject to Board of Supervisors approval.

City Charter Section 9.118(b) states that contracts entered into by a department, board, or commission that (i) have a term in excess of ten years, or (ii) that require anticipated expenditures by the City and County of \$10 million or more, are subject to Board of Supervisors approval.

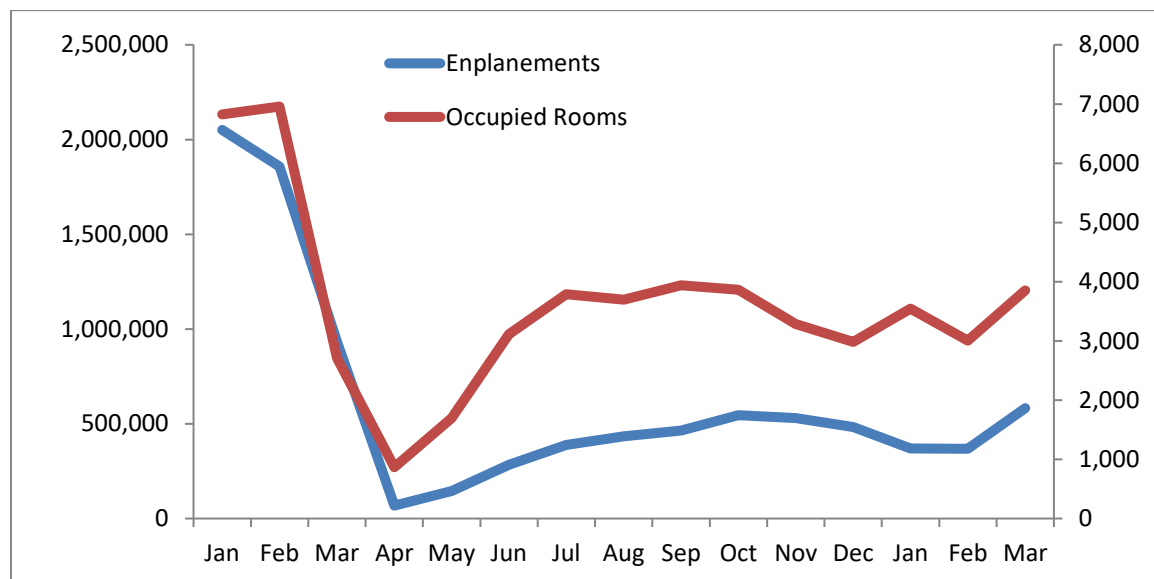
BACKGROUND

On December 1, 2015 the Board of Supervisors approved the Hotel Management Agreement between the Airport and Hyatt Corporation to supervise, direct and control the management, operation and promotion of the recently completed 351-room on-site Hotel built and owned by the Airport (Resolution 434-15). The Agreement had a term of ten years to commence following opening of the on-site Hotel in October 2019 with one five-year option to extend at the discretion of the Airport. The Hotel is fully owned by the Airport, and operated as a separate Special Facility that is independent of other Airport operations. The Hotel Management Agreement designated Hyatt as the sole party responsible for all aspects of management and operations. All operating costs incurred by Hyatt are covered by Hotel operating revenues. The Management Agreement included a provision in which Hyatt is paid a Base Management Fee to cover the costs of services provided from the Hyatt central office, with amounts set according to a fixed schedule over the initial 10-year term of the Agreement, not-to-exceed \$19,945,418. The Agreement also included a provision that in the years in which revenues exceed costs, Hyatt would be entitled to a Subordinate Management Fee payment from net profit after deductions to fund various capital reserves and the costs of debt service.

Impact of the COVID-19 Pandemic

The COVID- 19 pandemic resulted in a significant decline in air travel and hotel sector occupancy levels; the decline in the number of passenger enplanements and number of occupied rooms at the Hotel per month is shown in Exhibit 1. While passenger air traffic has subsequently recovered somewhat, current passenger enplanements remain below pre-pandemic levels. Hotel occupancy fell from 6,824 occupied rooms in January 2020 (or 62.7%) to 866 occupied rooms in April 2020 (or 8.2%). In July of 2020, occupancy levels returned to approximately one-half of pre-pandemic levels – although the real scope of improvement is likely to be less if adjusted to account for seasonal variations in travel.

Exhibit 1: Change in Enplanements and the Hotel’s Occupied Rooms, Jan 2020 – March 2021



Source: Airport and Hyatt

Despite the limited improvement, current occupancy rates are insufficient for Hyatt to cover current operating costs, as seen in Exhibit 2, and the Hotel has been operating with monthly net losses since the onset of the global pandemic.¹

Exhibit 2: Hotel Operating Revenues and Expenses, Oct 2019 through March 2021

	Oct-19	Nov-19	Dec-19	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20
Revenues	1,539,000	2,115,000	2,193,000	2,774,000	2,648,000	884,000	199,000	358,000	770,000
Expenses	2,074,000	2,349,000	2,256,000	2,440,000	2,345,000	1,492,000	822,000	838,000	992,000
Net Income	(535,000)	(234,000)	(63,000)	334,000	303,000	(608,000)	(623,000)	(480,000)	(222,000)

	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21
Revenues	899,000	901,000	1,069,000	986,000	812,000	674,000	877,000	715,000	899,000
Expenses	1,274,000	1,215,000	1,400,000	1,157,000	1,148,000	1,005,000	1,175,000	1,083,000	1,179,000
Net Income	(375,000)	(314,000)	(331,000)	(171,000)	(336,000)	(331,000)	(298,000)	(368,000)	(280,000)

Source: Airport

¹ The Hotel, which began operations in October 2019, incurred an operating loss of \$535,000 in October 2019, decreasing to \$63,000 in December 2019. In the two months prior to the pandemic, the Hotel had operating surpluses of \$334,000 in January 2020 and \$303,000 in February 2020. According to Airport staff, the Hotel drew on liquidity reserves for essential operating expenses, such as payroll.

DETAILS OF PROPOSED LEGISLATION

The proposed resolution would approve the Fourth Modification to the Hotel Management Agreement between the Airport and Hyatt to (1) reduce the Management Fees paid through the Agreement to Hyatt in CY 2021 and CY 2022; (2) extend the trigger dates for certain performance termination events; (3) extend the initial term by two years; and (4) increase the Agreement amount to not-to-exceed \$23,841,880.

Management Fee and Term Extension

Under the terms of the current Agreement, the Management Fee consists of the Base Management Fee, which is paid to Hyatt in 12 monthly installments, and the Subordinate Management Fee. Hyatt is entitled to a Subordinate Management Fee if sufficient net Hotel revenues remain after funding of Hotel operations, certain reserves, and debt service on the Hotel Special Facility Revenue Bonds.² If annual Hotel revenues are not sufficient to pay the Subordinate Management Fee, this fee is carried forward to subsequent years without interest.

Reduction in Base Management Fee

The proposed Fourth Modification reduces the Base Management Fee paid to Hyatt over CY 2021 and CY 2022 by \$1,158,535, shown in Exhibit 3 below. According to Mr. Anwar Elgonemy, Airport Hotel and Special Projects Director, the Airport believes that the reduction in the Base Management Fee will reduce Hotel expenses without significantly impacting Hyatt's ability to meet its contractual obligations, and will create a more stable interim period over which time both parties anticipate an improvement in enplanements and occupancy rates as air travel increases and the economy recovers.

Two-Year Term Extension

In exchange for the reduction in the Base Management Fee, the Airport agreed to extend the initial Agreement term by two years, from 10 years to 12 years. Because of the extended Agreement term, the total Agreement amount increases from \$19,945,418 and \$23,841,880, as shown in Exhibit 3 below.

² The Board of Supervisors previously authorized the Airport to issue Special Facility Revenue Bonds (File 15-0987) to finance development of the Hotel, and the restructuring of the Hotel's payment of debt service on the Bonds from October 2020 to April 2023 (File 21-0007).

Exhibit 3: Adjusted Management Fee Structure

Year *	Original Agreement			Proposed Fourth Modification			Change
	Base	Subordinate	Total	Base	Subordinate	Total	
1	\$710,473	\$236,824	\$947,297	\$710,473	\$236,824	\$947,297	\$0
2 **	1,086,714	364,049	1,450,763	597,693	364,049	961,742	(489,021)
3 **	1,480,406	491,495	1,971,901	925,254	491,495	1,416,749	(555,152)
4 **	1,524,819	506,240	2,031,059	1,410,458	506,240	1,916,698	(114,361)
5	1,570,564	521,427	2,091,991	1,570,564	521,427	2,091,991	0
6	1,622,111	538,541	2,160,652	1,622,111	538,541	2,160,652	0
7	1,666,211	553,182	2,219,393	1,666,211	553,182	2,219,393	0
8	1,716,197	569,777	2,285,974	1,716,197	569,777	2,285,974	0
9	1,767,682	586,871	2,354,553	1,767,682	586,871	2,354,553	0
10	1,825,702	606,133	2,431,835	1,825,702	606,133	2,431,835	0
Subtotal	\$14,970,879	\$4,974,539	\$19,945,418	\$13,812,345	\$4,974,539	\$18,786,884	(\$1,158,535)
11	na	na	0	1,873,170	621,892	2,495,063	2,495,063
12	na	na	0	1,921,873	638,062	2,559,935	2,559,934
Subtotal	0	0	0	3,795,043	1,259,954	5,054,997	5,054,997
Total	\$14,970,879	\$4,974,539	\$19,945,418	\$17,607,387	\$6,234,493	\$23,841,880	\$3,896,462

Source: Original Management Agreement and Proposed Fourth Modification

* Hotel operations began in October 2019. Year 1 of the Agreement is from October 4, 2019 to October 3, 2020; Year 2 is from October 4, 2020 to October 3, 2021; and Year 3 is from October 4, 2021 to October 3, 2022. The extended 12-year term is through October 3, 2031.

** The Base Management Fee is reduced by 60% for each month of CY 2021, and 30% for each month of CY 2022.

Extended Trigger Dates for Performance Termination Events

The proposed Fourth Modification makes corresponding two-year adjustments to the dates when the Airport may trigger termination of the Management Agreement should Hyatt fail to achieve certain performance benchmarks.

Summary of Other Modifications to the Current Hotel Management Agreement*Subordinate Management Fee*

The proposed Fourth Modification amends Section 4.1 of the Management Agreement to require that any unpaid balance in the Subordinate Management Fee owed by the Airport to Hyatt “shall accrue interest at 0.56%, compounded annually, and be paid if and to the extent there are moneys available therefor in subsequent Operating Years in the order of priority set forth in the Trust Agreement”. The proposed Fourth Amendment also amended this Section to state that such balance shall be repaid the earlier of the date that is five (5) years after such unpaid balance shall have become due and payable, or the date of expiration or Termination of this Agreement.

Other Amendments of the Hotel Management Agreement

The proposed Fourth Amendment amends:

- Section 5.1(a) authorizing a two-year extension of the Term of the contract, for a total initial term of twelve years
- Section 5.1(b) granting the Airport, as Hotel Owner, the option to extend this Agreement for five additional years beyond the initial term, so long as a notice of such intent to extend is submitted to the Operator no less than one year prior to the termination of the initial Agreement. Any request for such extension is subject to the provision that Hyatt is in compliance with Brand Standards as outlined in the Hotel Management Agreement. The only change is to have the Management Fees for the extension term, if granted, be derived based on Hotel performance for the tenth and eleventh Operating Years, rather than the eighth and ninth Operating Years, to reflect the two-year extension of the initial Term of the contract.
- Section 5.5, extending by two years the time by which the failure of Hyatt to achieve certain financial and operating benchmarks become actionable grounds for unilateral termination of the Agreement by the Airport. This amendment aligns the timing of these termination provisions with the two-year contract extension.³

FISCAL IMPACT

Approval of the proposed resolution reduces the Airport's Base Management Fee payment to Hyatt by \$1,158,535 for CY 2021 and CY 2022.

According to the Controller's Six Month Report, the Airport is projected to contribute \$12.3 million to the General Fund through the Annual Service Payment. This is \$12.9 million, or 51.2 percent, below the budgeted amount for FY 2020-2021.⁴

POLICY CONSIDERATION

Hotel Bonds were restructured earlier this year, following Board approval (File 21-0007). There are no debt service payments due on the Hotel Bonds until April 2023, allowing time for the travel industry and for Hotel revenues to recover from the COVID-19 pandemic. Debt service on the Hotel Bonds is being paid at reduced interest rates through FY 2029.

The Hotel currently has \$2,500,000 in its Working Capital Reserve Fund and \$349,299 in the Operating Account (Lockbox) that may be used, if necessary, to support Hotel operating expenses such as payroll. As Hotel owner, the Airport has the ability to provide working capital contributions to support the Hotel's operating needs if necessary.

³ The referenced benchmarks include "Average Daily Rate" for Hotel occupancy, "RevPAR", or revenue per room, and "Net Operating Income."

⁴ The Annual Service Payment is set at fifteen percent of SFO concessions earnings per the Lease and Use Agreement between the Airport Commission and signatory airlines. In the case of the Hotel concession, the Annual Service Payment is calculated as 15.0% of the difference between Hotel earnings minus Hotel operating costs and debt service obligations.

Airport management is currently anticipating the Hotel will return to net profitability at some point in the next two years.

RECOMMENDATION

Approve the proposed resolution.

FOURTH MODIFICATION TO HOTEL MANAGEMENT AGREEMENT

THIS FOURTH MODIFICATION TO HOTEL MANAGEMENT AGREEMENT (this “**Modification**”) is made as of _____, 2021, by and between the **AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO** (“**Owner**”) and **HYATT CORPORATION** (“**Manager**”).

RECITALS

- A. Owner and Manager have entered into the Agreement (as defined below).
- B. On September 22, 2015, by Resolution No. 15-0178, Owner awarded this Agreement to Manager.
- C. On December 1, 2015, by Resolution No. 434-15, the Board of Supervisors of the City and County of San Francisco (“**City**”) approved this Agreement under San Francisco Charter Section 9.118.
- D. In light of the significant financial challenges to the Hotel arising out of the COVID-19 pandemic, Owner and Manager desire to modify the Agreement on the terms and conditions set forth herein to provide for a discount to the Management Fees payable in 2021 and 2022, and to extend the term by two (2) years, among other modifications.
- E. On April 6, 2021, by Resolution No. 21-0092, the Airport Commission approved this Modification.
- F. On _____, 2021, by Resolution No. ____-21, the Board of Supervisors of the City approved this Modification under San Francisco Charter Section 9.118.
- G. Owner and Manager have each obtained such approvals, if any, as are required for the execution of this Modification, and Owner and Manager have obtained the consent of the Trustee to this Modification pursuant to Section 12.4 of this Agreement, which consent is attached hereto.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein and in the Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Owner and Manager agree as follows:

1. Definitions.

a. Agreement. The definition of “Agreement” in Section 1.1 is hereby replaced in its entirety as follows:

“**Agreement**” means the Hotel Management Agreement dated as of January 1, 2016 between Manager and Owner, as amended by the First Modification dated as of June 1, 2017; the Second Modification dated as of August 1, 2017; the Third Modification dated as of May 9, 2018; and the Fourth Modification dated as of _____, 2021.

b. Opening Date. The definition of “Opening Date” in Section 1.1 is hereby replaced in its entirety as follows:

“*Opening Date*” means October 4, 2019, which is the first date on which the Hotel opened for business.

c. Other Terms. Terms used and not defined in this Modification shall have the meanings assigned to such terms in the Agreement.

2. Section 4.1(b), Payment of Management Fees, is hereby amended and restated as follows, to clarify the timing of payment of the Base Management Fee and Subordinate Management Fee:

One-twelfth of the annual Base Management Fee for the applicable year of Hotel operations shall be paid on the first Business Day of each month in each Operating Year, and on the first Business Day following the last day of the last Operating Year, in arrears. Owner hereby authorizes Manager to withdraw the monthly installment of the Base Management Fee on the first Business Day of each such month from the Lockbox Fund. For any period of time that is a partial month, the monthly Base Management Fee for such partial month shall be the *pro rata* amount based on the number of days in such partial month divided by 30. The Subordinate Management Fee shall be payable annually on the first Business Day following the anniversary of the Opening Date during the Term, and on the first Business Day following the last day of the last Operating Year, in arrears. Owner hereby authorizes Manager to withdraw the annual installment of the Subordinate Management Fee on each such date from the Subordinate Management Fee Fund established under the Trust Agreement. For any period of time that is a partial twelve (12)-month period, the annual Subordinate Management Fee in such partial twelve (12)-month period shall be the *pro rata* amount based on the number of days in such partial twelve (12)-month period divided by 365.

3. Section 4.1(c), Carryforward of Subordinate Management Fee, is hereby amended and restated as follows, to provide for interest and sooner repayment of the unpaid balance of the Subordinate Management Fee:

To the extent there are insufficient funds in any Operating Year to pay all or a portion of the Subordinate Management Fee, the unpaid balance of the Subordinate Management Fee shall accrue interest at 0.56%, compounded annually, and be paid if and to the extent there are moneys available therefor in subsequent Operating Years in the order of priority set forth in the Trust Agreement. Notwithstanding the foregoing, the unpaid balance of the Subordinate Management Fee will be paid in full, together with any accrued interest thereon, on the earlier of: (x) the date that is five (5) years after such unpaid balance shall have become due and payable, or (y) the date of expiration or Termination of this Agreement.

4. Extension of Term. The first sentence of Section 5.1(a), Term, of the Agreement is hereby amended and restated as follows, to extend the initial Term of the Agreement by two (2) years:

Unless sooner terminated pursuant to the provisions of this Agreement, the term of this Agreement shall commence on the Execution Date and continue for a period of twelve (12) years from and after the Opening Date (as it may be extended pursuant to paragraph (b) of this Section, the “Term”).

5. Section 5.1(b), Extension of Term, is hereby amended and restated as follows, to reflect the two-year extension of the initial Term of the Agreement:

Owner shall have the option, by written notice to Manager no less than one year prior to the end of the initial Term, to extend this Agreement for an additional five (5)-year term commencing on the expiration date of the initial Term and ending on the five (5)-year anniversary date thereof; provided, that (i) the Hotel is in compliance with the Brand Standards as of the date such notice is received by Manager, and (ii) the Building satisfies the Brand Standards as of the commencement of such five (5)-year renewal term. The Base Management Fee and Subordinate Management Fee, respectively, for each Operating Year during any such additional five (5)-year term shall be equal to (x) the average of Total Operating Revenues for the tenth (10th) and the eleventh (11th) Operating Years, multiplied by (y) two and one-half percent (2.5%) and eighty-three hundredths of one percent (0.83%), respectively, for the thirteenth (13th) Operating Year, adjusted for each Operating Year thereafter by the change in the Bay Area CPI for the preceding calendar year.

6. Section 5.5 (a), Right to Terminate, is hereby amended and restated as follows, to extend the commencement of each Performance Termination Event defined therein:

In addition to any termination right that Owner has pursuant to Section 5.4, Owner shall have the right to terminate this Agreement under any of the following circumstances (each such event a “**Performance Termination Event**”), none of which shall constitute a Manager Event of Default:

(i) ADR Requirement: Commencing with the fifth (5th) full Operating Year, if the ADR for the Hotel, as certified in writing by Manager’s Chief Financial Officer, is less than 135% of the ADR for the Excluded Hotel in any two (2) Operating Years during all of which Operating Year Manager was the owner, lessee, operator, manager, franchisee or licensee of the Excluded Hotel or any substitute hotel pursuant to Section 3.30;

(ii) RevPAR Requirement: Commencing with the sixth (6th) full Operating Year, if the RevPAR for the Hotel is less than 120% of the average RevPAR for the Competitive Set in any two (2) consecutive Operating Years; or

(iii) NOI Requirement: Commencing with the sixth (6th) full Operating Year, if Net Operating Income is less than ten million two

hundred thousand dollars (\$10,200,000) (the “**Hurdle Amount**”), in any two (2) consecutive Operating Years. The Hurdle Amount shall be adjusted each Operating Year commencing with the sixth (6th) full Operating Year by the Bay Area CPI for the immediately preceding calendar year.

Each of the foregoing requirements is independent of the others. For purposes of this Section, a full Operating Year is an Operating Year consisting of twelve (12) calendar months.

7. Acknowledgment of Parties. Owner and Manager each hereby acknowledge that, in light of the modifications herein, the initial Term, as defined in Section 5.1, shall end at 11:59 P.M., Pacific Time, on October 3, 2031, subject to the provisions of Section 5.1.

8. Management Fees. Owner and Manager hereby agree that the Base Management Fee shall be reduced by 60% for each month of calendar year 2021 and by 30% for each month of calendar year 2022. To document this agreement and the Term extension set forth above, Exhibit K, Management Fees, is hereby deleted in its entirety and replaced with Exhibit K-1, Management Fees, attached hereto. All references to “Exhibit K” in the Agreement are amended accordingly to refer to “Exhibit K-1” hereto.

9. Confirmation of Manager Role. Manager agrees that it acting in the capacity of a service provider, and not as a lessee or owner of the Hotel, and that it is not entitled to and will not take any tax position inconsistent with being a service provider (*i.e.*, will not claim depreciation or other tax benefits that may be eligible to an lessee or owner).

10. Effective Date. Each of the changes set forth in this Modification shall be effective on and after January 1, 2021.

11. Legal Effect. Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Modification on the day and year first above written.

HYATT CORPORATION

By _____
Name:
Title:

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By _____
Ivar C. Satero
Airport Director

AUTHORIZED BY AIRPORT COMMISSION

Resolution No. 21-0092

Adopted: April 6, 2021

Attest: _____

Secretary
Airport Commission

Approved by Board of Supervisors on _____, pursuant to Resolution No.

Approved as to form:
DENNIS J. HERRERA,
City Attorney

By _____
Brooke D. Abola
Deputy City Attorney

TRUSTEE CONSENT

Pursuant to Section 12.4 of the Hotel Management Agreement dated as of January 1, 2016 between Hyatt Corporation and the San Francisco Airport Commission, as amended (the "Agreement"), and in its capacity as trustee under the Trust Agreement, dated as of June 1, 2018 (the "Trust Agreement"), by and between Owner and U.S. Bank National Association, as trustee (the "Trustee"), the undersigned does hereby acknowledge, accept and consent to the foregoing Fourth Modification to the Agreement, subject to and in accordance with the terms and provisions of the Trust Agreement.

U.S. BANK NATIONAL ASSOCIATION

By: _____

Its: _____

EXHIBIT K-1
MANAGEMENT FEES

A. Base Management Fee

Owner shall pay Manager a management fee (the “**Base Management Fee**”) for its services as shown in the following table:

Year	Annual Base Management Fee
Year 1 (10/4/19-10/3/20)	\$ 710,473.00
Year 2 (10/4/20-10/3/21)*	\$ 597,692.70 *
Year 3 (10/4/21-10/3/22)*	\$ 925,253.75 *
Year 4 (10/4/22-10/3/23)*	\$ 1,410,457.58 *
Year 5 (10/4/23-10/3/24)	\$ 1,570,564.00
Year 6 (10/4/24-10/3/25)	\$ 1,622,111.00
Year 7 (10/4/25-10/3/26)	\$ 1,666,211.00
Year 8 (10/4/26-10/3/27)	\$ 1,716,197.00
Year 9 (10/4/27-10/3/28)	\$ 1,767,682.00
Year 10 (10/4/28-10/3/29)	\$ 1,825,702.00
Year 11 (10/4/29-10/3/30)	\$ 1,873,170.25
Year 12 (10/4/30-10/3/31)	\$ 1,921,872.68

* The annual Base Management Fee reflected in the table above has been reduced by 60% for each month of calendar year 2021 and by 30% for each month of calendar year 2022.

The following table shows a breakdown of the monthly amount of the Base Management Fee that Owner shall pay Manager with respect to each month of Year 2 (October 2020 – September 2021), Year 3 (October 2021 – September 2022) and Year 4 (October 2022 – September 2023) of this Agreement. The monthly Base Management Fee amounts reflected in the table below have been reduced by 60% for each month of calendar year 2021 and by 30% for each month of calendar year 2022.

Months	Monthly Base Management Fee
October 2020 – December 2020	\$ 90,559.50
January 2021 – September 2021*	\$ 36,223.80
October 2021 – December 2021*	\$ 49,346.87
January 2022 – September 2022*	\$ 86,357.02
October 2022 – December 2022*	\$ 88,947.78
January 2023 – September 2023	\$ 127,068.25

*Amended periods.

B. Subordinate Management Fee

Owner shall pay Manager a subordinate management fee (the “**Subordinate Management Fee**”) for its services as shown in the following table:

Year	Subordinate Management Fee
Year 1 (10/4/19-10/3/20)	\$ 236,824
Year 2 (10/4/20-10/3/21)	\$ 364,049
Year 3 (10/4/21-10/3/22)	\$ 491,495
Year 4 (10/4/22-10/3/23)	\$ 506,240
Year 5 (10/4/23-10/3/24)	\$ 521,427
Year 6 (10/4/24-10/3/25)	\$ 538,541
Year 7 (10/4/25-10/3/26)	\$ 553,182
Year 8 (10/4/26-10/3/27)	\$ 569,777
Year 9 (10/4/27-10/3/28)	\$ 586,871
Year 10 (10/4/28-10/3/29)	\$ 606,133
Year 11 (10/4/29-10/3/30)	\$ 621,892
Year 12 (10/4/30-10/3/31)	\$ 638,062

**Airport Commission of the City and
County of San Francisco**

**SAN FRANCISCO INTERNATIONAL
AIRPORT**

GRAND HYATT HOTEL PROJECT

Agreements with Hyatt Corporation

Dated as of January 1, 2016



Airport Commission of the City and County of San Francisco

San Francisco International Airport

Grand Hyatt Hotel Project

Agreements with Hyatt Corporation

January 1, 2016

1. Technical Services Agreement, Contract No. 50006.A by and between Airport Commission of the City and County of San Francisco and Hyatt Corporation
2. Pre-Opening Services Agreement, Contract No. 50006.B by and between Airport Commission of the City and County of San Francisco and Hyatt Corporation
3. Hotel Management Agreement, Contract No. 50006 by and between Airport Commission of the City and County of San Francisco and Hyatt Corporation

HOTEL MANAGEMENT AGREEMENT
Contract No. 50006

by and between

AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

and

HYATT CORPORATION

Dated as of January 1, 2016

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EXHIBIT W HOTEL EVALUATION STANDARDS W-1

HOTEL MANAGEMENT AGREEMENT
Contract No. 50006

THIS HOTEL MANAGEMENT AGREEMENT (this “**Agreement**”) is made as of January 1, 2016, by and between the **AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO** (“**Owner**”) and **HYATT CORPORATION** (“**Manager**”).

RECITALS

A. Owner desires to develop and construct a premier, full-service, first-class, luxury-grade hotel which will be among the best on-airport hotels in the world in terms of its design, operation and environmental attributes (as further described in this Agreement, “**Hotel**”) at a location (“**Site**”) at San Francisco International Airport (“**Airport**”), which Hotel will be operated by a firm knowledgeable and experienced in managing, operating and promoting such hotels.

B. Owner represents that it is authorized to enter into all contracts which relate to matters under its jurisdiction.

C. On May 20, 2014, Owner issued a Request for Proposals (“**RFP**”) and as a result of the selection process prescribed in the RFP and upon the recommendation of the Airport Director, Owner determined that Manager was the qualified proposer receiving the highest evaluation score.

D. Manager represents that it is knowledgeable and experienced in managing, operating and promoting First-Class Hotels, and has performed such services throughout the world.

E. Owner desires to engage Manager to manage and operate the Hotel.

F. Contemporaneously with this Agreement, Manager and Owner will enter into that certain Technical Services Agreement (“**Technical Services Agreement**”) and that certain Pre-Opening Services Agreement (“**Pre-Opening Services Agreement**”), each dated of even date herewith, pursuant to which Manager will, as an independent contractor, perform certain review, inspection and coordination services in connection with the design and construction of the Hotel, and certain pre-opening services in preparation for the opening of the Hotel, respectively.

G. Owner and Manager intend that this Agreement constitute, and this Agreement shall constitute, a “**Qualified Management Agreement**”.

H. Owner intends to issue Special Facilities Revenue Bonds (“**Initial Series of Bonds**”) in accordance with the terms of a Trust Agreement (“**Trust Agreement**”). The proceeds of the Initial Series of Bonds, together with certain other funds including amounts contributed by the Manager, are expected to be sufficient to (i) pay the development, construction, pre-opening and initial marketing costs of the Hotel, (ii) pay 100% of Debt Service on the Initial Series of Bonds during the Pre-Opening Period and a portion of Debt Service during the first two (2) Operating Years, (iii) fully fund a Debt Service Reserve Fund for the

Initial Series of Bonds, (iv) pay other financing costs, and (v) fully fund a Working Capital Reserve Fund and Lockbox Fund at their respective required levels as of the Closing Date.

I. On September 22, 2015, by Resolution No. 15-0178, Owner awarded this Agreement to Manager.

J. On December 1, 2015, by Resolution No. 434-15, the Board of Supervisors of the City and County of San Francisco (“City”) approved this Agreement under San Francisco Charter Section 9.118.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

ARTICLE I

DEFINITIONS; INTERPRETATION

Section 1.1. Definitions. The following capitalized terms used in this Agreement shall have the meanings set forth below.

“**AAA Rating**” means a diamond rating from the American Automobile Association pursuant to its “Approval Requirements and Diamond Rating Guidelines” as amended from time to time.

“**Account**” or “**Accounts**” means any one or more of the accounts from time to time created in any of the Funds established by the Trust Agreement or by any Supplemental Trust Agreement.

“**ACDBEs**” has the meaning set forth in Exhibit U.

“**ADA**” means the Americans with Disabilities Act of 1990, 42 U.S.C. §§12101-12213, and all regulations and interpretations issued thereunder and all amendments thereto.

“**Additional Bonds**” means all Bonds, other than the Initial Series of Bonds, authorized by and at any time Outstanding pursuant to the Trust Agreement and executed, issued and delivered in accordance with Article III of the Trust Agreement.

“**Administrative Expenses**” means the reasonable fees and expenses of Asset Manager and the Trustee paid in accordance with the Trust Agreement and directly relating to the Hotel and limited as provided in the applicable Operating Budget. Administrative Expenses shall be supported by documentation evidencing such expenses and shall not exceed \$300,000 in any Operating Year, as adjusted each Operating Year for the change in the Bay Area CPI for the immediately preceding calendar year. Administrative Expenses shall not be taken into account for purposes of determining Manager’s compliance with the Performance Tests.

“**ADR**” means, with respect to the Hotel and the Excluded Hotel, the “Average Daily Rate” for the Hotel or the Excluded Hotel, as applicable, calculated in accordance with the methodology used by the Rating Service or such other reputable independent third-party market research firm as may be mutually approved by Owner and Manager.

“**Administrative Code**” means San Francisco Administrative Code.

“**Affiliate**” means, with respect to any Person, as of the relevant date, any other Person directly or indirectly controlling, controlled by, or under common control with such Person, and any Person directly or indirectly controlling, controlled by or under common control with such entities and, without limiting the generality of the foregoing, shall include (i) any Person which beneficially owns or holds 50% or more of any class of voting securities of such designated Person or 50% or more of the equity interest in such designated Person, and (ii) any Person of which such designated Person beneficially owns or holds 50% or more of any class of voting securities or in which such designated Person beneficially owns or holds 50% or more of the equity interest. The term control (including controls,” “controlled by,” and “under common control with”) means the ability through ownership, direct or indirect, of voting stock or other equity interests, to direct or cause the direction of the management and policies of a person, partnership, corporation, limited liability company or other entity; provided, however, solely for purposes of any provision of this Agreement pertaining to contracts between Manager and any of its Affiliates, an Affiliate of Manager shall be deemed to include any entity in which Manager owns (directly or indirectly) more than a 50% equity interest or otherwise participates in more than 50% of the profits or revenues of such entity (excluding such participation that represents management fees to Manager).

“**Agreed Scope of the Hotel**” has the meaning set forth in Section 2.1.

“**Agreement**” means this Hotel Management Agreement.

“**Airport**” means San Francisco International Airport.

“**Airport Rules and Regulations**” means the Rules and Regulations of the Airport adopted by the Commission on October 21, 2014, as the same may be amended from time to time. As of the date of this Agreement, the Airport Rules and Regulations are available online at: <http://media.flysfo.com/media/sfo/about-sfo/sfo-rules-and-regulations.pdf>.

“**Annual Plan**” means the Operating Budget and the Capital Budget for the applicable Operating Year.

“**Annual Report of Independent Accountants**” or “**Report**” has the meaning set forth in Section 4.2(f)

“**Applicable Law**” means: (i) all laws, statutes, acts, ordinances, rules, regulations, permits, licenses, authorizations, directives, orders, requirements and other Approvals of all Governmental Authorities, including the City’s Charter and Administrative Code and the Airport Rules and Regulations, that now or hereafter may be applicable to the Manager, its businesses or operations, Owner and/or the Hotel, and, (a) with respect to obligations of Owner, the acquisition

and construction of the Hotel, including those relating to zoning, building, health, safety, Hazardous Materials, natural resources, environmental matters, and accessibility of public facilities, and (b) with respect to obligations of Manager, the maintenance, use and operation of the Hotel, including those relating to employees, health, safety, Hazardous Materials (to the extent resulting from the operation of the Hotel by Manager) and environmental matters; and (ii) the requirements of all documents properly filed in the real property records with respect to the Property.

“Approvals” means all licenses, approvals, permits, certificates, authorizations, registrations and similar documents required, issued, granted or approved by any Governmental Authority having jurisdiction over Manager, Owner, the Property or the Hotel.

“Approved Plan” or “Approved Plans” has the meaning set forth in the Technical Services Agreement.

“Architect” means the Person or Persons serving as Architect of Record pursuant to the Design-Build Agreement.

“Asset Manager” means a Person with significant experience in the hospitality industry, including at least five (5) years of asset management experience, selected by Owner, with prompt notice of such selection provided by Owner to the Trustee and Manager, which Person may be an employee of Owner.

“Available Casualty/Condemnation Amounts” has the meaning set forth in Section 8.1(a).

“Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as supplemented and amended (constituting 11 U.S.C. Section 101, *et seq.*).

“Base Management Fee” has the meaning set forth in Exhibit K.

“Bay Area CPI” means the Consumer Price Index for All Urban Consumers, All Items, for the San Francisco-Oakland-San Jose, CA, market area, as published by the Bureau of Labor Statistics of the United States Department of Labor, using the years 1982-84 as a base of 100, or if such index is discontinued, the most comparable index published by any federal governmental agency.

“BICE” means the Owner’s Building Inspection and Code Enforcement division with the responsibility to administer and enforce the applicable building codes, including the following responsibilities: review and approve all Airport design and construction projects and tenant improvement proposals; issue Airport building permits; inspect all demolition activities and construction installed within Airport boundaries and in conjunction with ongoing Airport projects; enforce compliance with various building codes, construction standards and regulations; and issue certificates of occupancy.

“Bond” or “Bonds” means the Initial Series of Bonds and all Additional Bonds.

“Bond Counsel” means a firm of attorneys, selected by Owner and acceptable to the Trustee, whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

“Bond Documents” means the Trust Agreement, the Cash Management Agreement, and the Continuing Disclosure Certificate, if any.

“Brand Standards” means the Grand Hyatt Guest Experience Manual (2015), a copy of which has been provided by Manager to Owner, as the same may be supplemented and amended from time to time.

“Building” means the building to be constructed on the Site in accordance with the Design-Build Agreement, which shall include those components, elements and features set forth in the definition of the Hotel in this Section, and which shall also include the Systems.

“Business Day” means a day that is not a Saturday, Sunday or legal holiday on which banking institutions in the States of California or New York are authorized or required by law or executive order to remain closed or the New York Stock Exchange or The Depository Trust Company is closed.

“Business Interruption Account” means the segregated Account within the Insurance and Condemnation Proceeds Fund in which the Business Interruption Proceeds are to be deposited by the Trustee when and as received, which Account shall be established by the Trustee upon receipt of notice that the carrier of such insurance will be paying claims thereon to the Trustee.

“Business Interruption Insurance” means business interruption insurance maintained pursuant to Section 9.1 and Exhibit N.

“Business Interruption Proceeds” has the meaning set forth in Section 9.1(a).

“Capital Budget” means the approved annual plan and budget setting forth all approved Capital Improvements and Capital Expenses for the Hotel for the relevant Operating Year, prepared in accordance with the terms of Section 3.21.

“Capital Expense” means any item of expense that, according to Generally Accepted Accounting Principles, generally is required to be capitalized rather than expensed on the financial statements for the Hotel.

“Capital Improvement” means an item of any nature incorporated into the Hotel, the cost of which is a Capital Expense.

“Capital Reserve Fund” means the Capital Reserve Fund established by the Trust Agreement.

“Capital Reserve Set Aside Amount” means an amount in each Operating Year equal to two percent (2%) of Total Operating Revenues. The Capital Reserve Set Aside Amount shall not be classified as an Operating Expense or Capital Expense; provided, that upon disbursement of

funds from the Capital Reserve Fund, the disbursed amounts shall be classified as an Operating Expense or Capital Expense in accordance with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles.

“Capitalized Interest Account” means, collectively, any Fund or Account created under the Trust Agreement or any Supplemental Trust Agreement and designated as a Capitalized Interest Account.

“Cardholder Data” has the meaning set forth in Section 3.41.

“Cash Management Agreement” means the Cash Management and Lockbox Agreement, substantially in the form attached as Exhibit F, among Owner, the Trustee, the Depository Bank and Manager, or any other agreement with substantially the same terms and conditions with a replacement Depository Bank.

“Casualty” means the damage or destruction of the Hotel at any time or times during the Term by fire or other casualty.

“Casualty Proceeds” means the proceeds (excluding Business Interruption Proceeds) paid under any casualty and property insurance policy maintained by Manager or Owner with respect to the Hotel, in accordance with the terms of this Agreement, as a result of damage to or destruction of the Hotel arising as a result of a Casualty.

“Casualty Restoration” has the meaning set forth in Section 8.1(a).

“Centralized Services” means the collective reference to the following services, programs and group benefits (as are, from time to time, provided generally to all Other Grand Hyatt Hotels): (i) centralized accounting and payroll services; (ii) system-wide marketing, advertising, public relations and promotion, including search engine marketing; (iii) system-wide reservation systems, including for airline and global distribution systems; (iv) frequent guest loyalty and rewards programs; (v) supervision and control services provided to the Hotel; (vi) human resources services provided to the Hotel; (vii) financial services provided to the Hotel; (viii) targeted marketing programs that include the Hotel; (ix) information and technology systems and services provided to the Hotel, including network connectivity, email, internet distribution programs, and high-speed internet services; (x) revenue management services; and (xi) mandatory contract services (including credit card acceptance, music licenses and certain telecommunications services). Centralized Services include Chain Services.

“Centralized Services Fees” means the fixed amount for each Operating Year set forth in Exhibit V, subject to adjustment as set forth in Section 4.2.

“Certificate of Occupancy” means the Temporary or Final Certificate of Occupancy.

“Certificate of Substantial Completion” has the meaning set forth in the Pre-Opening Services Agreement.

“Certified Annual Financial Statements” means audited financial statements consisting of (i) a statement of net position, (ii) a statement of revenues, expenses and changes in net

position, and (iii) a statement of cash flows, and a certificate of the Independent Accountant to the effect that, subject to any qualifications contained therein, the financial statements fairly present, in conformity with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles, the financial position, results of operations, and cash flows of the Hotel for the Operating Year then ended.

“Chain Services” means the marketing and sales program generally made available by Manager from time to time to the Hyatt System, including the following as of the Execution Date: (i) convention, business and sales promotion services (including the maintenance and staffing of Hyatt’s global sales offices and regional sales offices located in various parts of the United States and the world), (ii) chain-wide marketing, advertising and public relations services for Other Grand Hyatt Hotels and Hyatt’s other individual full-service brands, (iii) centralized reservations services, (iv) revenue management, and (v) operational departmental supervision and control services for, among others, food and beverage, rooms, accounting, engineering and human resource departments. The Manager may, in its discretion from time to time, change the specific services which are part of the foregoing general services.

“Chain Marketing Program” has the meaning set forth in Section 3.25(a)(ii).

“Charter” means the Charter of the City effective July 1, 1996, as amended.

“City” means the City and County of San Francisco, California.

“Claims” has the meaning set forth in Section 7.2.

“Clearing Bank Accounts” means the accounts bearing the name of the Trustee at a bank or banks selected by Owner, for the purpose of depositing all Total Operating Revenues, whether from Manager, from Credit Card Companies, or from any other Person, each of which shall be given instructions to make deposits in the Clearing Bank Accounts pursuant to the Cash Management Agreement.

“Closing” or **“Closing Date”** means the date of delivery of the Initial Series of Bonds.

“Code” means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations proposed or in effect with respect thereto.

“Competitive Set” means, from time to time during the Term, at least four hotels in the Hotel’s immediate market area that are most comparable to the Hotel, including in age, quality, size, price, amenities, amount of meeting space, and business mix. If at any time any of the hotels included in the Competitive Set drops below an Upper Upscale Hotel brand, the Parties shall mutually agree on the substitution of another hotel, if there are any, in the immediate market area which is an Upper Upscale Hotel. If the Parties are unable to reach agreement, the Competitive Set shall be determined by a Hotel Consultant pursuant to the provisions of Section 3.21(k). As of the Execution Date, the Competitive Set shall consist of the following hotels:

- (a) Hilton San Francisco Airport Bayfront;

- (b) Hyatt Regency San Francisco Airport;
- (c) Marriott San Francisco Airport Waterfront; and
- (d) Westin San Francisco Airport.

As of the date of this Agreement, Manager does not expect hotels in the Competitive Set to achieve a AAA Rating equal to or greater than that of the Hotel.

“Condemnation Proceeds” means the proceeds payable in respect of any Taking of all or a portion of the Hotel.

“Construction Fund” means the Construction Fund established by the Trust Agreement, and includes any separate accounts or subaccounts established therein pursuant thereto.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate executed by Owner in connection with the issuance of any Series of Bonds pursuant to Rule 15c2-12 promulgated by the Securities and Exchange Commission, as supplemented and amended and any successor thereto.

“Corporate Personnel” means any personnel from the corporate or regional offices of Manager and its Affiliates or who are otherwise area supervisors for Manager, who perform activities in connection with the services provided by Manager under the Technical Services Agreement, the Pre-Opening Services Agreement or this Agreement, respectively.

“Credit Card Company” means each bank, corporation, processor or other entity with which Manager has entered into a merchant’s or other agreement with respect to the processing of charge card, debit card or comparable forms of payment.

“Debt Service” means, as of any date of calculation, with respect to any particular period and with respect to all Bonds, all Bonds of any Series or any portion thereof as the context requires, an amount equal to the sum of (a) interest accruing during such period on such Outstanding Bonds and not accounted for with amounts on deposit in a Capitalized Interest Account held by the Trustee for such Bonds, and (b) that portion of each Principal Payment and Mandatory Sinking Fund Installment for such Outstanding Bonds which would accrue during such period if each such Principal Payment and Mandatory Sinking Fund Installment for such Bonds were deemed to accrue daily in equal amounts from the next preceding Principal Payment Date for such Bonds (or, if there shall be no such preceding date, from a date one year preceding such Principal Payment Date or from the date of issuance of the such Bonds, whichever date is later). Such interest, Principal Payments and Mandatory Sinking Fund Installments for the Outstanding Bonds shall be calculated on the assumption that no Bonds Outstanding at the date of calculation shall cease to be Outstanding except by reason of the payment of principal and Mandatory Sinking Fund Installments on the due dates thereof and on the basis of the actual number of days within the relevant period.

“Debt Service Account” means the account by that name established within the Debt Service Fund pursuant to the Trust Agreement.

“Debt Service Coverage Ratio” means with respect to the Outstanding Bonds, a fraction calculated by dividing the Net Revenues for a particular period of time by the Net Debt Service for the Outstanding Bonds for the same period of time.

“Debt Service Coverage Requirement” means with respect to the Outstanding Bonds, a Debt Service Coverage Ratio for such Bonds which is not less than 1.05:1.00 during the first (1st) Operating Year, not less than 1.15:1.00 during the second (2nd) Operating Year, and not less than 1.25:1.00 for each Operating Year thereafter.

“Debt Service Fund” means the Debt Service Fund established by the Trust Agreement, together with the Accounts established therein.

“Debt Service Reserve Fund” means the Debt Service Reserve Fund established by the Trust Agreement.

“Depository Bank” means such banking institution or institutions as Owner shall from time to time designate in writing to the Trustee at which the account or accounts shall be established and maintained with respect to the Lockbox Fund pursuant to the Cash Management Agreement.

“Design-Build Agreement” means the Design-Build Agreement to be entered into between Owner and Design-Builder, for the design and construction of the Hotel, as supplemented and amended from time to time in accordance with its terms.

“Design-Builder” means the Person or Persons with experience and expertise in the design and construction of hotels to be selected by Owner through a competitive process.

“Development Agreements” means, collectively, all documents and instruments pertaining to the construction or development of the Hotel, including the Design-Build Agreement, the Technical Services Agreement and the Pre-Opening Services Agreement.

“Direct or Indirect Profit” means any form of compensation, other than for the reasonable and actual costs of providing goods, services, supplies, products or equipment (including carrying costs of facilities), whether in the form of a payment, credit, rebate, refund, kick-back, mark-up, revenue sharing, royalty, profit participation, equity participation, barter consideration in the form of goods or services, or any other device, however denominated, and whether similar or dissimilar to any of the foregoing, received by Manager and/or any of its Affiliates, directly or indirectly, in any Operating Year from or on account of the Total Operating Revenues.

“Emergency” means a situation which constitutes an actual and imminent threat of serious harm to human life, health or safety.

“Emergency Expenses” means the expenses that Manager reasonably deems necessary to remove the existence of an Emergency.

“Environmental Claim” means a Claim (including claims for equitable relief), liability (whether based on strict liability or otherwise), investigation, litigation, administrative proceeding, whether pending or to the knowledge of Owner, threatened, or judgment, order or anticipated damages in law relating to any Hazardous Materials or any matter regulated by any Environmental Law.

“Environmental Laws” means any federal, State, local or administrative law, rule, regulation, order, or requirement relating to industrial hygiene, protection of human health and safety, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted or amended from time to time, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.); and applicable and controlling federal or state court decisions.

“Environmental Site Assessments” means any assessments, audits, investigations, testing, sampling, analysis and similar procedures conducted on the Property for the purpose of assessing potential liabilities under any Environmental Laws and/or identifying Hazardous Materials.

“Event of Default” means a Manager Event of Default or an Owner Event of Default, as applicable.

“Excess Amount” has the meaning set forth in Section 3.24(a)(ix).

“Excluded Hotel” has the meaning set forth in Section 3.30.

“Excluded Taxes and Other Charges” means any (a) Gross Receipts Taxes; and (b) withholding tax or other employment related taxes.

“Execution Date” means the date as of which this Agreement has been signed by both Manager and Owner.

“FF&E” means all items of furniture, fixtures and equipment used or held for usage at the Hotel, together with all replacements therefor and additions thereto (including information technology systems and equipment), but shall not include operating supplies and equipment.

“FF&E Reserve Fund” means the FF&E Reserve Fund established by the Trust Agreement.

“FF&E Set Aside Amount” means the following:

Opening Date through

1 st Operating Year-	1% of Total Operating Revenues
2 nd Operating Year-	2% of Total Operating Revenues
3 rd Operating Year -	3% of Total Operating Revenues
Each Operating Year thereafter-	4% of Total Operating Revenues

The FF&E Set Aside Amount shall be classified as an Operating Expense or Capital Expense, in accordance with the Uniform System of Accounts and, to the extent not inconsistent therewith, Generally Accepted Accounting Principles.

“Final Certificate of Occupancy” means the certificate or certificates, as applicable, issued by BICE that permits full, complete, permanent, unconditional, legal and beneficial occupancy, operation and use for the entirety of the Hotel for each and all of its intended purposes as initially acquired by the Design-Builder with respect to the original construction of the Hotel and the Work pursuant to the Design-Build Agreement.

“First-Class Hotel” means a full-service, luxury hotel with at least a four (4)-diamond AAA Rating and, to the extent of any material change after the Execution Date in the standards for such a rating, consistent with the standards for such rating as of the Execution Date.

“Fiscal Year” means the fiscal year of Owner, currently the twelve (12)-month period ending June 30.

“Force Majeure Event” means fire, storm, tornado, earthquake, flood or other natural disaster; strikes that are not directly caused by acts or labor relations of the Manager or its Affiliates; riots, rebellion or other civil unrest; acts of terrorism; or the closure of a substantial portion of the Airport or a material portion of the Hotel by Governmental Authorities.

“Fund” or **“Funds”** means any one or more, as the case may be, of the separate special funds established by the Trust Agreement or by any Supplemental Trust Agreement.

“GAAP” or **“Generally Accepted Accounting Principles”** means those conventions, rules, procedures and practices affecting all aspects of recording and reporting financial transactions by governmental entities which (i) are generally accepted by major independent accounting firms in the United States, and (ii) consistently applied in accordance with the City-wide accounting policies adopted from time to time by Owner. If Owner and Manager cannot agree on what constitutes Generally Accepted Accounting Principles, then the accounting firm then or most recently engaged to prepare the Certified Annual Financial Statements for the Hotel in accordance with Section 3.23(c) shall make the determination on the request of either Party, unless such accounting firm is also the auditing firm for Manager, in which case a different Independent Accountant shall make such determination.

"Governmental Authority" means any agency, authority, board, branch, division, department or similar unit of any federal, state, county, city, town, district, or other governmental entity or unit having jurisdiction over or validly imposing requirements on the applicable Person or the Hotel, including its construction and operation.

"Gross Operating Profit" means for any period of time, the amount by which Total Operating Revenues for such period exceeds Operating Expenses for the same period.

"Gross Receipts Taxes" means applicable excise, sales, occupancy and use taxes, or similar taxes, duties, levies or charges imposed by Governmental Authorities collected directly from patrons or guests, or as a part of the sales price of any goods, services, or displays, such as gross receipts, admission, cabaret or similar or equivalent taxes, including any transaction tax, resale of electricity tax, soft drink tax, head tax, occupancy tax, amusement tax, beverage tax, public utility tax, and/or new service tax.

"Hazardous Materials" means (a) any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any Governmental Authority to pose a present or potential hazard to human health or safety or to the air, water, soil or environment; and (b) any materials, substances, products, by products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by products, or waste may give rise to liability under any Environmental Laws or permits. "Hazardous Material" includes any material or substance identified, listed, or defined as a "hazardous waste," hazardous substance," or "pollutant" or "contaminant" or term of similar import, or is otherwise regulated pursuant to Environmental Laws; any asbestos and asbestos-containing materials; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

"Hotel" means the hotel to be constructed on the Site as further described in Exhibit A.

"Hotel Agreements" mean this Agreement, the Technical Services Agreement and the Pre-Opening Services Agreement.

"Hotel Consultant" means an independent nationally recognized consulting firm with substantial and significant experience in the First-Class Hotel segment listed on Exhibit S and which is appointed by agreement of the Parties or, failing agreement, each Party shall select one (1) such nationally recognized consulting firm and the two (2) respective firms so selected shall select another such nationally recognized consulting firm to be the Hotel Consultant. The Hotel Consultant may not be Manager's or Owner's primary hotel consultant or auditor and shall provide a written statement to each of Owner, Trustee and Manager representing that it will make a fair and impartial judgment in any matter submitted to it pursuant to this Agreement.

"Hotel Environmental Requirements" has the meaning set forth in Section 2.3.

"Hotel Personnel" means all individuals performing services at the Hotel employed by Manager or an Affiliate of Manager.

“Hotel Personnel Costs” means all costs associated with the employment, management or termination of Hotel Personnel, including training expenses, recruitment expenses, the costs of moving Key Personnel, their families and their belongings to the area in which the Hotel is located at the commencement of their employment at the Hotel (subject to the limitations set forth in this Agreement), wages and salaries, compensation and benefits, employment taxes, training and severance payments, all in accordance with Applicable Law and Manager’s policies for Substantially All Other Grand Hyatt Hotels.

“Hurdle Amount” has the meaning set forth in Section 5.5(a).

“HVAC” means heating, ventilation and air conditioning.

“Hyatt” means Hyatt Corporation, a Delaware corporation, and its successors and permitted assigns.

“Hyatt Classification of Accounts” means the classification of accounts generally used by Manager at any particular time in connection with the operation of the Other Grand Hyatt Hotels.

“Hyatt Gold Passport” means the frequent guest program administered by Manager to promote the Hyatt System, as such program may change from time to time.

“Hyatt-Owned Hotel Names” has the meaning set forth in Section 11.4.

“Hyatt Requirements” means Hyatt’s standards and requirements for construction and design of Other Grand Hyatt Hotels as set forth in Hyatt’s “Design Recommendations and Minimum Standards, Version 5.0 (2010) and Hyatt’s “Engineering Recommendations and Minimum Standards, V4.0 (2011) (copies of which have been provided to Owner by Manager), as the same may be supplemented and amended from time to time prior to the date that BICE issues a “notice to proceed with design” to the Design-Builder.

“Hyatt Reservation System” means the reservation system utilized by Manager in connection with the Other Grand Hyatt Hotels.

“Hyatt System” means, collectively, the elements uniformly designated from time to time to identify structures, facilities, appurtenances, furniture, fixtures, equipment that provide to the consuming public a similar, distinctive, high quality hotel service identified with the “Hyatt” brand name, in whole or in part; including licensed brands associated with the Hyatt name, Hyatt Trademarks, logos, service marks and the like, access to a Hyatt Reservation System, and Hyatt publicity and marketing, training, standards, specifications, policies, inspection programs and manuals containing standards and requirements for the operation of “Hyatt” branded hotels.

“Hyatt Trademarks” means the Hyatt trademarks, trade name, service marks, and copyrights associated with the name “HYATT,” and the related marks that include the word “HYATT,” including “GRAND HYATT,” the Hyatt corporate logo or symbol, together with the right to use any and all slogans, derivations, trade secrets, know-how, and trade dress, and all

other proprietary rights associated with such names, marks and slogans, certain of which are reflected in Exhibit O.

“Improvements” means the Building and all other structures, buildings, pavement, fencing, landscaping, recreational facilities, plumbing, electrical and telephone lines and computer cables and man-made objects of every type, existing or to be placed on the Site.

“Imputed Market Wage Rate” has the meaning set forth in Section 5.5(b)(ii).

“Indebtedness” as applied to any Person, means: (a) all indebtedness for borrowed money; (b) that portion of obligations with respect to leases that is properly classified as a liability on a statement of net position in conformity with GAAP; (c) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money; (d) any obligation owed for all or any part of the deferred purchase price of property or services if the purchase price is due more than six (6) months from the date the obligation is incurred or is evidenced by a note or similar written instrument; and (e) all indebtedness secured by any lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby has been assumed by that Person or is nonrecourse to the credit of that Person.

“Independent Accountant” means a national firm of independent certified public accountants, mutually acceptable to Owner and Manager.

“Independent Architect” has the meaning set forth in Section 8.1(a).

“Initial Series of Bonds” means the approximately \$225,000,000 aggregate principal amount of Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel) to be issued by Owner pursuant to the Trust Agreement to finance the design and construction of the Hotel.

“Insurance and Condemnation Proceeds Fund” means the Insurance and Condemnation Proceeds Fund established pursuant to the Trust Agreement.

“Insurance Consultant” means an independent insurance consultant, mutually acceptable to Manager, Owner and the Trustee.

“Insurance Costs” means insurance premiums relating to liability and casualty coverage and Business Interruption Insurance policies and other insurance policies and coverages maintained with respect to the Hotel as required pursuant to this Agreement, including Exhibit N.

“Key Money” has the meaning set forth in Section 3.2.

“Key Personnel” means the following positions for Manager: the General Manager, the Director of Finance, the Director of Sales and Marketing, the Director of Food and Beverage and the Director of Engineering.

“Liquor Licenses” means the liquor licenses issued for the Hotel in the name of Manager pursuant to Section 3.7(f).

“Lockbox Fund” means the fund by that name required to be maintained pursuant to the Trust Agreement and established pursuant to the Cash Management Agreement.

“Management Fee” means the Base Management Fee plus the Subordinate Management Fee.

“Manager” means the Hyatt Corporation, a Delaware corporation.

“Manager Event of Default” has the meaning set forth in Section 5.2.

“Manager’s Intellectual Property” has the meaning set forth in Section 11.6.

“Manager’s Proprietary Information” means (a) Manager’s and its Affiliates’ know-how, trade secrets, documents, designs, plans, reports, guest data and lists, and studies; (b) information Manager reasonably identifies from time to time as confidential; (c) personnel information; (d) information that should be treated as confidential under the circumstances surrounding its disclosure including guest history information, account information; (e) Proprietary Software; and (f) information that could cause competitive harm to Manager or any of its Affiliates relating to the Hyatt System and other proprietary information relative to the operating methods, procedures and policies distinctive to the Hyatt System, including the contents of the Hyatt operating manuals, information and methodologies relating to the Hyatt Gold Passport program or other similar programs or the Hyatt Reservation System, and all commercial or financial information (including all expenses, calculations and apportionments) relating thereto, and Hyatt System information.

“Mandatory Sinking Fund Installment” means with respect to any Series of Bonds, the amount required to be paid as the Redemption Price of Bonds subject to mandatory sinking fund redemption on any Principal Payment Date prior to maturity pursuant to the Trust Agreement or the Supplemental Trust Agreement for such Series, as such Mandatory Sinking Fund Installment has been previously reduced by the principal amount of any Bonds of such Series of the maturity in respect of which such Mandatory Sinking Fund Installment is payable which are purchased or redeemed by the Trustee in accordance with the provisions of the Trust Agreement or of any Supplemental Trust Agreement, other than by the prior payment of a Mandatory Sinking Fund Installment.

“MCO” has the meaning set forth in Section 5.5(b)(ii).

“MCO Differential” has the meaning set forth in Section 5.5(b)(ii).

“Mitigation Measures” has the meaning set forth in Section 2.3

“National CPI” means the Consumer Price Index for All Urban Consumers, All Items, for U.S. Cities, as published by the Bureau of Labor Statistics of the United States Department of Labor, using the years 1982-84 as a base of 100, or if such index is discontinued, the most comparable index published by any federal governmental agency.

“National Vendor” means any vendor providing goods or services to the Hotel and Other Grand Hyatt Hotels under a purchasing program or a contractual arrangement with

Manager or any of its Affiliates available to or for the benefit of the Hotel and Other Grand Hyatt Hotels.

“Net Debt Service” means, for purposes of determining the Debt Service Coverage Ratio under Section 3.21, with respect to the Bonds, Debt Service on the Bonds less actual and anticipated investment earnings on amounts held in the Debt Service Reserve Fund.

“Net Operating Income” means, for any period, the amount by which the difference between (i) Gross Operating Profit for such period, less (ii) interest earned on the Debt Service Reserve Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Working Capital Reserve Fund, exceeds the sum of: (x) Taxes, plus (y) Insurance Costs, plus (z) amounts added to the FF&E Reserve Fund in the same period.

“Net Revenues” means Net Operating Income, less Administrative Expenses, less additions to the FF&E Reserve Fund and the Capital Reserve Fund, plus the earnings on amounts deposited into the Revenue Fund not otherwise included in the definition of Net Operating Income.

“Non-Assignable Contracts” means all contracts related to the Hotel which are not assignable or divisible and/or which are national type contracts and which are identified to Owner by Manager within thirty (30) days of entering into such contracts, as the same are identified on Exhibit P, as updated from time to time.

“Occupancy Agreement” means any concession agreements for the use of any portion of the Hotel for a term in excess of thirty (30) days entered into by Manager; provided, that notwithstanding anything to the contrary in this Agreement, Manager shall not have authority to enter into any lease agreements with third parties with respect to the Hotel.

“Opening Date” means the first date on which the Hotel opens for business as mutually agreed upon by Owner and Manager.

“Operating Budget” means an annual marketing and operating plan and budget for the Hotel prepared by Manager and approved by Owner, all in accordance with Section 3.21.

“Operating Expenses” means all those ordinary and necessary expenses, including Reimbursable Expenses and the Base Management Fee incurred in the operation of the Hotel in accordance with and to the extent provided in this Agreement, Hotel Personnel Costs, the cost of maintenance and utilities, Administrative Expenses (to the extent there are Sufficient Funds therefor), the costs of advertising, marketing, and business promotion, lease payments for equipment to be installed and utilized at the Hotel, and any amounts payable to Manager as its Base Management Fee as set forth in this Agreement, all as determined in accordance with Generally Accepted Accounting Principles. Notwithstanding the foregoing, unless expressly made an Operating Expense under a specific provision of this Agreement, the following shall not constitute Operating Expenses: (a) Taxes and Excluded Taxes and Other Charges (with the exception of payroll taxes included in Excluded Taxes and Other Charges); (b) Insurance Costs; (c) rentals of real property (unless approved in writing by Owner); (d) depreciation and amortization of capitalized assets; (e) Administrative Expenses and other costs and expenses of

the Trustee, Owner, or the Trustee's or Owner's personnel, such as entertainment expenses, salaries, wages and employee benefits of the Trustee's or Owner's employees, directors' fees, and the expenses of directors or the Trustee's or Owner's employees to attend board meetings; (f) costs and professional fees, including the fees of attorneys, accountants, and appraisers, incurred directly or indirectly in connection with any category of expense that would not otherwise be an Operating Expense, unless otherwise expressly provided in this Agreement; (g) payments of principal and interest related to any financing of the Hotel; (h) costs covered by any of Manager's indemnity, hold harmless and defense agreements contained in this Agreement, all of which shall be funded out of Manager's own funds; (i) costs incurred by Manager to perform obligations, duties, covenants, agreements and responsibilities which, under the express terms of this Agreement, are to be funded from Manager's own funds; (j) Capital Expenses, including construction costs of the Hotel; (k) commissions associated with group sales or conference sales which may become payable during the Pre-Opening Period, but which are attributable to events or bookings scheduled to occur on or after the Opening Date; (l) payments made and amounts required to be paid pursuant to the Design-Build Agreement; and (m) the Subordinate Management Fee.

"Operating Standards" means the standards of management of the Hotel described in Exhibit E.

"Operating Year" means (i) each full Fiscal Year occurring during the Term, (ii) the partial Fiscal Year (if it is such) during which the Opening Date occurs, and (iii) the partial Fiscal Year (if it is such) in which the Termination of this Agreement occurs. If the Opening Date occurs prior to January 1 of a Fiscal Year, then the period from such Opening Date until and including the following June 30 shall constitute the "first Operating Year." If the Opening Date occurs on or after January 1 of a Fiscal Year, then the first full Fiscal Year beginning as of the July 1 following such Opening Date shall constitute the "first Operating Year."

"Opinion of Bond Counsel" means a written opinion of Bond Counsel.

"Other Grand Hyatt Hotels" means the hotels and resorts in North America and the Caribbean that are owned or managed by Manager and/or its Affiliates under the name "GRAND HYATT."

"Out-of-Pocket Expenses" means the reasonable and necessary out-of-pocket costs paid to non-Affiliates of Manager (with no mark-up or Direct or Indirect Profit to Manager) incurred directly by Corporate Personnel providing services to the Hotel under this Agreement, which shall be limited to air travel (economy airfare only), ground transportation (taxis and rentals of intermediate cars only), meals (at moderately priced restaurants), lodging (at hotels with no higher than a three (3)-diamond AAA Rating if not at the Hotel); but excluding any business entertainment expenses, alcoholic beverages, room service meals or gratuities.

"Outstanding" means, with respect to any Bonds as of any date, Bonds theretofore or thereupon being authenticated and delivered under the Trust Agreement except:

- (a) Bonds canceled or delivered for cancellation at or prior to such date;

(b) Bonds in lieu of or in substitution for which other Bonds have been authenticated and delivered pursuant to the Trust Agreement; and

(c) Bonds deemed to have been paid, redeemed, purchased or defeased as provided in the Trust Agreement, in any Supplemental Trust Agreement, as applicable, or as provided by law.

“Owner” or **“Commission”** means the Airport Commission of the City and County of San Francisco.

“Owner Authorized Representative” means Owner’s Airport Director or such other Persons as may be designated to act on behalf of Owner by written certificate furnished to the Trustee and Manager containing the specimen signature of such Persons and signed on behalf of Owner by the Airport Director, which Person(s) shall be acting solely in his, her or its representative capacity on behalf of Owner and not individually.

“Owner Event of Default” has the meaning set forth in Section 5.3.

“Owner Indemnified Parties” has the meaning set forth in Section 7.2.

“Party” or **“Parties”** means each of Owner and Manager.

“PCI Data Security Standard Requirements” has the meaning set forth in Section 3.41.

“Performance Termination Event” has the meaning set forth in Section 5.5(a).

“Performance Test” means each of the three (3) requirements set forth in Section 5.5(a).

“Periodic Reports” has the meaning set forth in Section 3.23(b).

“Person” means any individual, public or private corporation, partnership, limited liability company, county, district, authority, municipality, political subdivision or other entity of the State or the United States of America, and any partnership, association, firm, trust, estate or any other entity or organization whatsoever.

“Petty Cash Amount” means an amount reasonably estimated by Manager as the amount needed from time to time to be retained by Manager at the Hotel as petty cash, which amount shall be comparable to the amount kept by Manager as petty cash at other hotels of comparable size, services and quality operated by Manager.

“Pre-Opening Budget” has the meaning set forth in Section 3.2 of the Pre-Opening Services Agreement.

“Pre-Opening Marketing Plan” has the meaning set forth in Section 3.4 of the Pre-Opening Services Agreement.

“Pre-Opening Period” means the period of time from the Execution Date until the Required Opening Date.

“Pre-Opening Services” has the meaning set forth in Section 2.1 of the Pre-Opening Services Agreement.

“Pre-Opening Services Agreement” means the agreement of that name by and between Owner and Manager dated as of January 1, 2016, as supplemented and amended.

“Pre-Opening Supplies and Equipment” means all supplies and inventories of consumable items necessary to open and initially operate the Hotel (in the case of consumable items, for a period of not less than ten (10) days), consistent with the Brand Standards.

“Pricing” means all prices, price schedules, rates and rate schedules, and all rents, charges and concession charges for all areas of the Hotel, as established by Manager.

“Principal Payment” means with respect to any Principal Payment Date for any Series of Bonds, an amount equal to the sum of (i) the aggregate principal amount of Outstanding Bonds of such Series which mature on such Principal Payment Date, reduced by the aggregate principal amount of such Outstanding Bonds of such Series which are scheduled to be retired prior to such date as a result of Mandatory Sinking Fund Installments in accordance with the Trust Agreement or a Supplemental Trust Agreement; plus (ii) the aggregate amount of any Mandatory Sinking Fund Installment payable on such Principal Payment Date for the retirement of any Outstanding Bonds of such Series.

“Principal Payment Date” means with respect to any Series of Bonds a date on which principal of or a Mandatory Sinking Fund Installment on such Series of Bonds is due and payable.

“Pro-Forma Debt Service Coverage Ratios” means the Debt Service Coverage Ratios projected for the Initial Series of Bonds as set forth on Exhibit Q.

“Project Manager” means the Consultant hired by Owner to provide project management support services and construction management for the design and construction of the Hotel.

“Projected Net Revenues” means the amount of Net Revenues for a particular period of time as projected by the Hotel Consultant.

“Property” means the Site and the Improvements.

“Proposed Annual Plan” means the proposed Capital Budget and the Operating Budget for any Operating Year.

“Proposed Manager Assignee” has the meaning set forth in Section 10.2(a).

“Proprietary Information” means information pertaining to Proprietary Software or Manager’s Intellectual Property, but only to the extent such information is not in the public domain, and Manager’s attorney work product related to the Proprietary Software and Manager’s Intellectual Property.

“Proprietary Software” means certain computer software specially developed by or for Manager and its Affiliates for use in hotels and resorts managed by Manager and its Affiliates or for use in Other Grand Hyatt Hotels, including all source and object code versions thereof and all related documentation, flow charts, user manuals, listing and service/operator manuals and any enhancements, modification or substitutions thereof, as more fully described in Exhibit T.

“Qualified Assignee” means any proposed transferee (and its Affiliates) that: (i) is not known in the community as being of bad moral character; (ii) is not in control of or controlled by persons who have been convicted of felonies in any state or federal court; (iii) is not engaged, directly or indirectly, in the operation or management (as opposed to ownership) of hotels which are operated under a nationally or regionally recognized brand and which are competitive to Manager or any of its Affiliates; (iv) does not own, lease or operate any casino or gambling facility, unless such entity or individual is licensed under the gaming laws of the state where such casino or gambling facility is located; (v) is financially capable of performing transferor’s duties and obligations under this Agreement; and (vi) is not a “Specially Designated National or Blocked Person.” For the purposes of this Agreement, a “Specially Designated National or Blocked Person” means: (x) Persons designated by the U.S. Department of Treasury’s Office of Foreign Assets Control from time to time as a “specially designated national or blocked person” or similar status, (y) a Person described in Section 2 of U.S. Executive Order 13224 issued on September 23, 2001, or (z) a Person otherwise identified by a Governmental Authority as a person with whom Manager or its Affiliates are prohibited from transacting business.

“Qualified Management Agreement” means a management or service contract that meets the requirements described in Revenue Procedure 97-13, 1997-1 C.B. 632, as amplified by Notice 2014-67, 2014-46 I.R.B. 822, such that the contract will not result in private business use under Section 141(b) of the Code.

“Rating Service” means STR, Inc. (also known as Smith Travel Research, Inc.), a global provider of competitive benchmarking, information services and research to the hotel industry, or if STR, Inc. no longer provides ratings for hotel brands, then such other Person mutually agreeable to Manager and Owner which then does provide such ratings.

“Redemption Account” means the account by that name established within the Debt Service Fund pursuant to the Trust Agreement.

“Redemption Date” means the date upon which any Bonds are to be redeemed prior to their respective fixed maturities pursuant to the mandatory, extraordinary mandatory or optional redemption provision of the Trust Agreement or any Supplemental Trust Agreement.

“Redemption Price” means, with respect to any Bond, the amount, including any applicable premium, payable upon the mandatory or optional redemption thereof, as provided in the Trust Agreement or any Supplemental Trust Agreement.

“Registered Owner” means the person in whose name any of the Bonds are registered on the books kept and maintained by the Trustee as bond registrar.

“Reimbursable Expenses” means all costs and expenses reimbursable to Manager pursuant to Section 4.4.

“Remedial Action” means actions required to (i) investigate, monitor, clean up, remove, treat, dispose of off-site or in any other way address or respond to the effects of Hazardous Materials in the indoor or outdoor environment so as to render the Hotel safe for its intended use; or (ii) prevent the release or threat of release, or minimize the further release, of Hazardous Materials in the indoor or outdoor environment.

“Required Opening Date” has the meaning set forth in the Pre-Opening Services Agreement.

“Restricted Hotel” means any full-service hotel facility which is operated under the “Hyatt” (without a sub-brand identifier), “Grand Hyatt,” “Park Hyatt,” “Hyatt Regency,” “Hyatt Centric” and “Andaz” brands, or any other full-service Hyatt branded or operated hotel that is rated with a three (3)- or four (4)-diamond AAA Rating.

“Restricted Radius” means the area within a ten (10) mile radius of the front door of the Hotel as set forth in Exhibit R.

“Revenue Fund” means the Revenue Fund established by the Trust Agreement.

“Revenue Stabilization Fund” means the Revenue Stabilization Fund established pursuant to the Trust Agreement.

“Revenues Failure” has the meaning set forth in Section 5.5(b)(i).

“RevPAR” means, with respect to each hotel that is a member of the Competitive Set and with respect to the Hotel, and with respect to any period of time, the “Revenue Per Available Room” for the hotel in question, as measured and reported by STR, Inc., or such other reputable independent third-party market research firm as may be mutually approved by Owner and Manager.

“Room Rate and Occupancy Plan” means that portion of each Annual Plan that sets forth in detail the projected Average Daily Rate and occupancy for each calendar month during the Operating Year in the aggregate and by room, booking source, market segment and/or other appropriate categories as reasonably requested by Owner.

“Schedule of Compensation” has the meaning set forth in Section 3.24(a)(ix)(B).

“Senior Personnel” means the General Manager; the Directors of (i) Rooms, (ii) Food and Beverage, (iii) Sales and Marketing, (iv) Engineering, (v) Human Resources, and (vi) Finance; and the Executive Chef.

“Senior Personnel Bonus Pool” has the meaning set forth in Section 3.24(a)(ix)(A).

“Series” means Bonds identified as a separate series which are authenticated and delivered on original issuance and any Bonds thereafter authenticated and delivered in lieu of or

in substitution for such Bonds pursuant to the Trust Agreement, or any Supplemental Trust Agreement.

“Service Provider” has the meaning set forth in Section 3.41.

“Site” means the real property in the County of San Mateo, California, legally described in Exhibit C.

“State” means the State of California.

“Subcontractor” means any subcontractor, laborer, supplier, distributor, vendor, manufacturer or materialman that enters into a contract with Manager (or any subcontractor, sub-supplier or sub-consultant thereof at any tier) to provide any portion of the services under this Agreement.

“Subordinate Management Fee” has the meaning set forth in Exhibit K.

“Substantially All” means ninety-five percent (95%) or more.

“Sufficient Funds” means the following to the extent made available to Manager for the purposes for which such funds are designated:

(a) with respect to the payment of Operating Expenses, there are sufficient amounts in the Lockbox Fund and the Working Capital Reserve Fund for the payment of such Operating Expenses;

(b) with respect to Gross Receipts Taxes, there are sufficient amounts in the Lockbox Fund to pay such taxes at least equal to the collections deposited by Manager into the Lockbox Fund that are attributable to such Gross Receipts Taxes;

(c) with respect to Taxes and Insurance Costs, there are sufficient amounts in the Taxes and Insurance Fund to pay for such costs;

(d) with respect to the payment of Capital Expenses in connection with budgeted Capital Improvements, there are sufficient funds in the Capital Reserve Fund to pay for such Capital Expenses; and

(e) with respect to the payment of Capital Expenses in connection with unbudgeted Capital Improvements or an Emergency, there are sufficient amounts in the Working Capital Reserve Fund, the Capital Reserve Fund, and the Revenue Stabilization Fund to pay for such Capital Expenses; and

(f) with respect to the payment of costs to repair and/or replace FF&E, there are sufficient funds in the FF&E Reserve Fund to pay for such costs.

“Supplemental Trust Agreement” means any Trust Agreement supplemental to or amendatory of the Trust Agreement, entered into by Owner and the Trustee in accordance with Article XI thereof.

“**Survey**” means a survey of the Site, certified to the Trustee and its successors, assigns and designees by a surveyor reasonably satisfactory to the Trustee.

“**Systems**” include all fixtures, equipment, pipes, lines, wires, ducts, vents, computer cables, security system cables, monitoring system cables, conduits, and other systems and facilities used in the production, heating, cooling and/or transmission of air, water, gas, electricity, communications, waste water, sewage, and audio and video signals, elevators and escalators.

“**Taking**” or “**Taken**” means (a) a taking as a result of compulsory purchase or acquisition of all or part of the Hotel, by any Governmental Authority (or any authority or entity acting on behalf of or purporting to act on behalf of any Governmental Authority) for any purpose whatsoever or a conveyance in lieu thereof or (b) any direction, ruling or order of any Governmental Authority requiring conversion of all or part of the Property to another purpose other than for the Hotel.

“**Tax Law Requirements**” means Section 141(b) of the Code, Treasury Regulations Section 1.141-3, and Rev. Proc. 97-13, 1997-1 C.B. 632, as amplified by Notice 2014-67, 2014-46 I.R.B. 822.

“**Taxes**” means all taxes, including *ad valorem* taxes on real property, lease-hold excise taxes, transfer taxes, personal property taxes and other assessments imposed by Governmental Authorities relating to or assessed in connection with the ownership or operation of the Hotel, except for Excluded Taxes and Other Charges.

“**Taxes and Insurance Fund**” means the Taxes and Insurance Fund established pursuant to the Trust Agreement.

“**Taxes and Insurance Set Aside Amount**” means, with regard to a particular month, an amount equal to one-twelfth of the amount budgeted for real property taxes, if any, assessments, and insurance for the Hotel by the then-current Operating Budget for the Operating Year in which the month falls; provided, that such amount may be adjusted to the extent determined to be necessary to cause the amount to be deposited therein to at least equal the payment for *ad valorem* property taxes, if any, assessments and insurance premiums when due.

“**Technical Services Agreement**” means the agreement of that name by and between Owner and Manager dated as of January 1, 2016, as supplemented and amended.

“**Temporary Certificate of Occupancy**” means the certificate or certificates, as applicable, issued by BICE, that permits legal and beneficial occupancy, operation and use of the Hotel, without interruption, for each of its intended purposes, which certificate or certificates may be issued with or without qualification so long as any qualifications shall not prohibit, restrict or impair such occupancy, operation or use, as initially acquired by the Design-Builder with respect to the original construction of the Hotel and the Work pursuant to the Design-Build Agreement.

“**Term**” has the meaning set forth in Section 5.1(a).

“Termination of this Agreement” means the expiration or sooner cessation or termination of this Agreement.

“Termination Date” means the effective date of the Termination of this Agreement.

“Total Operating Revenues” means all revenue and income of any kind derived directly or indirectly from operations at the Hotel, whether or not arranged by, for or on behalf of another Person or at another location, properly attributable to the period under consideration (including rentals or other payments from licensees or concessionaires of retail space in the Hotel, but not gross receipts of such licensees or concessionaires), determined in accordance with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles, except that the following shall not be included in determining Total Operating Revenues:

- (a) Excluded Taxes and Other Charges;
- (b) receipts from the financing, sale or other disposition of capital assets and other items not in the ordinary course of the Hotel’s operations and income derived from securities and other property acquired and held for investment;
- (c) receipts from awards or sales in connection with any Taking, from other transfers in lieu of and under the threat of any Taking, and other receipts in connection with any Taking, but only to the extent that such amounts are specifically identified as compensation for alterations or physical damage to the Hotel;
- (d) proceeds of any insurance or sureties, including the proceeds of any Business Interruption Insurance;
- (e) rebates, discounts, or credits of a similar nature (not including charge or credit card discounts, which shall not constitute a deduction from revenues in determining Total Operating Revenues, but shall constitute an Operating Expense);
- (f) consideration received at the Hotel for hotel accommodations, goods and services to be provided at other hotels although arranged by, for or on behalf of, Manager; provided, that such consideration is recognized by such other hotels;
- (g) consideration received at other hotels for hotel accommodations, goods and services to be provided at the Hotel arranged by, for or on behalf of, such other hotels; provided, that such consideration is recognized by such other hotels;
- (h) notwithstanding any contrary requirements of Generally Accepted Accounting Principles, all gratuities collected for the benefit of and directly to Hotel Personnel;
- (i) proceeds of any financing;
- (j) the initial operating funds and working capital loans and any other funds provided by Owner to Manager whether for Operating Expenses or otherwise;

(k) other income or proceeds that do not result from (i) the use or occupancy of the Hotel, or any part thereof, or (ii) the sale of goods, services or other items by or from the Hotel in the ordinary course of business;

(l) interest earned on funds held in any Fund or Account;

(m) the value of any complimentary rooms, goods or services;

(n) refunds to Hotel guests of any sums or credits to any Hotel customers for lost or damaged items; and

(o) refunds to parking customers of any sums or credits to any parking customers for lost or damaged items.

“Total Receipts” means Total Operating Revenues plus the following:

(a) receipts from the financing, sale or other disposition of capital assets and other items not in the ordinary course of the Hotel’s operations and income derived from securities and other property acquired and held for investment;

(b) receipts from awards or sales in connection with any Taking, from other transfers in lieu of and under the threat of any Taking, and other receipts in connection with any Taking, but only to the extent that such amounts are specifically identified as compensation for alterations or physical damage to the Hotel;

(c) proceeds of any insurance or sureties, including the proceeds of any Business Interruption Insurance;

(d) proceeds of any financing;

(e) the initial operating funds and working capital loans and any other funds provided by Owner to Manager whether for Operating Expenses or otherwise;

(f) interest earned on funds held in any Account or Fund; and

(g) deposits for room reservations received by Manager prior to the Opening Date of the Hotel.

“Trust Agreement” means the Trust Agreement substantially in the form attached as Exhibit G, by and between Owner and the Trustee, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms thereof.

“Trustee” means U.S. Bank National Association, as trustee under the Trust Agreement, together with any successors or assigns.

“TSA” means the United States Transportation Security Agency, or any successor thereto.

“Unamortized Key Money” has the meaning set forth in Section 3.2.

“Uniform System of Accounts” means the latest edition of the Uniform System of Accounts for the Lodging Industry that is published by the Hotel Association of New York City, Inc. and approved by the American Hotel & Lodging Association (currently, the 11th Revised Edition, 2014).

“Upper Upscale Hotel” means a brand of full-service hotels categorized by the Rating Service as being “upper upscale” and, to the extent of any material change after the Execution Date in the standards for such a rating, consistent with the standards for such rating as of the Execution Date.

“Variable Expenses” has the meaning set forth in Section 3.21(g).

“Work” means the performance by Design-Builder of all its responsibilities and obligations set forth in the Design-Build Agreement. Work shall include providing all materials, labor, services, and documentation required by the Design-Build Agreement to design and construct the Hotel in accordance with the Hyatt Requirements.

“Working Capital Set-Aside Amount” means \$1,800,000; provided, that either Party may request the approval of the other Party to an increase in such amount which it believes is necessary or desirable to meet the operating needs of the Hotel; provided further, that if the Parties do not agree on a proposed increase, either Party may refer the matter for resolution by a Hotel Consultant pursuant to Section 3.21(k).

“Working Capital Reserve Fund” means the Working Capital Reserve Fund established by the Trust Agreement.

“Working Capital Reserve Requirement” means an amount equal to \$2,500,000.

Section 1.2. Interpretation.

(a) The Table of Contents and captions to the Articles and Sections of this Agreement are for convenience of reference only and in no way define, limit, describe or affect the scope or intent of any part of this Agreement.

(b) Defined terms in this Agreement shall include in the singular number the plural and in the plural number the singular.

(c) Unless otherwise stated, any reference in this Agreement to any Person shall include its permitted successors and assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

(d) Unless otherwise expressly specified, any agreement, contract or document defined or referred to in this Agreement means such agreement, contract or document in the form (including all amendments, schedules, exhibits, appendices, attachments, clarification letters and the like relating thereto) delivered on the Closing

Date, and as the same may thereafter be amended, supplemented, replaced or otherwise modified from time to time in accordance with the terms hereof and thereof.

(e) Unless otherwise defined in this Agreement, terms relating to insurance have the meanings customarily associated with such terms in the insurance industry.

(f) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(g) The words “include,” “includes” and “including” shall not be limiting, and shall be deemed in all instances to be followed by the phrase “without limitation.”

(h) Any reference to a Section, Article or Exhibit is a reference to a Section, Article or Exhibit of this Agreement, unless otherwise specified.

(i) The phrase “and/or” means either or both of the items referenced thereby.

(j) References to “days” mean calendar days unless otherwise indicated.

(k) Unless the context clearly requires otherwise, the word “or” is not exclusive.

(l) Unless the language specifies or the context implies that a term of this Agreement is a condition, all of the terms of this Agreement shall be deemed and construed to be covenants to be performed by the designated Party.

(m) Unless expressly stated otherwise in this Agreement, whenever a matter is submitted to a Party for approval or consent in accordance with the terms of this Agreement, that Party has a duty to not unreasonably withhold, condition or delay such approval or consent.

ARTICLE II

THE HOTEL

Section 2.1. Agreed Scope of the Hotel. Owner intends that the Hotel shall be a premier First-Class Hotel and among the best on-airport hotels in the world in terms of its design, operation and environmental attributes, and shall be as further described in Exhibit A (“Agreed Scope of the Hotel”). The Parties approve the Agreed Scope of the Hotel and the Agreed Scope of the Hotel shall not be materially changed, except in conformance with the Hotel Agreements and, to the extent required, with the review and approval of any applicable Governmental Authority with jurisdiction over the Hotel.

Section 2.2. LEED Gold Standards. Manager acknowledges and agrees that Owner shall seek to have the Hotel certified at least “LEED Gold for New Construction” by the U.S. Green Building Council (“LEED Gold - Construction”). Manager also acknowledges and agrees that Owner may seek the “LEED - Existing Building Operations & Maintenance Gold Certification” (“LEED Gold - Operations”) for the Hotel for the duration of the Term. Owner

intends to (i) construct the Hotel in a manner that would qualify the Hotel as at least LEED Gold – Construction, and (ii) make, from time to time, the necessary physical renovations and improvements to the Hotel to maintain the LEED Gold – Construction certification and to satisfy any new standards required for the Hotel created after the Execution Date. To the extent the Hotel is certified as LEED Gold - Construction, Manager agrees to operate the Hotel in accordance with LEED Gold – Operations standards as long as (x) there are Sufficient Funds, and (y) such standards do not conflict with the Brand Standards. To the extent that any LEED Gold – Operations standards, including changes thereto that occur after the Execution Date, conflict with or impede Manager's ability to operate the Hotel in accordance with this Agreement, Manager shall provide Owner with notice thereof and Manager and Owner agree to use good faith efforts to resolve the conflict so that the Hotel continues throughout the Term to be operated in accordance with LEED Gold – Operation standards. Without the prior written consent of Owner in its sole discretion, Manager shall not make any modifications or improvements to the Hotel that would cause the Hotel to fail to meet the LEED Gold – Construction or LEED Gold – Operation standards. Manager further acknowledges that Owner, to the extent practicable, may seek to design, construct and operate the Hotel as a “net-zero energy” building, in which event Manager shall operate the Hotel as such.

Section 2.3. Other Environmental Requirements. Manager acknowledges that Owner will comply with the mitigation measures ("**Mitigation Measures**") applicable to the Hotel included in the Addendum to the Final San Francisco International Airport Master Plan Program Environmental Impact Report, which Addendum was issued by the San Francisco Department of City Planning, Environmental Planning Division, on February 5, 2014. The Mitigation Measures are included in the Mitigation Monitoring and Reporting Program for the Airport Master Plan, adopted by Owner in 1992 and updated for the Hotel in 2014. Manager and Owner acknowledge and agree that, in addition to the Mitigation Measures and compliance with Applicable Law, the Owner shall design and construct the Hotel and Manager shall operate the Hotel in accordance with the other environmental measures applicable to the Hotel set forth in Exhibit D ("**Hotel Environmental Requirements**").

ARTICLE III

GENERAL MANAGEMENT; DUTIES AND RESPONSIBILITIES OF MANAGER

Section 3.1. Engagement of Manager.

(a) ***Exclusive Manager; Standard of Care.*** Subject to the provisions of this Agreement, Owner hereby engages Manager, and Manager hereby agrees to be engaged by Owner and does hereby undertake to supervise, direct and control the management, operation and promotion of all aspects of the Hotel as the exclusive manager and operator of the Hotel during the Term, but without relinquishing Owner's possessory rights to and interest in the Hotel.

(b) ***Qualified Management Agreement.*** This Agreement is intended to and shall constitute a “Qualified Management Agreement”, and shall be interpreted in accordance with such requirements. Manager represents to Owner that Manager has

experience operating hotels that are financed with the proceeds of tax-exempt bonds, and has reviewed and is familiar with the Tax Law Requirements.

(c) **Tax Covenant.** Manager agrees that it shall operate and manage the Hotel in a manner which, to the extent of its rights and authority under this Agreement and as otherwise authorized by Owner in writing, preserves the exemption from federal income tax of interest on the Bonds and, in particular, to the extent of its rights and authority under this Agreement and as otherwise authorized by Owner in writing, shall comply with the Tax Law Requirements to avoid conditions under which tax-exempt bond-financed property shall be considered used for an impermissible private business use; provided, however that the foregoing shall not require Manager to breach any of the provisions of this Agreement unless such action is authorized by Owner, such breach is waived in writing by Owner and the Trustee, and Manager so agrees; and provided, further, that Owner acknowledges and agrees that Manager is not responsible for whether this Agreement constitutes a Qualified Management Agreement.

Section 3.2. Key Money Contribution. Manager shall deliver an amount equal to five million dollars (\$5,000,000.00) (“**Key Money**”) to the Trustee on the date that is thirty (30) days prior to the Opening Date. The Key Money shall be deposited by the Trustee into the Working Capital Reserve Fund, the Lockbox Fund and/or the Construction Fund in accordance with the Trust Agreement. The Key Money shall be deemed to be amortized in equal monthly installments between the 1st and the 120th months of the Term. Any Key Money that has not been amortized in the manner provided in this Section (“**Unamortized Key Money**”) as of the date of any Termination of this Agreement (other than for a Manager Event of Default) shall be repaid to Manager upon the Termination Date. Owner and Manager acknowledge and agree that the Key Money contribution shall not constitute an equity investment by Manager in the Hotel.

Section 3.3. Operating Standards.

(a) **Operating Standards Defined.** Manager agrees that, subject to the provisions of this Agreement, including the limitations of Applicable Law, the availability of Sufficient Funds and the design and construction of the Hotel in accordance with all Hyatt Requirements, Manager shall cause the Hotel to be operated for twenty-four (24) hours per day, seven (7) days per week for the entire calendar year, including holidays, during the Term, in accordance with the standards set forth in Exhibit E (collectively, the “**Operating Standards**”).

(b) **AAA Rating.** Manager shall request that the American Automobile Association conduct an inspection of the Hotel annually, beginning in the second Operating Year, to determine if the Hotel has attained a four (4)-diamond AAA Rating. The cost of conducting such survey shall be an Operating Expense.

(c) **Review of Operating Standards.** Manager and Owner shall jointly review the Operating Standards no less than once per calendar year to determine whether the Operating Standards are being met and, if not, to determine whether the Operating Standards should be modified; provided, that in no event shall Manager be required to modify the Operating Standards to increase the level of performance or in a manner that

would cause non-compliance with the Brand Standards, in either case without the prior written consent of Manager. The Parties shall act reasonably and cooperate with one another in conducting such review and determining appropriate modifications to the Operating Standards.

(d) ***Inability to Meet Operating Standards; Modification of Operating Standards.*** If Manager at any time believes that it cannot operate the Hotel in a manner that allows it to meet any one of the Operating Standards without violating another of the Operating Standards, it shall promptly notify Owner thereof accompanied by a detailed written explanation of the circumstances and recommendations as to modifications of the Operating Standards without compromising the operation or quality of the Hotel. Any such proposed modifications shall be subject to Owner's written approval; provided, that in no event shall Manager be required to modify the Operating Standards in a manner that would cause non-compliance with the Brand Standards or the inability of Manager to satisfy the Performance Tests.

Section 3.4. Changes to Brand Standards. The Parties acknowledge that the Brand Standards may be modified by Manager from time to time. As soon as reasonably practicable, Manager shall provide Owner advance written notice of anticipated modifications to the Brand Standards. Manager agrees that, with the exception of the requirement that the Hotel be in compliance with Applicable Laws and the Hotel Environmental Requirements, should any aspect of the Hotel be considered non-compliant with the Brand Standards, then Owner may request in writing that Manager approve an exception for the Hotel to such Brand Standards, which Manager may approve or reject in its reasonable discretion. If Owner's request for an exception is rejected by Manager, Manager and Owner shall mutually determine how to bring the Hotel into compliance with the applicable Brand Standard. Notwithstanding the foregoing, non-compliance of the Hotel with the Brand Standards shall not be deemed an Owner Event of Default unless Sufficient Funds are available therefor, in which case Owner shall promptly undertake to cure such non-compliance and diligently pursue such cure to completion; provided, that such cure is completed within a period of not to exceed 180 days from the date of such noncompliance or such greater period allowed by Manager to Other Grand Hyatt Hotels that are in non-compliance with such Brand Standard.

For the period through the first five (5) Operating Years, Owner shall not be obligated to comply with any modification to the Hyatt Requirements except: (a) required life, safety, fire, or security improvements; (b) improvements required by Applicable Law; (c) Technology System Upgrades to the extent that any such Technology System Upgrade is being implemented at Substantially All Other Grand Hyatt hotels, and (d) to replace items due to ordinary wear and tear and damage. Thereafter, Owner shall only be obligated to comply with modification of Hyatt Requirements if such modifications: (i) are implemented at Substantially All Other Grand Hyatt Hotels; (ii) do not involve changes to the physical structure of the Hotel, including removal or relocation of support structures or load-bearing walls; (iii) do not conflict with the Hotel Environmental Requirements; or (iv) are approved as part of the Annual Plan. Notwithstanding the foregoing, Owner shall be obligated to comply with modifications of the Hyatt Requirements to the extent of uncommitted amounts available therefor in the Capital Reserve Fund and FF&E Reserve Fund. "**Technology System Upgrade**" means any upgrade or renovation of the Hotel's

computer systems, including the property management system, point of sale system, phone system, business center or similar technologies, but does not include any upgrade or renovation of guest-room televisions or other entertainment systems or internet services.

Section 3.5. Adverse Change in Grand Hyatt Brand. If at any time “Grand Hyatt” is no longer a First-Class Hotel brand, then Manager shall operate the Hotel under another comparable hotel brand operated by Manager or its Affiliates approved by Owner that is a First-Class Hotel brand; provided, however, the foregoing shall not affect Manager’s obligation to manage the Hotel pursuant to the Operating Standards. If Manager fails so to operate the Hotel under another hotel brand acceptable to Owner, then Owner may terminate this Agreement by delivering written notice thereof to Manager.

Section 3.6. Establishing Rates.

(a) **Establishing Pricing.** Manager shall establish the Pricing consistent with the applicable Operating Budget, including the Room Rate Plan, and supervise, direct and control the collection of income of any nature from the Hotel’s operations and the giving of receipts in connection therewith; provided, however, the foregoing shall in no way limit (i) Owner’s right to review and approve the applicable Operating Budget (including the budgeted Total Operating Revenues and the Room Rate Plan), as provided in Section 3.21(d) below; or (ii) Owner’s right to require the appointment of a Hotel Consultant and to the implementation of written recommendations of the Hotel Consultant pursuant to the provisions of Section 3.21(k) below. Further, Manager shall at all times have the right to implement at the Hotel national, regional or brand-wide value rates or promotional rates implemented at Substantially All Other Grand Hyatt Hotels as Manager reasonably deems appropriate.

(b) **Interim Changes to Pricing.** If Manager at any time believes that then-current market conditions will not enable Manager to charge daily room rates or other Pricing consistent with the applicable Operating Budget, including the Room Rate Plan, for a period of at least one (1) calendar month, Manager shall provide Owner with prompt written notice thereof. The notice shall include a detailed explanation of the circumstances and Manager’s recommendations as to modifications of the Operating Budget. Upon request of Owner, Manager shall meet with Owner or Asset Manager to discuss such proposed modifications. Owner shall have the right to approve any such modifications unless, if the Hotel Consultant has been appointed and is making recommendations pursuant to Section 3.21(k) below, the Hotel Consultant recommends different such modifications, in which case the recommendations of the Hotel Consultant shall be binding on the Parties.

Section 3.7. Negotiation of Contracts.

(a) **Occupancy Agreements.** Subject to the remaining provisions of this Section, Manager shall enter into and administer, for the benefit of the Hotel, any Occupancy Agreements for the Hotel. Manager shall be responsible for operating all space within the Hotel, including restaurants and lounges; provided, that Owner reserves the right to contract with third parties for the operation of the restaurants, food outlets,

retail store and spa in the Hotel with the prior written consent of Manager. Manager may withhold consent (i) for any such third-party operation that, in Manager's reasonable opinion, would have a material adverse effect on Total Operating Revenues or Operating Expenses or the operation of the Hotel by Manager consistent with the Operating Standards, or (ii) if the operator of such operation is not a Qualified Assignee.

(b) **Service Contracts.** Subject to the remaining provisions of this Section and the provisions of Section 3.28, Manager shall negotiate, enter into and administer, for the benefit of the Hotel, service contracts for Hotel operations not otherwise provided by Owner, including contracts for health and safety systems maintenance, natural gas, refuse disposal, telephone, cleaning, elevator and boiler maintenance, air conditioning maintenance, laundry and dry cleaning, master television service, broadband, high-speed internet access and other technological services as they are developed, use of copyrighted materials (such as music and videos), entertainment, and other services Manager deems advisable. Manager shall use commercially reasonable efforts to include a provision in each contract to provide monthly recurring services (other than public utilities) which permits the contract to be terminated upon thirty (30) days' written notice. In each other contract, Manager shall use commercially reasonable efforts to include termination provisions that are typical at Other Grand Hyatt Hotels for the type of contract at issue. Owner shall provide or cause to be provided telephone, communication, water, sewer, natural gas and electric power services to Hotel at the rates and charges therefor generally applicable to tenants, concessionaires, lessees and other users at the Airport. Owner shall provide electric power to the Hotel at rates equivalent to those in tariffs approved by the California Public Utilities Commission for the Pacific Gas and Electric service area. Manager shall secure natural gas service from the utility company furnishing such service, whether the company delivers such services directly through its own conduits or pipes or through conduits or pipes owned by Owner.

(c) **Banquet and Meeting Facility Contracts.** Manager shall negotiate, enter into and administer, for the benefit of the Hotel, contracts for the use of banquet and meeting facilities and guest rooms by groups and individuals.

(d) **Parking.** Except for daily use by the general public, Hotel guests and Hotel Personnel in accordance with the Pricing, Manager shall not grant parking privileges within the Hotel without Owner's prior written consent. All parking privileges approved by Owner and granted by Manager shall provide that they are revocable on thirty (30) days advance notice given at the discretion of Owner. Overflow parking and subcontracting of parking management shall be as provided in Section 3.29.

(e) **Licenses and Permits.** Subject to the remaining provisions of this Section, Manager shall obtain or cause to be obtained all Approvals required for the management and operation of the Hotel or the making of Capital Improvements, as and when required under Applicable Law; provided, that Manager shall have no obligation to obtain any Certificate of Occupancy or construction-related permits prior to the time that the Temporary Certificate of Occupancy is delivered for the Hotel, such obligation to be an obligation of the Design-Builder under the Design-Build Agreement, or any other Approvals which Design-Builder is obligated to obtain pursuant to the Design-Build

Agreement or otherwise related to any part of the Work. Manager shall exercise its commercially reasonable efforts to obtain all Approvals when and as required for the management and operation of the Hotel by Manager. Such Approvals shall include Approvals for health and safety systems maintenance, natural gas, refuse disposal, telephone, cleaning, elevator and boiler maintenance, air conditioning maintenance, laundry and dry cleaning, restaurant equipment, master television service, use of copyrighted materials (such as music and videos), entertainment, alterations, parking and other services Manager deems advisable. Owner shall reasonably cooperate with Manager to the extent necessary in order for Manager to obtain all such Approvals.

(f) ***Liquor Licenses.*** Manager shall be responsible for obtaining the Liquor Licenses for the Hotel prior to the Required Opening Date. The Liquor Licenses shall be in the name of Manager, to the extent permitted by Applicable Law. Upon Termination of this Agreement, Manager shall reasonably cooperate with any new manager of the Hotel in order to enable the new manager to serve liquor without interruption. Upon receipt of a temporary liquor license by the new operator, Manager shall surrender the Liquor Licenses.

(g) ***Owner Approval of Contracts.***

(i) Owner's prior written approval shall be required for the negotiation, execution or administration of any Occupancy Agreement, service contract, license, permit or agreement; provided, that such approval shall not be required for any such service contract, license, permit or agreement (other than an Occupancy Agreement) that:

(A) (1) has a term (including any automatic renewals thereof) of less than one (1) year, and (2) requires aggregate payments of less than \$50,000; or

(B) Was specifically listed in and approved by Owner as part of the Annual Plan and for which the cost thereof is included in the Annual Plan; or

(C) For natural gas or refuse disposal services to the Hotel.

(ii) In addition, as part of the process of approval of the Operating Budget, Owner may instruct Manager to cause some or all of the contracts providing for payments in any one (1) year in excess of \$50,000 (including contracts for consumable supplies) to be competitively bid by a minimum of three (3) different reputable vendors known to Manager to provide high quality service at competitive prices (at least one (1) of which shall not be either a National Vendor or an Affiliate of Manager and may be designated by Owner, at Owner's election). Manager shall select vendors based on Manager's reasonable judgment of which vendors provide the best combination of cost and quality of goods and services.

(h) **Certain Limitations.** Notwithstanding the foregoing, Manager shall not enter into contracts or agreements with third parties involving the management, operation or use of any portion of the Hotel (to the extent otherwise permitted under this Agreement) without first submitting such contracts or agreements for review and approval by Owner (which may consult with Bond Counsel, the cost of which shall be an Administrative Expense) to ascertain whether such contracts could adversely affect the exemption from Federal income tax of interest on the Bonds. Owner shall use its commercially reasonable efforts to obtain such determination within thirty (30) days of such submission. Notwithstanding the foregoing, contracts and agreements with third parties which satisfy the following criteria need not be submitted for review and approval:

(i) contracts for services that are solely incidental to the primary function or functions of the Hotel (for example, contracts for janitorial, equipment repair, billing or similar services);

(ii) contracts to provide services if the only compensation is the reimbursement of the service provider for actual and direct expenses paid by the service provider to unrelated parties;

(iii) except as otherwise provided in Section 3.28, contracts or arrangements for use of any portion of the Hotel that is available to the general public at no charge or on the basis of rates that are generally applicable and uniformly applied (unless the term of use set forth in the contract or arrangement, including all renewal options, is greater than thirty (30) days); or

(iv) use by a nongovernmental person pursuant to a contract or arrangement (other than a contract or arrangement resulting in ownership of the Hotel by a nongovernmental person) if:

(A) the term of the use under the contract or arrangement including all renewal options is no longer than fifty (50) days; and

(B) the contract or arrangement is a negotiated arm's-length contract or arrangement; and

(C) compensation under the contract or arrangement is at fair market value; and

(D) the property which is the subject of the contract or arrangement is not financed for the principal purpose of providing that property for use by that nongovernmental person.

(i) **Contracts with Related Parties.** Notwithstanding anything to the contrary in this Agreement, Manager shall not enter into any contract, license or agreement for the Hotel as a result of which Manager, or any Affiliate of Manager, receives any Direct or Indirect Profit.

(j) ***Provisions Applicable to All Contracts.*** Notwithstanding anything to the contrary in this Agreement, Manager's contracts and agreements with third parties that are entered into specifically with respect to the Hotel shall not exceed the term of this Agreement. Other than Non-Assignable Contracts, Manager shall use commercially reasonable efforts to include in all contracts and agreements, in addition to any provisions that may be required by the provisions set forth in Exhibits B and N, a provision stating that such contracts are fully assignable without restriction to Owner or, at the direction of Owner, to a successor manager of the Hotel. Upon the Termination of this Agreement for any reason whatsoever, Manager shall promptly take all reasonable actions necessary to assign to Owner or its designee all contracts and agreements described in this Section (other than Non-Assignable Contracts as set forth on Exhibit P). In addition, Manager shall use commercially reasonable efforts to include (i) a no personal liability provision and an indemnity provision in favor of Owner; (ii) a limited liability provision in substantially the form set forth in Section 12.13; (iii) a non-interference provision substantially in the form set forth in Section 3.34; and (iv) a provision naming Owner as the sole third-party beneficiary of such contract or agreement. Notwithstanding anything to the contrary in this Agreement, all contracts, agreements and licenses (including those for goods and services) shall comply with the requirements of this Section. Manager shall comply with its standard practices and policies applicable to Other Grand Hyatt Hotels (including competitive bidding) in the selection of vendors under contracts for goods and services. Manager shall give preference to local vendors when selecting vendors; provided, that the local vendors are competitive in pricing and permit Manager to operate the Hotel in the manner contemplated under this Agreement. Owner and Asset Manager shall have the right to inspect all non-proprietary contracts and agreements related to the Hotel upon reasonable notice to Manager at Owner's expense.

(k) ***Bay Area CPI Adjustments.*** The dollar amounts specified in subsection (g) above shall be adjusted at the commencement of the second and each subsequent Operating Year by the percentage change in the Bay Area CPI over the prior Operating Year.

Section 3.8. Maintenance of Hotel and FF&E. Manager shall, subject to Sufficient Funds being available for such purpose and Owner providing its approval in cases where such approval is required under this Agreement, keep the Hotel and the FF&E which serves the Hotel in good operating order, repair and condition in accordance with the Operating Standards, including making necessary replacements, improvements, additions and substitutions thereto and, in connection therewith, and formulating and implementing preventative maintenance and other programs designed to efficiently and effectively maintain the condition of the Hotel, including HVAC serving the Hotel, fire and life safety, plumbing and other building systems. Without limiting the foregoing, and subject to compliance with the Operating Budget and Section 3.7, Manager shall negotiate, enter into and administer, for the benefit of the Hotel, maintenance contracts for elevators, escalators and other people movers, major life safety systems, chillers, boilers, and other major HVAC equipment and such other equipment and systems as Manager determines appropriate. In connection with such major life safety systems, chillers, boilers, and other major HVAC equipment, Manager shall arrange to have the Hotel and the FF&E physically inspected at least once each Operating Year (either by a qualified employee

of Manager or an outside consultant selected by Manager) and prepare a written report in a form reasonably acceptable to Owner for Owner's review and approval, to the extent such approval is required for such item under Section 3.21(h), in a form consistent with that provided by Substantially All Other Grand Hyatt Hotels. A copy of such written report shall be promptly provided to Owner. A representative of Owner and/or the Asset Manager may accompany Manager on such inspection. Notwithstanding Manager's rights and obligations under the preceding provisions of this Section, and without limiting the rights of Owner and its outside consultants to conduct additional inspections at the expense of Owner, Owner shall have the right to hire an outside consultant (which may be the Asset Manager) to independently inspect the Hotel and the FF&E not more often than once every Operating Year with the cost of such inspection to be paid from the Total Operating Revenues as an Operating Expense. Notwithstanding anything to the contrary in this Agreement, any consultant inspection report or recommendation shall not be binding on Manager, but shall be taken into consideration by Manager in preparation of the next applicable Annual Plan.

Section 3.9. Supervision and Coordination of Renovations and Improvements. Manager shall (a) subject to Sufficient Funds being available for such purpose, supervise and coordinate the construction and installation of any renovations, improvements, repairs or replacements of a capital nature to the Hotel that may be implemented from time to time in accordance with this Agreement (at no additional fee to Manager unless the additional fee is specifically included in the applicable Capital Budget, and specifically identified as such, or otherwise specifically approved in writing by Owner); (b) reasonably cooperate with Architect, Design-Builder, the Project Manager, the Trustee, Owner and their respective designees and consultants with any related design review and project oversight undertaken by any of them, including abatement or corrective activities undertaken by any of them pursuant to Section 3.39(d); and (c) cooperate with and render assistance, as reasonably necessary, to each of them and their respective employees, agents, contractors and representatives in connection with any such work. Notwithstanding the foregoing, if there is a material expansion of the Hotel, Manager will be paid a reasonable fee in connection with technical services provided for such expansion (consistent with the fees payable in the Technical Services Agreement).

Section 3.10. Purchase of Inventories, Supplies and Consumables. Manager shall, for the benefit of the Hotel, purchase, or arrange for the purchase of, all inventories, provisions, consumable supplies and operating supplies (other than Pre-Opening Supplies and Inventory) that are necessary and proper to maintain and operate the Hotel (including any gift or sundry store within the Hotel operated by Manager) in accordance with the Operating Standards, use the same in the management and operation of the Hotel (subject to the provisions of this Agreement with respect to National Vendors), and act in a commercially reasonable and economical manner in purchasing such items; provided, that Owner shall be the owner of all such inventories, provisions, consumable supplies and operating supplies. The cost of such purchases, including any sales taxes or assessments thereon, shall be an Operating Expense payable solely from amounts on deposit in the Lockbox Fund or otherwise held by the Trustee under the Trust Agreement which are available for such purpose.

Section 3.11. Cooperation with Owner's Purchasers and Consultants. Without limiting Manager's rights under this Agreement, Manager shall reasonably cooperate with

Owner, its consultants and any actual or prospective purchaser, lessee, surety, or other lender in connection with any proposed sale, lease or financing of or relating to the Hotel or any part thereof; provided, however, that Manager shall not be required to release to any Person, without Manager's consent, any of Manager's Proprietary Information or Intellectual Property except to the extent required by Applicable Law.

Section 3.12. Legal Services.

(a) ***Retention of Legal Counsel.*** Manager shall retain legal counsel for the Hotel (which legal counsel shall be reasonably acceptable to Owner) to perform legal services in the ordinary course of business of the Hotel under Manager's direction. Manager in its own name for the benefit of the Owner shall, as an Operating Expense, (i) commence ordinary collection lawsuits to collect charges, rent or other income derived from the Hotel's operations; (ii) after written notice to Owner of such claims, commence legal actions or proceedings or other actions, as Manager prudently and reasonably deems appropriate, to (A) enforce or terminate any contract or other agreements related to the Hotel's operations (other than any agreements between Manager and Owner) and under which the third-party contractor is in default; provided, that Owner has received written notice of such default prior to such enforcement and termination; (B) to oust or dispossess guests, tenants or other persons in possession who are not entitled to occupy the portion of the Hotel which they occupy; and (C) to cancel or terminate any license or concession agreement covering a portion of the Hotel for the breach thereof or default thereunder by the licensee or concessionaire; provided, that Owner has received written notice of such breach prior to such cancellation or termination; (iii) take appropriate steps (as determined by Manager in its reasonable and prudent discretion) to challenge, protest, appeal and/or litigate to final decision in any appropriate court or forum any counterclaims related to the foregoing; provided, that if such counterclaim involves a claim for more than \$25,000 asserted against Manager (provided, that such claim would constitute an Operating Expense or be payable from any Funds) or any counterclaim asserted against Owner, such counterclaim and litigation shall be subject to joint control under Section 3.12(c); and (iv) at the direction of the Owner, take appropriate steps to challenge, protest, appeal and/or litigate to final decision in any appropriate court or forum any Applicable Law affecting the Hotel or any alleged violation of such law; provided, that (A) non-compliance with or violation of the Applicable Law during such challenge, protest, appeal or litigation does not result in the closing of any portion of the Hotel and does not impose any risk of criminal or civil liability on Manager or Owner; and (B) Manager complies with such Applicable Law or remedies such violation of law to the extent necessary to prevent any such closure or risk of liability described in clause (iv)(A). Manager shall provide Owner a monthly report following each calendar month at the same time as other monthly reports to Owner by Manager as required in this Agreement detailing all legal actions instituted by Manager related to the Hotel and the status thereof.

(b) ***Defense of Third-Party Claims.*** The Parties acknowledge and agree that they shall first seek insurance coverage for any third-party claim arising out of or related to the operation of the Hotel from the insurance carrier(s) providing coverage as provided

under this Agreement. Manager, through its insurance carrier(s), shall manage the claim resolution process for all such claims.

(c) **Joint Control of Certain Legal Proceedings.** With the exception of claims for which Owner is indemnified by Manager pursuant to the terms of Article VII, which shall be managed solely by Manager, (i) legal proceedings of a nature other than those referred to under Section 3.12(a), or (ii) that subject Owner to any liability risk or Manager to liability risk in excess of \$25,000 (provided, that such claim would constitute an Operating Expense or be payable from any Funds), or (iii) any counterclaim asserted against Owner, shall be subject to Owner's and Manager's joint control which shall mean that Owner and Manager shall (i) jointly select counsel reasonably acceptable to both Parties which would represent both Parties (which may be counsel to Owner), (ii) coordinate and reasonably cooperate with regard to case management strategy, (iii) have the right to review pertinent documents prior to submission to court, and (iv) participate in any settlement discussions. Each Party agrees that it shall act reasonably and in good faith to the extent any settlement affects the liability of the other Party hereto.

(d) **Settlement of Claims.** Notwithstanding anything to the contrary contained in Section 3.12(a), with the exception of claims for which Owner is indemnified by Manager pursuant to the terms of Article VII, which shall be controlled solely by Manager, Manager shall not settle any claim, action, counterclaim or employment claim against Manager (provided, that such claim, action, counterclaim or employment claim would otherwise constitute an Operating Expense or otherwise be payable from any Funds) without Owner's written approval if such settlement would, when aggregated with any other settlements agreed to by Manager without Owner's consent during the then current Operating Year, result in aggregate uninsured liability during the then current Operating Year in excess of \$25,000. Owner shall respond promptly to any request for its approval pursuant to this Section and Owner shall act in good faith to the extent any proposed settlement (or lack thereof) may affect Manager's liability; provided, however, that so long as Owner is acting in good faith, nothing in this Agreement shall be construed as limiting Owner's ability to act in its own economic interest. Owner shall be deemed to have disapproved any proposed settlement unless Owner delivers to Manager a written notice approving such settlement in writing within twenty (20) Business Days after Manager delivers to Owner a written request for Owner's approval of such settlement, together with a detailed description of such settlement. In addition, at the request of Owner and as an Operating Expense, Manager shall take appropriate steps (as determined by Owner in its sole discretion) to challenge, protest, appeal and/or litigate to final decision in any appropriate court or forum any Applicable Law affecting the Hotel or the operation thereof. In any event, Manager shall provide written notice to Owner of all settlements of any claim, action, counterclaim or employment claim, whether or not Owner's approval is required for such settlement. To the extent that any proposed settlement involves a payment by Owner, such settlement shall be subject to the procedures and approvals required under the San Francisco Charter and Administrative Code. The process of seeking to obtain such approvals shall not under any circumstances

constitute bad faith, unreasonable delay or the unreasonable withholding of approval under this Agreement.

Section 3.13. Availability of Key Personnel. Manager shall cause the Key Personnel to be available to Owner as Owner may reasonably require after reasonable notice to consult with and advise Owner and its representatives and designees concerning matters related to the business and operation of the Hotel; provided, that such requests do not unreasonably interfere with the applicable Key Personnel's day-to-day or other job responsibilities. Unless expressly approved by Owner in writing, Key Personnel shall be solely committed to the Hotel and shall not supervise any other hotel concurrently and on an ongoing basis with their supervision of the Hotel and the operation thereof. Notwithstanding the foregoing, Owner acknowledges that the Hotel General Manager may have regional area responsibilities overseeing other Hyatt System hotels; provided, however, that such responsibilities shall not adversely affect the performance of the General Manager's responsibilities with respect to the Hotel; and provided further, that a *pro rata* share of the General Manager's compensation and benefits allocable to the General Manager's performance of such regional area responsibilities shall be deducted from and not paid as a part of Operating Expenses.

Section 3.14. Cooperation Regarding Applicable Law. Owner and Manager shall reasonably cooperate with each other (and, in the case of Manager, promptly deliver to Owner copies of any of the Hotel's books and records requested by Owner) to facilitate each Party's respective compliance with Applicable Law.

Section 3.15. Taxes.

(a) **Gross Receipts Taxes.** Manager shall collect, account for and remit to Governmental Authorities all Gross Receipts Taxes prior to delinquency. If any such Gross Receipts Taxes are deposited in the Lockbox Fund, Manager shall have the right to withdraw the amount of such deposited taxes in order to remit same to the applicable Governmental Authorities.

(b) **Ad Valorem Taxes and Personal Property Taxes.** Manager shall provide to Owner all reasonably required personal property information in connection with any personal property taxes which may be due with respect to the Hotel. Owner shall be responsible for paying all *ad valorem* taxes and personal property taxes prior to delinquency relating to the Hotel from Owner's own funds; provided, that the *ad valorem* property taxes with respect to the Site shall be paid out of the Taxes and Insurance Fund as provided in the Cash Management Agreement; and provided further, that any personal property taxes on Hyatt Software shall be the responsibility of Manager from its own funds. Owner acknowledges that Manager is not a tax advisor and is not acting as such in connection with this Agreement. Owner is responsible for obtaining any available written determination from the taxing authorities or legal opinion specifying an exemption from any Taxes. Manager and Owner shall reasonably cooperate to address any tax disputes involving the Hotel.

Section 3.16. Internal Control Structures. Manager shall maintain an internal control structure designed to provide assurance that the Hotel and Hotel assets are safeguarded from loss

or unauthorized use, transactions are executed in accordance with Manager's authority, and financial records are reliable for the purposes of preparing financial statements, all in accordance with the Manager's standard policies and procedures for Other Grand Hyatt Hotels and the terms of this Agreement. The internal control structure shall be supported by the selection, training and development of qualified personnel, by an appropriate segregation of duties, and by the dissemination of written policies and procedures consistent with Substantially All Other Grand Hyatt Hotels. Owner shall have the right at reasonable times and in a reasonable manner as mutually agreed by the Parties to inventory and label the FF&E at the Hotel for City inventory and internal control purposes.

Section 3.17. Financial Matters. Manager shall keep Owner informed and advised of all material financial and other matters concerning the Hotel and the operation thereof and give due consideration to suggestions which Owner's designees or consultants may offer with respect thereto from time to time, subject in all cases to the terms of this Agreement.

Section 3.18. Collection of Revenues. Manager shall collect all charges, revenues and other amounts due from guests, lessees, licensees and concessionaires of the Hotel and deposit those funds in accordance with the Cash Management Agreement, a copy of which is attached hereto as Exhibit F, and the Trust Agreement. In accordance with Section 5.9(m), this provision shall survive the Termination of this Agreement until all uncollected amounts due during the Term are collected or otherwise accounted for as set forth in Section 5.9(m) to the reasonable satisfaction of Owner and Manager.

Section 3.19. Redirecting Reservations. Neither Manager nor any of its Affiliates shall, on its own initiative rather than that of actual or prospective guests or business customers of the Hotel, seek to have such guests or business customers make reservations or other arrangements for the use of rooms or other facilities or services at any other hotel owned, managed, operated, acquired, leased, franchised, licensed by, merged with or joined through a marketing or other arrangement with Manager, an Affiliate of Manager or any entity in which Manager has an interest (direct or indirect) rather than at the Hotel, if such rooms or other facilities or services are available at the Hotel during the requested period.

Section 3.20. Customary and Usual Tasks. Manager shall perform administrative, management, reporting, cooperation, coordination, supervision and oversight tasks, in addition to those set forth in this Article, as Manager deems reasonably necessary and that are customary and usual in the operation of a hotel of a class and standing consistent with the Hotel and with the Operating Standards.

Section 3.21. Annual Plans.

(a) **Delivery of Annual Plans.** On or before May 1 of each Operating Year and on or before sixty (60) days prior to the Opening Date, Manager shall prepare and deliver to Owner and its designees and consultants (provided, that Manager has received written notice of the names and addresses of such designees and consultants at least seven (7) Business Days in advance of delivery) for Owner's review, a preliminary Proposed Annual Plan (which shall include a proposed Room Rate Plan) for the next Operating Year or, in connection with the opening of the Hotel, for the period of time

from the Opening Date to the following June 30, following the format set forth in Exhibit H. Owner understands that Manager shall not submit its final Proposed Annual Plan for the next Operating Year or, in connection with the opening of the Hotel, for the period of time from the Opening Date to the following June 30, until May 15 of the applicable prior Operating Year or forty-five (45) days prior to the Required Opening Date, as applicable. Upon request, Manager shall meet with Owner to discuss the preliminary Proposed Annual Plan. The final Proposed Annual Plan shall be subject to the review and approval process set forth in Section 3.21(d).

(b) ***Preparation Standards.*** Manager shall act reasonably and exercise prudent business judgment in preparing the Proposed Annual Plan and any revisions thereto. Owner shall act reasonably and exercise prudent business judgment in approving or rejecting all or any portion of the Proposed Annual Plan. The Proposed Annual Plan shall be subject to the provisions of Section 3.21 below. In addition, Manager and Owner agree that:

(i) the Proposed Annual Plan shall be prepared giving due consideration to all relevant factors, including existing market and economic conditions, and operation of the Hotel in a manner that is consistent with the Operating Standards;

(ii) the Proposed Annual Plan shall be prepared in accordance with Manager's standard planning and budgeting requirements applicable to Substantially All Other Grand Hyatt Hotels; and

(iii) the Proposed Annual Plan shall be in the form used by Manager at Substantially All Other Grand Hyatt Hotels at the time of preparation of the applicable budget and shall include the same line items.

(c) ***Required Information and Projections.*** Each proposed Annual Plan shall include the following in a detailed line-by-line format:

With respect to the proposed Operating Budget:

(i) annualized projections of Total Operating Revenues, Operating Expenses, Gross Operating Profit and Net Operating Income for that Operating Year;

(ii) for each month, the estimated results of operations (including estimated Total Operating Revenues, Operating Expenses, Gross Operating Profit and Net Operating Income);

(iii) for each month, a statement of cash flows, including a schedule illustrating the flow of funds in a form to be agreed upon by Owner and Manager no later than sixty (60) days prior to the anticipated Opening Date and reasonably acceptable to Owner pursuant to the provisions of any anticipated requirements

for funding from Total Operating Revenues and the funds held by the Trustee under the Trust Agreement;

(iv) for each month, the proposed Room Rate Plan and other Pricing;

(v) if the proposed Operating Budget shall result in a Debt Service Coverage Ratio of less than the Debt Service Coverage Requirement, Manager shall include with its delivery of the applicable proposed Operating Budget a detailed explanation as to why Manager has not budgeted to attain such ratio;

(vi) for each month, estimates of total labor costs, together with proposed staffing needs by department (based on "full-time equivalents", as appropriate);

(vii) for each month, the estimated amount of accounts receivable and accounts payable that are more than ninety (90) days past due;

(viii) for each month, estimates of the occupancy and average room rates;

(ix) for each month, an estimate of Centralized Services Fees (by line item);

(x) for each month, an estimate of Reimbursable Expenses (by line item); and

(xi) a marketing plan consistent with the form of marketing plan used at comparable Other Grand Hyatt Hotels, which shall contain a description of the Hotel's target markets, the Hotel's relative position in those markets, the proposed Pricing for each market segment, the current and future sales plan for the Hotel, the advertising and public relations plan for the Hotel, the proposed staffing for the sales and marketing activities of the Hotel, and the proposed room rate structures and other published operating information, which if available shall include information relating to pricing of goods and services for the hotels in the Competitive Set. Manager shall provide the initial marketing plan to Owner on or before six (6) months prior to the Required Opening Date and annually thereafter by no later than forty-five (45) days prior to Manager's submission to Owner of the proposed Operating Budget. Marketing plans shall be subject to modification as mutually agreed by the Parties.

With respect to the proposed Capital Budget:

(xii) a capital plan, which shall include: (1) a five-year forecast of Capital Expenses needs for the Hotel, (2) a five-year forecast of estimated available funds in the Capital Reserve Fund, (3) a description of the requested Capital Expenditures, associated costs and funding plans for the Operating Year, and (4) an amount (not less than ten percent (10%) of the proposed Capital

Budget) to cover unforeseen contingencies that may occur during the Operating Year;

(xiii) an FF&E plan, which shall include: (1) a five-year forecast of FF&E needs and routine capital expenses for the Hotel, (2) a five year forecast of estimated available funds in the FF&E Reserve Fund, (3) a description of the requested FF&E expenditures for the Hotel, associated costs and funding plans for the Operating Year, and (4) a specified amount to cover unforeseen contingencies that may occur during the upcoming Operating Year; and

(xiv) a statement setting forth the basis for and purpose of each line item and a payback analysis for each.

(d) ***Approval of Annual Plan.***

(i) Approval of Room Rate Plan. If Owner exercises its right to disapprove Manager's proposed Room Rate Plan or any amendment thereto pursuant to Section 3.6(b) and Manager disagrees with Owner's reasons for disapproval of such proposed Room Rate Plan (or modifications thereto), as applicable, then either of the Parties may require the engagement of a Hotel Consultant to review such information and provide recommendations pursuant to Section 3.21(k). The recommendations of the Hotel Consultant regarding the Room Rate Plan shall be binding on the Parties.

(ii) Approval of Annual Plans. Owner and Manager shall meet within fifteen (15) days after Owner's receipt of the final Proposed Annual Plan for any Operating Year pursuant to Section 3.21(a). At such meeting, (A) Owner shall provide to Manager its then current estimate of Administrative Expenses for the next ensuing Operating Year; and (B) Manager shall provide to Owner its final Proposed Annual Plan for the applicable Operating Year, together with an explanation of the changes from the Proposed Annual Plan initially delivered to Owner. To the extent it has approval rights over expenditures in the Annual Plan, Owner shall not disapprove such expenditures set forth in the Proposed Annual Plan that Manager reasonably believes are necessary in order for the Hotel to comply with the Operating Standards, provided, that there are Sufficient Funds therefor, except as provided in 3.21(e) below. If Owner and Manager are unable to agree upon the items in the Proposed Annual Plan for which Owner has approval rights within fifteen (15) days after such initial 15-day period, then within ten (10) days after the expiration of such second 15-day period, Owner shall deliver to Manager its written objections to the Proposed Annual Plan, subject, however, to the provisions of Section 3.21(k) below. If Owner does not deliver to Manager its written approval or disapproval of Proposed Annual Plan within such 10-day period, then such Proposed Annual Plan, shall be deemed to be disapproved by Owner. Owner's objections to a Proposed Annual Plan shall include the specific items disapproved. During the 15-day period following Manager's receipt of Owner's objections, Owner and Manager shall meet to discuss the disapproved items. Within five (5) days after the expiration of such

third 15-day period, Manager shall submit to Owner a revised Proposed Annual Plan incorporating such revisions as Owner and Manager agreed upon during such third 15-day period.

(iii) Referral to Hotel Consultant. If the Parties do not agree upon Owner's revisions, then either Party may submit the matter for resolution by the Hotel Consultant pursuant to the provisions of Section 3.21(k) below.

(iv) Interim Annual Plan. Until such time as the parties have agreed on all line items of the Proposed Annual Plan for which Owner has approval rights hereunder, Manager shall have the right to operate the Hotel in accordance with: (A) those line items in the Proposed Annual Plan that do not require Owner approval under this Agreement, and (B) those line items in the Proposed Annual Plan that have been agreed upon by Owner and Manager, and (C) only with respect to those line items in the Proposed Annual Plan not yet approved by Owner (and for which Owner has approval rights under this Agreement) and until resolution by a Hotel Consultant, the corresponding line items in the Annual Plan in effect during the preceding Operating Year (but without duplication of any "one-time" expenditures, including individual Capital Expenditures and expenses for FF&E, in each case as adjusted for the change in the immediately preceding calendar year in the Bay Area CPI.

(v) Exceptions to Owner Approval Rights. Notwithstanding anything to the contrary in this Agreement, Owner shall not have the right to approve or withhold approval of the following items in each proposed Operating Budget: (A) contracts or arrangements Manager has made on a chain-wide or regional basis, or on business-segment basis applicable to not less than three Other Grand Hyatt Hotels, in accordance with this Agreement; (B) individual compensation for Key Personnel, provided, that such compensation shall be consistent with that for corresponding personnel in the local market; (C) allocable costs for employee benefit programs provided at Substantially All Other Grand Hyatt Hotels; (D) expenditures expressly required by other provisions of this Agreement, including for Management Fees and for Centralized Services; and (E) expenditures reasonably necessary to operate the Hotel in accordance with the Operating Standards, provided, that there are Sufficient Funds therefor.

(e) ***Annual Plan Review Standards.*** Subject to Section 3.21(d)(v), Owner shall have the right to object to any aspect of any Proposed Annual Plan for which it has approval rights if (among other reasons):

(i) the objection and proposed change would not materially (A) impair Manager's ability to achieve a Performance Test, or (B) interfere with Manager's performance and satisfaction of its duties and obligations under this Agreement;

(ii) as to a proposed Capital Budget, there are not Sufficient Funds available to make the proposed Capital Improvement set forth therein;

(iii) as to a proposed Operating Budget, there are not Sufficient Funds available therefor;

(iv) as to a proposed Operating Budget, it shall result in a Debt Service Coverage Ratio of less than the Debt Service Coverage Requirement;

(v) as to a proposed Capital Budget, a proposed Capital Improvement represents a material upgrade to the quality or facilities of the Hotel (as distinct from repairs, maintenance or replacements required to prevent any diminution in quality) that are not, in Owner's reasonable opinion, required to satisfy the Operating Standards; or

(vi) as to a proposed Capital Budget, any proposed upgrade to the quality or the facilities of the Hotel would (A) require material alterations to the Building as a result of any modifications in Brand Standards made by Manager after the Execution Date, except as necessary to correct an Emergency or to comply with Applicable Law; (B) require purchase of new or replacement FF&E as a result of any modifications in Brand Standards made by Manager after the Execution Date, prior to the earlier of five (5) years from the date of purchase of such FF&E or the end of the useful life of such FF&E; (C) be imprudent based upon a reasonable weighing of the costs and benefits to the Hotel of the upgrades (taking into account the cost and impact on Hotel revenue and expense of the upgrades, the useful life of the upgrades, and the remaining term of this Agreement); or (D) render funds in the Capital Reserve Fund, the FF&E Reserve Fund, the Working Capital Reserve Fund, or the Revenue Stabilization Fund inadequate for other necessary Capital Expenses or funding of other amounts as contemplated by this Agreement or an existing approved Capital Budget. The foregoing shall not in any way limit Owner's right to approve a proposed Capital Budget as to reasonableness of specifications and cost of implementing any upgrade set forth therein.

(f) **Permitted Variations from Annual Plan.** During the Term, Manager (i) shall use commercially reasonable efforts to operate within, and in a manner consistent with, each approved Annual Plan; and (ii) shall not deviate from the budgeted Capital Expenses and FF&E in an approved Capital Budget by more than five percent (5%), except as expressly permitted in subsection (h) below, unless Manager obtains the prior written consent of Owner in its sole discretion.

(g) **Variable Expenses.** Owner acknowledges that certain of the expenses described in each Operating Budget (but not the Capital Budget) shall vary based on the occupancy of the Hotel. Accordingly, to the extent that the occupancy of the Hotel for any Operating Year exceeds or falls below the occupancy projected in the approved Operating Budget for such Operating Year, the approved Operating Budget shall be deemed to include corresponding increases or decreases in such Variable Expenses, as applicable; provided, that with respect to increases in expenses, Manager reasonably believes that each such increase will maximize Net Operating Income in the current and/or future Operating Years. Manager shall prepare and deliver to Owner each month

a monthly variance report setting forth any deviation from the Annual Plan, including deviations from line items therein. The term “**Variable Expenses**” means Operating Expenses covered by an Operating Budget that reasonably fluctuate as a direct result of business volumes, including labor, food and beverage expenses, other merchandise expenses, operating supply expenses, energy costs, Hyatt Gold Passport expenses, credit card fees and charges and other expenses commonly considered variable expenses in the hotel industry. Manager may submit to Owner for its approval an interim budget to reflect any significant adjustments to the approved Operating Budget or Capital Budget caused by an Emergency or a lack of Sufficient Funds.

(h) **Permitted Capital Expenditures.** Notwithstanding anything to the contrary in this Agreement, Manager shall not incur Capital Expenditures that are in excess of those required or permitted under the Capital Budget except for the following: (i) expenditures for the replacement of or additions to FF&E necessary to satisfy Brand Standards which do not exceed twenty thousand dollars (\$20,000) (subject to adjustment each Operating Year based on changes in the Bay Area CPI) for any single expenditure, and two hundred thousand dollars (\$200,000) (subject to adjustment each Operating Year based on changes in the Bay Area CPI) in the aggregate in any Operating Year (provided, that such expenditures shall not thereby cause the Capital Reserve Fund or the FF&E Reserve Fund to lack sufficient funds to pay for items previously approved as part of the Capital Budget); (ii) Emergency Expenses; provided, that notice of such Emergency and proposed expenditures shall be provided to Owner as soon as practicable and in any event no later than 24 hours after Manager is aware of such event; (iii) expenditures required by Applicable Law; and (iv) expenditures which are necessary to enable the Hotel to meet the Operating Standards in effect at the time the expenditure is made, according to the Owner-approved Annual Plan.

(i) **Characteristics of Annual Plans.** Owner acknowledges that (i) the Annual Plan is intended by Manager to be a reasonable estimate of income and expenditure only, subject to unforeseen circumstances or emergencies; (ii) Manager does not give any guarantee, warranty or representation whatsoever in connection with any Annual Plan, other than Manager prepared the same in good faith, utilizing all available facts and commercially prudent business methods; and (iii) a failure of the Hotel to meet the Annual Plan shall not in and of itself constitute a Manager Event of Default or other breach or default by Manager under this Agreement. The preceding sentence shall not, however, be construed as a limitation on (A) Manager’s obligations (and Manager shall be in breach of this Agreement if Manager fails) (1) to use commercially reasonable efforts to operate within the Annual Plan; or (2) to obtain Owner’s approval prior to making expenditures that exceed in the aggregate the amount of any line item in the approved or authorized Capital Budget by more than ten percent (10%), except as provided in subsection (h) above; or (B) Owner’s right to terminate this Agreement under any provision of this Agreement which expressly permits termination, including by reason of (1) a Performance Termination Event or (2) a Manager Event of Default that is not based on the failure of the Hotel to achieve any Annual Plan.

(j) **Debt Service Coverage.** In addition to the circumstances otherwise provided in this Agreement, but subject to Section 3.21(d)(v), under each of the following circumstances, Owner may require the appointment of a Hotel Consultant (within thirty (30) days after the receipt of the following information) to make written recommendations as to the operations, management, marketing, improvement, condition or use of the Hotel or any part thereof pursuant to Section 3.21(k) below:

(i) if Owner determines that a proposed Operating Budget will not result in the Debt Service Coverage Requirement being met;

(ii) if Owner determines that the actual Debt Service Coverage Ratio with respect to the Initial Series of Bonds for any four consecutive quarters is less than the Debt Service Coverage Requirement; and

(iii) if the Certified Annual Financial Statements delivered to Owner pursuant to Section 3.23(c) reflects that the Debt Service Coverage Requirement was not achieved.

(k) **Hotel Consultant.** Where this Agreement calls for a matter to be referred to a Hotel Consultant for resolution, the following provisions shall apply:

(i) The use of the Hotel Consultant shall be the exclusive means of resolution by the Parties of the matter referred, and the decision of the Hotel Consultant shall be final and binding on the Parties, subject to clause (viii) below.

(ii) Manager and Owner agree to reasonably cooperate with the Hotel Consultant in order to permit the Hotel Consultant to effectively perform its duties and responsibilities in connection with such engagement.

(iii) Each Party shall be entitled to make written submissions to the Hotel Consultant, and if a Party makes any submission it shall also provide a copy to the other Party and the other Party shall have the right to comment on such submission.

(iv) The Parties shall make available to the Hotel Consultant all books and records reasonably related to the matter in dispute and shall render to the Hotel Consultant any assistance reasonably requested of the Parties.

(v) Each Party shall deliver to the other at no additional charge copies of any information, correspondence or documents delivered to the Hotel Consultant contemporaneously with delivering such information, correspondence or documents to the Hotel Consultant.

(vi) Each Party shall also, upon the request of the other Party or the Trustee, meet with the Hotel Consultant to discuss the Hotel Consultant's reports, findings and written recommendations.

(vii) The Hotel Consultant shall make its recommendation with respect to the matter referred for determination by taking into consideration Owner's obligations with respect to the Bonds, then-existing market and economic conditions, and operation of the Hotel in a manner that is consistent with the Operating Standards.

(viii) Each Party shall consider in good faith the recommendations of the Hotel Consultant and shall implement those recommendations to the extent: (i) such recommendations do not cause the Hotel to fail to meet the Operating Standards, including the Brand Standards, (ii) there are Sufficient Funds available therefor, (iii) such recommendations do not cause the Manager to fail to meet the Performance Tests, (iii) such recommendations will not cause a Manager Event of Default, and (iv) such recommendations do not, in the opinion of Bond Counsel, adversely affect the tax-exempt status of the interest on the Bonds.

(ix) The terms of engagement of the Hotel Consultant shall include an obligation on the part of the Hotel Consultant to: (1) notify the Parties in writing of its findings and recommendation(s) within thirty (30) days from the date on which the Hotel Consultant has been selected (or such other period as the Parties may agree or as set forth in this Agreement); and (2) establish a timetable for the making of submissions and replies.

(x) The fees and expenses of the Hotel Consultant shall be paid as an Operating Expense from amounts on deposit in the Lockbox Fund.

(l) ***Pro-Forma Three-Year Annual Plan Projections.*** On or prior to February 1 of each Operating Year, Manager shall provide Owner with summary of the projected Annual Plans for the next three succeeding Operating Years in sufficient detail for Owner to prepare budgets for up to the next two Operating Years for submission to the City and the airlines serving the Airport.

Section 3.22. FF&E, Capital, Repair and Maintenance Expenses.

(a) ***Generally.*** The Hotel shall be maintained, repaired and improved by Manager, as an expense of the Hotel payable from the appropriate Fund as described in the Cash Management Agreement and the Trust Agreement, as contemplated in the Capital Budget in effect from time to time, to permit operation of the Hotel in accordance with the Operating Standards, but only to the extent of Sufficient Funds.

(b) ***FF&E and Capital Reserve Funds.*** The Trustee shall (subject to and in accordance with the provisions in the Trust Agreement) set aside from Total Operating Revenues on a monthly basis (in arrears) the Capital Reserve Set Aside Amount into the Capital Reserve Fund and the FF&E Reserve Set-Aside Amount into the FF&E Reserve Fund. Owner shall cause the Trustee to maintain the Capital Reserve Fund and the FF&E Reserve Fund as required by the Trust Agreement and to invest the balances therein in accordance with the Trust Agreement. To the extent amounts in the Capital Reserve Fund or the FF&E Reserve Fund are not expended within the Operating Year in which

the deposits occur, such amounts shall be accumulated for expenditure in future years, and shall not be credited against the amount of the respective Capital Reserve Set Aside Amount and the FF&E Reserve Set-Aside Amount for the next Operating Year. All requests for FF&E or Capital Expenses shall include detailed back-up documentation including the financial rationale (if any) for such FF&E and Capital Expenses, lien releases, bids, and invoices, as appropriate or required.

(c) ***Use of Capital Reserve Fund and the FF&E Reserve Fund, Working Capital Reserve Fund and Revenue Stabilization Fund.*** The Capital Reserve Fund and the FF&E Reserve Fund, subject to Section 3.21(h), shall be used for the purposes of funding Capital Expenses and FF&E, respectively, but only to the extent that such Capital Expenses or FF&E, respectively, are included in the Capital Budget or otherwise clearly and expressly authorized by this Agreement or consented to in writing by Owner. The Capital Reserve Fund and the FF&E Reserve Fund shall also be available to pay Debt Service on the Bonds to the extent set forth in the Trust Agreement. Notwithstanding anything to the contrary in this Agreement, the Working Capital Reserve Fund shall not be available to pay Debt Service on the Bonds. Manager shall deliver to Owner a request in the form of Exhibit M, supported by invoices and statements evidencing the applicable Capital Expenses and FF&E, for payment thereof.

(d) ***Defective and Dangerous Conditions.*** If the design or construction of the Hotel is defective and the defective condition causes material damage to the Hotel, poses a risk of serious injury to people or property, or is not in material compliance with Applicable Law, including the provisions of any Certificate of Occupancy, Owner shall, subject to any limitations on warranties contained in the Development Agreements, make immediate demand on, and use commercially reasonable efforts to cause, the Design-Builder to expeditiously remedy such defect or cause such defect to be remedied; provided, however, that Owner shall have the right to challenge in good faith the existence of any alleged defective condition and/or the materiality of such alleged defect and/or any Applicable Law, and unless and until such challenge is settled, Owner shall have no obligation to pursue Design-Builder regarding such alleged defect. Any amounts expended by Owner under this Section shall be paid as an Emergency Expense as provided in this Agreement. Any recovery which Owner receives from Design-Builder or any other party on account of such amounts shall be deposited into the Funds from which monies were withdrawn in order to cure the defective condition (in the reverse order as the monies were withdrawn).

(e) ***Owner's Source of Funds for FF&E and Capital Expenses.*** Notwithstanding anything to the contrary in this Agreement, (i) Owner's obligations to provide funds for FF&E and Capital Expenses shall be limited to funds in the Capital Reserve Fund and the FF&E Reserve Fund, the Working Capital Reserve Fund, and the Revenue Stabilization Fund; and (ii) the availability of funds for FF&E, Capital Expenses or any other expenses shall be limited to the extent provided in the Trust Agreement. In any event, Manager shall exercise commercially reasonable efforts consistent with the Operating Standards to schedule and budget for FF&E and Capital Expenses in a fashion

that permits funding solely from the Capital Reserve Fund and the FF&E Reserve Fund (to the extent available under the Trust Agreement).

Section 3.23. Books and Records; Reports; Financial Statements; Meetings.

(a) **Books and Records.** During the Term, in accordance with the current policies and standards applicable to Substantially All Other Grand Hyatt Hotels, Manager shall cause books of account, front office records, guest information and other records to be prepared to reflect the operation of the Hotel and the results of operations of the Hotel, including accounts and records pertaining to accounts payable, general ledger and payroll. All books and records shall relate solely to Hotel operations and shall not include (i) records of Owner expenses (including, for example, Debt Service); (ii) fixed asset accounting; and (iii) other records pertaining solely to Owner and its operations separate from Hotel operations. Owner acknowledges that Manager shall not maintain, as part of the Hotel books and records, any fixed asset accounts, and further acknowledges that Manager does not maintain inventories of fixed assets (including, without limitation, FF&E), or conduct interim inventory counts or perpetual inventory records with respect to other items of personal property. Manager may, in its reasonable discretion, handle the Hotel's accounting functions directly or through an Affiliate, as a Chain and System Service, in which event the provisions of Section 3.21 shall apply. All such books of account and records shall be kept in accordance with the Uniform System of Accounts and to the extent consistent therewith, Generally Accepted Accounting Principles. If during the Term a modification of the Uniform System of Accounts occurs that impacts how Gross Operating Profit is calculated, such change shall be reflected in the reporting, but the calculations set forth in Section 5.5 shall continue to be made as if the modification had not occurred. All books and records shall be reported in the format that Hyatt uses for Substantially All Other Grand Hyatt Hotels and in such other format and including such additional information as may be required in the Trust Agreement, in any Continuing Disclosure Certificate and as may be reasonably required by Owner or the Trustee, provided such requirements do not cause an undue burden on Manager. All of the financial books and records pertaining to the Hotel, including books of account, front office records, and guest records and information, shall be the property of Manager and shall be kept on-site at the Hotel. Upon Termination of this Agreement, all of such books of account and financial records pertaining to the Hotel (excluding (i) sales records and files pertaining solely to Manager's Intellectual Property and Manager's Proprietary Information; and (ii) employee records of Hotel Personnel and other Hyatt personnel) shall be turned over forthwith to Owner so as to ensure the orderly continuance of the operation of the Hotel, but all of such information shall be retained by Owner and made available to Manager at the Hotel, at all reasonable times, for inspection, audit, examination and copying (at Manager's expense) for the period of time required by regulations of the Internal Revenue Service, but in any event not less than five (5) years subsequent to the date of such Termination. Prior to destroying the records, Owner shall notify Manager and provide Manager the opportunity to obtain the records from Owner at Manager's expense.

(b) **Periodic Reports.** Manager shall cause to be prepared and delivered to Owner the weekly, monthly and year-to-date operating reports listed on Exhibit I (“**Periodic Reports**”) based on information available to Manager. The Periodic Reports shall reflect operational results for the current month and year to date, as well as the then-current Debt Service Coverage Ratio. Manager shall deliver to Owner each Monthly Report on or before the fifteenth day of the month following the month to which such Monthly Report relates. The reports shall be in a format (which may be amended from time to time) substantially similar to the operating reports provided by Manager to Other Grand Hyatt Hotels and in such other format and including such additional information as may be required by the Trust Agreement, or the Continuing Disclosure Certificate and as may be reasonably required by Owner or the Trustee. Upon request of Owner made not more than once each Operating Year, Manager shall have performed an evaluation of the Hotel in accordance with the standards then applied to Substantially All Other Grand Hyatt Hotels, of which the current set of evaluation standards is attached hereto as Exhibit W. Copies of the results of the evaluation shall be provided to Owner and the Trustee.

(c) **Certified Annual Financial Statements.** Within ninety (90) days after the end of each Operating Year, Manager shall cause to be prepared and delivered to Owner, as an Operating Expense, Certified Annual Financial Statements for the Hotel for the preceding Operating Year. Owner shall supply to Manager, within thirty (30) days after written request from Manager to do so, information in Owner’s possession (and not in Manager’s possession) necessary for Manager to cause the Certified Annual Financial Statements to be prepared and delivered. Such Certified Annual Financial Statements shall be accompanied by the Independent Accountant’s calculation of the Debt Service Coverage Ratio for the applicable Operating Year in the manner required by the Trust Agreement; provided, that Owner has previously provided to Manager the Net Debt Service amounts for such Operating Year. All of the Centralized Services Fees shall be consolidated into a single line item in the Certified Annual Financial Statements.

(d) **Destruction of Records.** Manager shall not destroy any books and records with respect to the Hotel without identifying the records to Owner and obtaining Owner’s prior written approval of the destruction of such identified records. Manager’s current record retention policy shall be delivered to Owner prior to the Required Opening Date. Before implementing any change to Manager’s record retention policy at the Hotel, Manager shall deliver to Owner any such changes.

(e) **Owner’s Audit Rights.** Owner, Owner’s designees and consultants, and the Trustee shall, at any time throughout the term of this Agreement, have the right to audit and verify the books and records of the Hotel and the operations of the Hotel, upon reasonable prior written notice to Manager. Owner, its designees and consultants, and the Trustee shall also be entitled to conduct limited audits or examinations of the books and records of the Hotel without prior notice no more than two (2) times each Operating Year, when such notice could impair the purposes of the audit). Any audit and verification pursuant to this Section shall be conducted in such a fashion as to interfere as little as reasonably practicable with Manager’s normal business operations and during

normal business hours. Manager shall reasonably cooperate with Owner, the Trustee and its auditors in connection with such audit and shall promptly make available to Owner, the Trustee and its auditors any and all information relating to the Hotel that they may reasonably request in connection with such audit. Owner shall not be responsible for failure to discover any defalcations during any audit or inspection of the financial records. If Total Operating Revenues or Net Operating Income as set forth in Manager's monthly or annual operating reports to Owner are found to be incorrect by one percent (1%) or more in the case of Total Operating Revenues, or three percent (3%) or more in the case of Net Operating Income (in each case excluding recharacterization of entries to conform to requirements under the Uniform System of Accounts or GAAP), then Manager shall pay to Owner the cost of such audit and correct the misstatements as shown by such audit as soon as practicable. If Manager is not responsible for the cost of the audit under this Agreement, then the cost of an audit conducted pursuant to this Article shall be funded from the Revenue Stabilization Fund. If there is an insufficiency of funds in the Revenue Stabilization Fund, such insufficiency shall be funded from the Working Capital Reserve Fund and if the Working Capital Reserve Fund is not sufficient, then from the Total Operating Revenues as an Operating Expense. Notwithstanding the foregoing, the costs of such audit shall not be included in the calculation of any Performance Test.

(f) **Meetings.** Manager shall participate in meetings with Owner and the Asset Manager at the Airport or the Hotel as follows:

- (i) Monthly meetings with Senior Personnel;
- (ii) An annual meeting for presentation of the Proposed Annual Plan with Senior Personnel and appropriate regional Corporate Personnel; and
- (iii) An annual meeting for discussion of the prior Operating Year's results promptly following delivery of the Certified Annual Financial Statements.

Section 3.24. Personnel. During the Term, Manager shall manage all aspects of the Hotel's human resources functions and shall implement at the Hotel the personnel policies and procedures applicable to Substantially All Other Grand Hyatt Hotels, subject to Applicable Law.

(a) **Hotel Personnel; Benefits; Compensation; Bonus Pool.**

(i) Responsible Party. Subject to Owner's rights under Section 3.24(a)(iv) below, Manager shall recruit, hire, relocate, pay, supervise, discipline, and dismiss all Hotel Personnel (including the Key Personnel and the Senior Personnel), with the understanding that all Hotel Personnel shall be the employees of Manager, and not Owner.

(ii) Personnel Policies. Manager shall determine and implement all personnel policies and practices relating to the Hotel according to Manager's human resources policies applicable to Other Grand Hyatt Hotels, including the following: (A) policies and practices relating to terms and conditions of

employment, screening, selection, training, supervision, compensation, bonuses, severance, pension plans and other employee benefits, discipline, dismissal and replacement; and (B) policies and practices relating to the exercise by any Hotel Personnel of rights under any applicable labor laws in relation to the Hotel. Manager shall not enter into any written employment contracts with any employee of the Hotel that guarantees such employee a position at the Hotel for any period of time, or that offers an additional payment to such employee in addition to such employee's salary, benefits and bonuses that the employee is otherwise entitled to upon termination. Bonuses for Hotel Personnel shall be an Operating Expense.

(iii) Sufficient Personnel. Subject to availability of Sufficient Funds, Manager shall make commercially reasonable efforts to ensure that the number of Hotel Personnel is sufficient to operate the Hotel in accordance with the Operating Standards. Manager shall supervise through the Key Personnel and the Senior Personnel the hiring, discharging, promotion and work performance of all other operating and service employees of the Hotel. Manager shall further take commercially reasonable steps to determine that all members of the Key Personnel and Senior Personnel of the Hotel shall be properly qualified for their positions. The direct compensation payable to Key Personnel and Senior Personnel shall be comparable to the direct compensation paid to the members of the senior executive personnel and executive staff of Other Grand Hyatt Hotels in comparable markets, taking into account the size of the Hotel, it being understood that, subject to the availability of Sufficient Funds and Owner's right to approve staffing plans in the Operating Budget, the Hotel shall at no time be placed at a competitive disadvantage by Manager with respect to the hiring and maintaining of its Key Personnel and Senior Personnel.

(iv) Owner's Right to Approve Key Personnel. Owner shall have the right to interview and approve the individuals selected by Manager as the Key Personnel prior to their appointment; provided, however, that Owner shall be deemed to have approved the appointment of any such individuals unless Owner delivers notice of (A) its disapproval of such appointment within ten (10) Business Days after Manager's delivery to Owner of a written summary of each such individual's professional experience and qualifications or after Owner has interviewed such candidate, or (B) its desire to interview such candidate after Manager's delivery to Owner of notice of Manager's desire to arrange an interview between Owner and such individual at the Hotel or at another mutually acceptable location (it being agreed that Owner shall forego its right to interview any such individual if Owner is unwilling or unable to have an Owner Authorized Representative participate in the interview within ten (10) Business Days following Manager's notice to Owner of Manager's desire to arrange such an interview); provided, further, neither Owner's exercise nor its failure to exercise any right of approval of a proposed Key Personnel member, shall in any way create any liability or responsibility on the part of Owner or any Affiliate of Owner in connection with the performance by any person of his or her duties as

an employee of Manager. If Owner rejects the first two (2) candidates proposed by Manager for any one (1) Key Personnel position each time such position becomes available for hire, Owner shall thereafter choose between the two previously presented candidates and a third candidate so long as the selected individual remains available for hire. Manager shall provide information to Owner regarding each such candidate in order to enable Owner to make a decision regarding such candidate. Such information shall include such candidate's resume, letters of reference (if available), and any other information pertaining to such candidate's qualifications in Manager's possession, together with such candidate's proposed compensation arrangements and relocation costs, and such other information as Owner may reasonably request. Manager hereby acknowledges that reasonable consistency in the Key Personnel is important to the success of the Hotel. Manager agrees that if there is a vacancy in the General Manager's position, that Manager shall make reasonable efforts to find a temporary or permanent replacement within a reasonable period of time thereafter.

(v) Relocation Expenses. If Manager physically relocates any Key Personnel or Senior Personnel to another hotel (and such individual remains employed by Manager or its Affiliates) within two (2) years after his or her arrival at the Hotel (unless at the specific request of the employee as a result of a family emergency or other similar exigency), Manager shall reimburse the Hotel for part of the relocation expenses incurred by Manager as Operating Expenses in relocating such individual's replacement to the Hotel. The reimbursement to be made by Manager to the Hotel pursuant to this provision shall be equal to the total relocation costs incurred by the Hotel under the relocation policy of Manager and its Affiliates in bringing the replacement employee to the Hotel, multiplied by a fraction, the numerator of which shall be the period of time remaining from the date the departing employee left his or her employment at the Hotel to the date when the departing employee would have been employed at the Hotel for 730 days, and the denominator of which shall be 730. If Manager proposes that the Hotel incur relocation costs expenses in excess of \$60,000 for a General Manager or \$25,000 for any other Key Personnel and Senior Personnel, as applicable, the Parties shall meet and discuss the necessity or desirability of incurring such relocation costs. Each dollar amount provided for in the immediately preceding sentence shall be adjusted for each Operating Year, beginning in the Second Operating Year, by the percentage change, if any, in the Bay Area CPI during the immediately preceding calendar year. Owner may reject any Key Personnel or Senior Personnel proposed by Manager whose relocation expenses would exceed the foregoing amounts. It is understood and agreed that the Hotel shall not incur any expense in connection with the relocation of the departing Key Personnel to his or her new position, regardless of the length of time any such individual is employed at the Hotel.

(vi) Employee Benefits. Manager shall have the right to provide the Hotel Personnel, who are eligible therefor and who are not covered by collective

bargaining or similar arrangements, with benefits of (A) incentive plans; (B) pension, profit sharing or other employee retirement plans; and/or (C) disability, health, welfare or other benefit plans now or hereafter applicable to employees of Substantially All Other Grand Hyatt Hotels. Manager may charge the Hotel with its *pro rata* share of the costs and expenses of such Hyatt plan or plans allocated to the Hotel on the same basis as allocated to Other Grand Hyatt Hotels participating in the same benefit plans provided to the Hotel Personnel. All costs associated with such employee benefit plans shall be Operating Expenses. The terms of employment, including hiring, training, compensation, bonuses, employee benefits, discharge and replacement of all Hotel Personnel shall be established and administered by Manager consistent with the applicable provisions of the applicable Operating Budget. All such compensation, bonuses and employee benefits shall be established using Manager's compensation policies and guidelines applicable to Substantially All Other Grand Hyatt Hotels and shall be reasonable as compared to Other Grand Hyatt Hotels (taking into consideration the location and size of the Hotel and Other Grand Hyatt Hotels).

(vii) Prevailing Wages. Manager and its contractors and subcontractors shall comply with applicable provisions of the California Labor Code (Sections 1720 et seq.) and the City's Administrative Code (Section 6.22(E)) relating to the payment of prevailing wages in connection with certain demolition, construction, installation, maintenance or repair work paid in whole or in part from Total Operating Revenues.

(viii) Travel and Reimbursement. Employees of Manager and its Affiliates who travel to the Hotel on a temporary basis to provide technical assistance or other services to the Hotel shall be permitted to stay at the Hotel, without charge and on a space available basis only.

(ix) Senior Personnel Bonus Pool.

(A) Determination of Senior Personnel Bonus Pool. Commencing with the first Operating Year and continuing for each Operating Year thereafter during the Term (except as provided below with respect to a Termination of this Agreement), Manager shall be provided the amount set forth below as an incentive compensation pool for Senior Personnel ("**Senior Personnel Bonus Pool**"). The Senior Personnel Bonus Pool for each Operating Year shall be an amount equal to \$265,000, adjusted as of each July 1 beginning July 1, 2016, by the change in the Bay Area CPI for the immediately preceding calendar year. For the year in which the Opening Date occurs, the amount of the Senior Personnel Bonus Pool shall be multiplied by the number of days between the Opening Date and the last day of such Operating Year, divided by 365. For the year in which any Termination of this Agreement occurs, the amount of the Senior Personnel Bonus Pool shall be multiplied by the number of days between July 1 and the date of such Termination, divided

by 365. Amounts in the Senior Personnel Bonus Pool shall be applied solely to pay compensation to Senior Personnel.

(B) Schedule of Compensation. As part of its Proposed Annual Budget, Manager shall deliver to Owner a schedule of compensation it intends to pay to each of the Senior Personnel, including the maximum amount of the Senior Personnel Bonus Pool (“**Schedule of Compensation**”). The Schedule of Compensation shall be computed by Manager consistent with the compensation paid to employees holding comparable positions at Substantially All Other Grand Hyatt Hotels based upon the performance of such Other Grand Hyatt Hotels.

(C) Increases to Senior Personnel Bonus Pool. In the event that the incentive compensation of the Senior Personnel during an Operating Year exceeds the Senior Personnel Bonus Pool for such Operating Year, then the Senior Personnel Bonus Pool for such Operating Year shall be increased by the amount (“**Excess Amount**”) by which such compensation exceeds the Senior Personnel Bonus Pool for such Operating Year, but in no event will such increase exceed an amount equal to twenty percent (20%) of the sum of the Base Management Fee plus the Subordinate Management Fee for such Operating Year. Bonuses for Senior Personnel shall be payable solely from the Senior Personnel Bonus Pool and the Excess Amount. To the extent the Senior Personnel Bonus Pool plus the Excess Amount is insufficient therefor, such insufficiency shall be the responsibility of Manager payable solely from Manager's own funds and not directly or indirectly from Total Operating Revenues of the Hotel or any funds held by the Trustee under the Trust Agreement.

(D) Payment to Manager of Senior Personnel Bonus Pool. An amount equal to one-twelfth of the Senior Personnel Bonus Pool for an Operating Year shall be payable directly to the Manager from the Lockbox Fund on the first Business Day of each month. The Excess Amount, if any, for an Operating Year shall be payable directly to Manager from the Lockbox Fund on the first Business Day of the month following its determination.

(E) Manager Representation. Manager represents and warrants that there are no other Hotel Personnel other than the Senior Personnel who provide the primary supervisory management services for the Hotel.

(x) Non-Discrimination Provisions. Manager shall comply with the non-discrimination and other employment-related provisions set forth in Exhibit B.

(b) **Employee Status.** None of the Hotel Personnel shall be considered employees of Owner, City or the Trustee. All Hotel Personnel Costs shall be Operating Expenses. Manager shall pay all Hotel Personnel Costs of such employees and the amount of payments shall be reimbursed to Manager by Owner in accordance with Section 4.4. Accordingly, Manager shall establish appropriate payroll accounts covering all such employees of the Hotel.

(c) **Advance Notice Regarding Termination of this Agreement.** Manager shall be responsible for giving notices, if any, required to be given to Manager's employees under any Applicable Law in connection with the Termination of this Agreement and the reasonable costs to provide such notices shall be Operating Expenses. Owner shall, however, provide reasonable prior notice to Manager of any sale of the Hotel by Owner in order to enable Manager to provide notices to employees required by any Applicable Law. Owner shall not be responsible to Manager for any compensation, benefits, or other claims relating to any period after the Termination of this Agreement and arising as a result of Manager's failure to timely deliver any required notification to Hotel Personnel following notice from Owner of an event triggering such notice requirement.

(d) **Labor Relations.** Manager also shall be responsible for compliance with all labor-related provisions set forth in Exhibit B. Manager shall be solely responsible for any negotiation of labor contracts and collective bargaining agreements covering any of the Hotel Personnel. Manager shall keep Owner contemporaneously informed regarding any labor contract and collective bargaining negotiations. All labor contracts and collective bargaining agreements with unions representing Hotel Personnel which would result in an average annual increase in Hotel Personnel Costs of more than three percent (3%) over the term thereof shall be submitted to Owner for review and approval prior to Manager's execution of any such agreement. Manager shall use commercially reasonable efforts to include in any collective bargaining agreement the ability to assign such agreement to a third party acquiring all or a part the Hotel on Termination of this Agreement or, in the absence of such a third party, to Owner.

Section 3.25. Centralized and Chain Services.

(a) **Generally.** Manager shall furnish or cause its Affiliates to furnish the Centralized Services to the Hotel, and, subject to the remaining provisions of this Section, Owner hereby agrees that Manager may in its discretion cause the Hotel to participate in any or all such Centralized Services. Without limiting the definition of Centralized Services, Manager shall provide the following services, as Centralized Services:

(i) **Accounting.** Manager may, in its reasonable discretion, handle directly, or through an Affiliate, any of the accounting functions for the Hotel, including accounts payable, general ledger, payroll and accounts receivable, or any part thereof, as part of Centralized Services for the purpose of achieving a more cost efficient operation of the Hotel.

(ii) Marketing and Sales Program. Manager shall provide Chain Services intended to (A) promote the brand identity of Manager and its Affiliates, (B) advertise to Manager's and its Affiliate's markets, and (C) secure bookings for hotels and resorts, including the Hotel, operated under the "Hyatt" name (the "**Chain Marketing Program**"). In addition, Manager shall coordinate the Hotel's individual marketing program with the Chain Marketing Program and, as appropriate, include the Hotel in the brand identity and national advertising programs conducted as part of the Chain Marketing Program.

(iii) Bookings/Reservations. As part of Centralized Services, Manager shall secure bookings for the Hotel through Manager's local, national and worldwide sales and reservations offices and other local, national and worldwide distribution and sales systems, and shall encourage the use of the Hotel by tourists, special groups, travel congresses, travel agencies, airlines and other recognized sources of hotel business. Manager shall operate its reservation system in accordance with the standard policies in place for Substantially All Other Grand Hyatt Hotels. Manager shall develop a local sales program, represent the Hotel at appropriate conventions and travel congresses, and list the Hotel in printings of general tariff bulletins. In addition, Manager shall process reservations for the Hotel through Manager's and its Affiliates worldwide communications network. To facilitate Manager's provision of such reservation services, Owner agrees that the Hotel shall be listed by Manager in all airline reservations systems (which include what are known as global distribution systems) under the applicable code for hotels and resorts operated under the "Hyatt" name.

(iv) Guest Frequency Program. Manager shall maintain a guest frequency program consistent with Substantially All Other Grand Hyatt Hotels. Currently, this program includes the Hyatt Gold Passport guest reward program, and airline and rental car frequent user programs in which Hyatt participates.

(v) Business Software and Hardware System. Manager shall provide or cause to be provided the required business software and hardware system, which may change from time to time. As of the Execution Date, Manager's business software and hardware systems required for the operation and management of the Hotel are set forth in Exhibit T.

(vi) Additional Services. Manager shall further maintain and provide the mandatory or required services provided by Manager (as specified in the then most current version of Manager's Brand Standards manual) not already referenced above, including all Manager-required training and orientation programs (excluding training at the Hotel conducted in the ordinary course of business), Manager's travel agent payment system, guest reimbursements (including guest complaint resolution program, guest assistance program, and customer satisfaction guarantee program), vacation, meetings and convention co-op advertising, and such additional services including additional Hyatt Gold Passport bonus points or bonus airline mileage credit that Hyatt Gold Passport

members earn as a result of promotions in which Owner agrees to participate, any optional marketing programs offered by Manager in which Owner agrees to participate, or optional training programs.

(b) ***Centralized Services Fees Limitations.***

(i) Centralized Services Fees shall consist of the reasonable and actual direct costs of rendering Centralized Services to the Hotel and all Other Grand Hyatt Hotels, including any costs or expenses payable to unrelated third-parties (including payments of salaries, wages, compensations and benefits payable to Manager's employees) directly engaged in the rendition of Centralized Services, occupancy costs, costs of equipment leases and capital improvements, and allocation of other direct costs of providing Centralized Services. Centralized Services Fees shall be allocated to the Hotel using a reasonable accounting procedure applied on a consistent basis (which accounting procedure shall at all times comply with the requirements of Section 3.23); and shall not include any Direct or Indirect Profit. If Manager's employees devote less than all of their time to rendering Centralized Services, employee costs shall be allocated in a manner reasonably determined by Manager to reflect the portion of such time devoted by such employees to Centralized Services. Other shared costs, including occupancy costs and utilities, which relate only partially to Centralized Services shall also be allocated by Manager to Centralized Services Fees pursuant to a formula reasonably determined by Manager to reflect the portion of such costs attributable to rendering Centralized Services.

(ii) Manager shall use commercially reasonable efforts to limit Centralized Services Fees in each Operating Year to not more than four percent (4%) of Total Operating Revenues in such Operating Year.

(iii) If an increase in Centralized Services Fees in any Operating Year would exceed the average change in National CPI over the preceding five (5) calendar years, the matter shall be referred to a Hotel Consultant selected by the Parties pursuant to the provisions of Section 3.21(k) for recommendations of reductions in Operating Expenses which in the aggregate will equal the dollar amount by which the increase in such Centralized Services Fees exceeds such average. The recommendations of the Hotel Consultant shall be binding on the Parties.

(iv) In the event that Manager shall enter into any lease, management, operating, license or other similar agreement or amendment thereto with respect to any Other Grand Hyatt Hotel pursuant to which such hotel is allocated Centralized Services Fees on a basis more favorable than that provided to Owner under this Agreement, such more favorable provisions shall be deemed to be immediately incorporated in and a part of this Agreement and Manager shall give prompt written notice thereof to Owner and, upon the request of Owner, shall enter into a written amendment or amendments to this Agreement to incorporate such more favorable provisions.

Section 3.26. Hotel Marketing Program.

(a) *Development and Implementation of Hotel Marketing Program.* In addition to including the Hotel in the Chain Services, Manager shall, for no additional fee or compensation, develop and implement a specific marketing program for the Hotel, following Manager's policies and guidelines, which shall provide for the planning, publicity, internal communications, organizing and budgeting activities to be undertaken, and which shall include the following, in each case subject to the Annual Plan:

(i) Production, distribution and placement of promotional materials relating to the Hotel, including materials for the promotion of employee relations;

(ii) Development and implementation of promotional offers or programs that benefit the Hotel and are undertaken by Manager or by a group of Other Grand Hyatt Hotels that includes the Hotel;

(iii) Attendance of Hotel Personnel at conventions, meetings, seminars, conferences and travel congresses;

(iv) Selection of and guidance to, as required, advertising agency and public relations personnel; and

(v) Preparation and dissemination of news releases for national and international trade and consumer publications.

(b) *Responsibility for Development of Marketing Plan.* Development and implementation of the Hotel's individual marketing program shall be accomplished primarily by Hotel Personnel, with periodic assistance from Corporate Personnel who have marketing expertise. Any such assistance rendered by Corporate Personnel shall be at no cost to Owner or the Hotel for such Corporate Personnel's time; provided, that Manager may be reimbursed as an Operating Expense for the Out-of-Pocket Expenses Manager incurs to provide such assistance pursuant to Section 4.4(a), subject, however, to the provisions of Section 3.21. The marketing program shall comply with Manager's sales, advertising and public relations policies and corporate identity requirements, as they may be modified from time to time. Such requirements currently include the following: (i) the "Grand Hyatt" name and mark, which shall be the only trade name and mark or symbol used to identify the Hotel, subject to Section 3.5; (ii) Owner shall obtain Manager's consent prior to publishing any Hotel advertising materials or implementing any advertising programs of its own; and (iii) the Hotel shall participate in all mandatory promotional and mandatory marketing programs of Manager and its Affiliates for so long as they are continued. The cost of the development and implementation of the Hotel's marketing program shall be an Operating Expense and the estimated costs for each Operating Year shall be included in the Operating Budget for such Operating Year. Manager shall reasonably cooperate and coordinate with Owner's marketing staff in the design and implementation of the Hotel's marketing program.

Section 3.27. Automation. The Hotel shall utilize all automation systems necessary to enable the Hotel to function as any Other Grand Hyatt Hotels, in accordance with the terms and conditions set forth in this Agreement. Upon request, Manager shall provide Owner with a list of software programs and information systems that Manager is utilizing in connection with its management of the Hotel, including Proprietary Software. Upon request, Manager shall provide Owner with a written list of Proprietary Software actually installed in the Hotel by or for Manager. Manager shall be responsible for any property taxes levied by any Governmental Authority on its Proprietary Software. If requested by Owner upon Termination of this Agreement, Manager shall request and use commercially reasonable efforts to obtain extensions of any software or information system licensing agreement for a period (not to exceed ninety (90) days) following such Termination; provided, that Manager shall not be obligated to obtain extensions of any Proprietary Software and systems.

Section 3.28. Purchasing.

(a) **National Vendors.** In the performance of its obligations under Section 3.7, Manager may elect to purchase the items described therein under vendor contracts available to Manager under the purchasing program of Manager and its Affiliates for so long as such a program is maintained. Notwithstanding the foregoing, Manager shall use commercially reasonable efforts to purchase products from those vendors who have the needed items available and at the lowest price. In purchasing goods or services under the purchasing program of Manager or its Affiliates, subject to Manager's obligation to meet Operating Standards, Manager shall provide written evidence to Owner that such goods and services and all costs and fees charged therefor are being furnished on terms and conditions (including payment terms, price, quality and time of delivery) that are the lesser of: (i) terms and conditions not less favorable to Owner than those generally obtained in the competitive, open market; or (ii) those terms and conditions otherwise available to Other Grand Hyatt Hotels. Owner shall be entitled to decline participation in any contract with a National Vendor from which Manager or its Affiliates or related parties receive any payments or administrative fees if Manager is not able to provide such written evidence. Hotel shall be credited promptly by Manager with its *pro rata* share of any credits or other financial benefits to Manager from all such National Vendors to the extent such credits are for purchase of products for the Hotel, directly or indirectly, in whole or in part. Manager shall not use any National Vendor to supply goods and/or services to the Hotel if such use would result in Manager, or any Affiliate of Manager, receiving any Direct or Indirect Profit.

(b) **ACDBE Requirements.** All purchasing, procurement and leasing of goods and services for the Hotel shall be subject to the ACDBE requirements set forth in Exhibit U.

(c) **Affiliates.** Manager may enter into contracts for goods and services with its Affiliates or related parties for goods and services normally provided by third-party vendors, so long as (i) the contracts do not provide for a price in excess of the market price for such goods and/or services and the goods and/or services are of a quality that would be at least equivalent to that provided by an unrelated third-party contractor pursuant to an arm's-length contract for the same price as is charged by the Affiliate; and

(ii) such contracts do not result in any such Affiliate receiving any Direct or Indirect Profit by reason thereof.

Section 3.29. Parking. The Hotel shall include approximately two hundred fifteen (215) surface parking spaces available for use of the Hotel of which up to five (5) may be designated and reserved for use by Key Personnel. Subject to Owner's prior written consent, Manager may designate up to the entire parking lot to be used by a valet service for guests of the Hotel to the extent reasonably necessary to accommodate high parking demand at the Hotel. Manager shall operate and maintain the parking lot. Manager may engage a third-party parking manager to manage and operate the parking lot with the consent of Owner in its sole discretion; provided, that (a) Owner shall have the right to designate any such third-party parking manager subject to Manager's reasonable approval; (b) the third-party parking management agreement shall be in the form of a Qualified Management Agreement drafted by counsel selected by Manager, which form of Qualified Management Agreement shall be subject to approval by Owner and by Bond Counsel in their sole discretion; and (c) the third-party parking manager shall execute an assignment agreement, with respect to its agreement with Manager, with the Trustee and Owner in such form as shall be reasonably required by the Trustee and Owner. All revenue generated by the parking lot shall be included in Total Operating Revenues and all expenses incurred for the management and operation of the parking lot shall be included in Operating Expenses. Except as set forth above, Manager's employees shall not park in the Hotel parking lot but shall use employee parking facilities at the Airport designated by Owner at rates established from time to time by Owner. Owner shall make available to Manager additional on-Airport parking, at such location or locations as shall be determined by Owner in its sole discretion, as and when necessary, in the reasonable determination of Manager, to accommodate overflow parking for Hotel patrons; provided, that the location determined by Owner does not cause Manager to fail to meet the Operating Standard.

Section 3.30. Restrictive Covenant.

(a) During the Term of this Agreement and as a material inducement to Owner entering into this Agreement, Manager and its Affiliates shall not, without the prior written consent of Owner, own, lease, operate, manage, license, franchise or join through a joint marketing or other similar arrangement, in whole or in part, directly or indirectly, a Restricted Hotel within the Restricted Radius. The foregoing restriction shall not apply to the Hyatt Regency San Francisco Airport in Burlingame managed by Manager ("**Excluded Hotel**").

(b) Manager shall have the right to replace the Excluded Hotel as of and after the time, if any, that Manager is no longer the owner, lessee, operator, manager, licensee, franchisee or joint marketer, in whole or in part, directly or indirectly thereof, but only with a conversion to a Hyatt Regency of an existing hotel building which is within the Restricted Radius as of the Execution Date; provided, that Manager represents in writing to Owner that such conversion is not expected to result in an increase in the then-current AAA Rating of the Excluded Hotel to a four (4)-diamond AAA Rating. The replacement Hyatt Regency shall constitute the Excluded Hotel for all purposes under this Agreement.

Section 3.31. Compliance with City Contracting Provisions. Manager agrees to observe and perform the covenants and agreements set forth in Exhibit B.

Section 3.32. Compliance with Applicable Law and Approvals. Manager shall do or cause to be done all such acts and things in or about the Hotel that Manager, in good faith and exercising prudent commercial judgment, reasonably believes to be necessary to comply with Applicable Law and to obtain and comply with all Approvals during the Term; provided, that Manager shall have no obligation to acquire any Certificate of Occupancy or other construction-related permits or Approvals, such obligation to be solely the obligation of the Design-Builder under the Design-Build Agreement. Manager shall use good faith and exercise reasonable judgment to ensure that the business being conducted at the Hotel is in full compliance with all Applicable Law that are applicable to the operation of the Hotel. Manager does not in any way assume any of Design-Builder's obligations to comply with Applicable Law or any other laws, rules or regulations or obligations of Design-Builder under the Design-Build Agreement including Design-Builder's obligation to acquire the Temporary Certificate of Occupancy and to obtain Approvals required under the Design-Build Agreement or otherwise related to any part of the Work. If the cost of Manager's compliance with the first two sentences of this Section is not a Capital Expense, the cost of compliance shall be an Operating Expense. If such cost of compliance is a Capital Expense, the cost shall be funded in the manner as provided in Section 3.21. Notwithstanding anything to the contrary in this Agreement, Manager shall, at its own expense, comply with all Applicable Law in performing the services required under this Agreement with which Manager would be required to comply even if Manager was not performing such services. This Article shall not be construed to limit the right of either Owner or Manager to contest the applicability of any Applicable Law so long as such contest does not expose the other Party to material risk of criminal sanctions, or civil sanctions for which the other Party is not willing to fully indemnify.

Section 3.33. Airport Security.

(a) Manager shall conduct all of its activities at the Airport in compliance with the Airport Rules and Regulations.

(b) Manager acknowledges that the ability of the Hotel to remain open may be subject to changes in alert status and other actions as determined by Governmental Authorities including the TSA. Failure by Manager to adhere to Airport Rules and Regulations affecting the safety and security of the Airport shall constitute a material breach of this Agreement, unless such failure is the direct result of Owner's written direction to Manager to commit the acts or omissions that caused such failure. Manager shall reimburse Owner for any fines or penalties levied against Owner by Governmental Authorities including the TSA for security violations on the part of Manager or its employees, which amounts shall not constitute an Operating Expense, unless such fines or penalties were the direct result of such written direction from Owner.

(c) The security status of the Airport is subject to change without notice. Should the security status of the Airport change at any time during the term of this Agreement, Owner shall provide a written notice to Manager detailing all applicable security modifications. Manager shall take immediate steps to comply with these

security modifications; provided, that such modifications shall be applicable generally to Airport facilities, tenants and contractors. The costs of such compliance shall constitute an Operating Expense.

(d) Manager shall use commercially reasonable efforts to prevent unauthorized Persons from gaining access to restricted flight and public aircraft operational areas and all other nonpublic areas of the Airport.

(e) Manager shall obtain Airport access authorizations and badges as may be required by Owner or the TSA for all of its employees, Subcontractors, and suppliers who will enter the Airport to perform work or make deliveries, and shall be responsible to train each such person with respect to all Airport Rules and Regulations, including without limitation those pertaining to security, and to supervise their compliance with such Airport Rules and Regulations. Manager shall be responsible for paying as an Operating Expense all costs relating to the security check and the preparation of identification badges for each employee, Subcontractor and supplier. Any Person who violates Airport Rules and Regulations may be subject to revocation of his, her or its access authorization. The failure of Manager to perform or provide any services required under this Agreement shall not be excused on account of the revocation for good cause of Airport access authorization of any Person.

(f) Manager shall return to Owner at the Termination of this Agreement, or upon demand by Owner, all access keys issued to it for any area of the Airport, whether or not restricted, and all Airport identification badges issued to its employees, Subcontractors and suppliers. If Manager fails to do so, Manager shall be liable to reimburse Owner for Owner's reasonable costs for work required to prevent compromise of the Airport security system. Owner may withhold funds in the amount of such reasonable costs from any amounts due and payable to Manager under this Agreement.

Section 3.34. Non-Interference with Operation of Airport. Manager acknowledges that the Hotel is located on Airport property, in close proximity to active runways, roadways and terminal buildings which regularly experience high traffic volumes as part of continuous operation of a major international airport. Manager further acknowledges that the Hotel is in close proximity to areas designated for construction of runways, terminals, access roadways and parking facilities at the Airport, and that Owner may during the Term construct additional facilities at the Airport. Manager shall not operate the Hotel in any manner which interferes with the landing and taking off of aircraft or other normal and security operations at the Airport under current or future conditions or which might otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Airport Director, after providing notice to Manager, may cause the abatement of such interference, with such costs paid by Manager as an Operating Expense. Manager agrees that no liability shall attach to Owner by reason of the operation or maintenance of the Airport; provided, that Owner otherwise complies with its obligations under this Agreement.

Section 3.35. Subordination to Owner Agreements with the United States. This Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between Owner and the United States, the execution of which

has been or may be required as a condition precedent to the transfer of federal rights or property to Owner for airport purposes, and the expenditure of federal funds for the operation, extension, expansion or development of the Airport.

Section 3.36. Airport Capital Program. During the Term it will be necessary for Owner to initiate and carry forward extensive programs of construction, reconstruction, expansion, relocation, maintenance and repair in order that the Airport and its facilities may be suitable for the volume and character of air traffic and flight activity which will require accommodation, and that such construction, reconstruction, expansion, relocation, maintenance and repair may inconvenience or interrupt, delay and interfere with development or operation of the Hotel. Owner shall provide advance notice to Manager with regard to matters that reasonably can be anticipated to have a directly disruptive effect on the operation of the Hotel and shall consult with Manager about means to mitigate such disruptive effects. Manager agrees that no liability shall attach to Owner, its officers, agents, employees, contractors, subcontractors and representatives by reason of such inconveniences, interruptions, delays and interferences; provided, that Owner otherwise complies with its obligations under this Agreement. The Performance Tests shall be tolled if and to the extent that Hotel operations are materially and adversely affected by such disruptive effects. Manager hereby releases Owner and waives any right to claim damages for any such inconveniences, interruptions, delays and interferences.

Section 3.37. Prohibition on Borrowing and Other Credit Obligations. Manager may extend credit to customers in the ordinary course of business and enter into contracts authorized under the preceding provisions of this Article. Manager is not authorized to and shall not borrow any money, execute any credit obligations or pledge or encumber any of the Total Operating Revenues in the name of or on behalf of Owner, or pledge the credit of Owner.

Section 3.38. No Disposition; No Leases. Manager is not authorized to and shall not sell, transfer, lease or otherwise dispose of all or any portion of the Hotel, except for FF&E to the extent necessary in the ordinary course of business if such FF&E is unfit for use by reason of damage, depreciation or obsolescence; provided, that Manager shall cooperate with Owner with respect to the procedures for such disposal mandated by Applicable Law or Owner's policies. Disposal shall be by commercially reasonable means and the proceeds thereof shall be transferred to the Trustee for deposit in the Revenue Fund. Manager shall not enter into any grant of concessions for any Hotel operations, retail operations, spa, restaurants or food service except with the prior written consent of Owner in its sole discretion.

Section 3.39. Certain Limitations on Manager's Duties, Obligations and Rights.

(a) **Sufficient Funds.** Notwithstanding anything to the contrary in this Agreement, but subject to Section 5.5(b), Manager's obligations, duties, covenants, agreements and responsibilities under this Agreement including specifically those that require the expenditure of funds for the performance thereof and which constitute (without duplication) Operating Expenses, Capital Expenses, other fixed expenses of the Hotel under the Uniform System of Accounts, Taxes, Excluded Taxes and Other Charges (but only to the extent that Manager has deposited in the Lockbox Fund collections that are attributable to such Excluded Taxes and Other Charges) and amounts required to be paid or otherwise funded (but which are not paid or otherwise funded) by the Design-

Builder or otherwise under the Design-Build Agreement, are subject to Sufficient Funds being available to Manager.

(b) ***No Representations Concerning Insurance Coverage.*** In connection with any insurance coverage required or obtained under this Agreement, Manager shall advise Owner as to appropriate insurance coverage for all aspects of the Hotel, including the advisability, nature, and extent of the insurance coverages to be provided by Manager for the benefit of the Hotel and/or Owner or any other insurance coverages that Owner should consider for the protection of the Hotel and its operations. Neither Manager nor its Affiliates shall be liable for any error in either Manager's advice under this Section nor any deficiency or error in insurance coverages provided by Manager under this Agreement.

(c) ***Accuracy of Predictions in Financial Reports.*** Any and all financial projections and budgets prepared by Manager under this Agreement, including those contained in the annual Operating Budget are to be prepared by Manager as accurately as is reasonably possible, using good faith, based on information then available to Manager and Manager's prudent business judgment. Any and all such financial projections and budgets are not to be independently relied upon by Owner or any third party as to the results predicted therein, although Manager acknowledges that the same shall be used by Owner and given to Owner's lenders and their financial, professional and legal advisors. Manager does not guarantee the accuracy of the projections and budgets, nor does it guarantee the results of such projections and budgets.

(d) ***Responsibility for Environmental, Construction and Other Real Property Issues.*** If any environmental, construction or real property-related problem exists at the Hotel during the Term and occurs or arises solely out of activities undertaken (i) prior to the Opening Date at the Hotel or on the Site; or (ii) after the Opening Date and caused by persons or entities other than Manager, Hotel Personnel, their agents or contractors or persons or entities providing services on the Site, or any other person or entity under the management, control, or supervision of Manager, Manager's management services under this Agreement shall not extend to management of any abatement or other correction of such problems, other than abatement and correction which costs \$50,000 or less, oversight of and coordination with any environmental consultant. However, Manager agrees to extend its management services to any such abatement and correction which costs in excess of \$50,000 if Owner requests such services and Manager and Owner are able to agree upon a fair, equitable and reasonable fee and terms for such services. The cost to correct and abate any such problems shall be funded as an Operating Expense up to \$10,000 if a result of Manager's breach of this Agreement, or Manager's negligence or willful misconduct, and otherwise shall be funded from the Revenue Stabilization Fund. If the Revenue Stabilization Fund is not sufficient to pay all such costs, then the deficiency shall be paid from the Working Capital Reserve Fund. Notwithstanding the foregoing, except with respect to any environmental matters or matters relating to construction deficiencies at the Hotel or other items which the Design-Builder is responsible for under the Design-Build Agreement, if Manager determines that any such problem materially impairs or has the

capacity to materially impair operations at the Hotel (including any problem which might result in negative publicity or lower occupancy rates), then Manager shall have the right and the obligation to consult with Owner in pursuit of solutions to such problem and Manager may elect, at its option and if approved by Owner, to assume management of such problem as part of its management duties and responsibilities under this Agreement for no additional compensation. Notwithstanding anything to the contrary in this Agreement, Manager, as part of its management services and for no additional compensation shall be solely responsible for overseeing, managing and bearing the cost of the correction or abatement of any environmental, construction and real property-related problems caused by its management and operation of the Hotel or services provided to the Hotel after the Required Opening Date, or any such problem caused by its Affiliates, Hotel Personnel, their agents or contractors or Persons providing services on the Site, or any other Person under the management, control, or supervision of Manager, or any contractors on the Site. Except as otherwise expressly provided in this Agreement, Manager shall not be responsible for any of the Design-Builder's covenants, agreements, obligations or responsibilities under the Design-Build Agreement, as the case may be.

Section 3.40. Asset Manager. Manager acknowledges that Owner is required pursuant to the terms of the Trust Agreement to retain an Asset Manager to perform the duties and responsibilities as set forth in the Trust Agreement. Manager hereby acknowledges and agrees that the Asset Manager is an Owner Authorized Representative and will supervise the activities of Manager at the Hotel and serve as the primary liaison between Owner and Manager. Manager agrees to cooperate with Owner and the Asset Manager fully in order to permit the Asset Manager to effectively perform its duties and responsibilities. Manager shall have the right to rely on any instruction provided by an Owner Authorized Representative.

Section 3.41. PCI Data Security Standard.

(a) The provisions set forth in this Section apply to Manager as a "Service Provider" that either itself, or through a processor, its agent, or Subcontractor, stores, processes, handles or transmits Cardholder Data in any manner. For purposes of this Section, the term "**Cardholder Data**" means personally identifiable data about the cardholder (e.g., the plastic card number, card expiration date in combination with the plastic card number, cardholder name in combination with the plastic card number, track data/magnetic stripe, verification numbers CVV2, CVC2, CID, and PIN Block). "Cardholder Data" also includes other personal information gathered about the cardholder (e.g., addresses and telephone numbers), assigned by the card issuer that identifies the cardholder's account or other cardholder personal information. For purposes of this Section, a "**Service Provider**" means any person or entity that maintains, processes, transmits or otherwise is permitted access to Cardholder Data, including through its provision of services to Owner. Customer Information shall include cardholder data and such other customer information as may be defined elsewhere in this Agreement.

(i) Manager represents and warrants that it shall implement and maintain the most recent Payment Card Industry ("**PCI**") Data Security Standard Requirements ("**PCI Data Security Standard Requirements**") for Cardholder

Data, as they may be amended and updated from time to time. The current PCI Data Security Standard Requirements are available on the following internet site: <https://www.pcisecuritystandards.org/>. As evidence of compliance, Manager shall provide, upon request by Owner, current evidence of compliance with these data security standards certified by a third-party nationally recognized by the payment card industry for that purpose.

(ii) Manager shall maintain and protect the security of all Cardholder Data when performing services under this Agreement in accordance with Applicable Law and PCI laws, rules and regulations. Manager shall use reasonable precautions, including physical, software and network security measures, employee screening, training and supervision and appropriate agreements with employees, to (i) prevent anyone other than Manager, Owner or their respective authorized employees from monitoring, using, gaining access to or learning the contents of the Cardholder Data; (ii) protect appropriate copies of Cardholder Data from loss, corruption or unauthorized alteration; and (iii) prevent the disclosure of passwords and other access control information to anyone other than Manager and Owner and their respective authorized employees.

(iii) Manager shall indemnify, defend and hold Owner harmless from and against any and all claims, losses, damages, notices and expenses, including any fines which Owner may be required to pay, which result from Manager's breach of the provisions of this Section. Without limiting the generality of the foregoing, Manager expressly agrees that if Owner pays any fine in connection with a breach by Manager of the provisions of this Section, the foregoing indemnity obligation shall require Manager to reimburse Owner the full amount of such fine within thirty (30) days of Owner delivering written notice to Manager of Owner's payment of such fine. Manager, at its sole cost and expense, shall fully cooperate with any investigation of any data loss or other breach of Manager's obligations under this Section. Any such reimbursement by Manager shall not constitute an Operating Expense.

(b) The use of Cardholder Data is specifically restricted only to those applications directly pertaining to payments, including transaction authentication, or as required by Applicable Law.

(c) If there is a breach or intrusion into, or otherwise unauthorized access to Cardholder Data stored by or for Manager, Manager shall immediately notify Owner, in the manner required by the PCI Data Security Standard Requirements, and provide Owner and the acquiring financial institution and their respective designees access to Manager's facilities and all pertinent records to conduct an audit of Manager's compliance with the PCI Data Security Standard Requirements. Manager shall fully cooperate with any audits of their facilities and records provided for in this Section. Any costs incurred as a result of the breach or audit shall be the sole responsibility of Manager, and shall not constitute an Operating Expense.

(d) Manager shall maintain appropriate business continuity procedures and systems to ensure availability and security of Cardholder Data in the event of a disruption, disaster or failure of Manager's primary data systems.

(e) Manager's obligation to comply with the PCI Data Security Standard Requirements expressly survives termination or expiration of this Agreement.

(f) Any destruction of Cardholder Data must be completed in accordance with the PCI Data Security Standard Requirements.

Section 3.42. Environmental Sustainability Measures. From time to time, Owner or City may adopt, or issue policies regarding, environmental sustainability measures that would minimize or reduce the environmental effects of Airport facilities and operations. These measures could include energy and water conservation, air quality, fuel efficiency, solid waste reduction and recycling measures. Manager agrees to implement sustainability measures at the Hotel requested by Owner and to cooperate with Owner in the implementation of such sustainability measures.

ARTICLE IV

FEES AND EXPENSES

Section 4.1. Management Fees.

(a) ***Obligation for Management Fees.*** In consideration for Manager performing all of its management, administrative, oversight, cooperation and coordination services under this Agreement, Manager shall be paid commencing on the Opening Date through the immediately succeeding June 30 and for each Operating Year thereafter, a "**Management Fee**," as set forth on Exhibit K.

Owner and Manager agree that, except for Management Fee, Centralized Services Fees, and Reimbursable Expenses, Manager shall not be entitled directly or indirectly to any other fees or compensation in connection with the delivery of services by Manager to Owner pursuant to this Agreement. All such fees, other than the Subordinate Management Fee, shall be treated as Operating Expenses.

(b) ***Payment of Management Fees.*** Subject to the subordination of a portion of the Management Fee as set forth in Exhibit K, one-twelfth of the annual Management Fee for the applicable Operating Year shall be paid on the first Business Day of each month in each Operating Year in arrears. For any Operating Year or other period of time that is a partial twelve (12)-month period, the Management Fee for each month in such partial Operating Year shall be the *pro rata* amount based on the number of days in such partial Operating Year divided by 365. Owner hereby authorizes Manager to withdraw the monthly installment of the Base Management Fee on the first Business Day of each month from the Lockbox Fund.

(c) **Carryforward of Subordinate Management Fee.** To the extent there are insufficient funds in any Operating Year to pay all or a portion of the Subordinate Management Fee, the unpaid balance of the Subordinate Management Fee shall accrue, without interest, and be paid if and to the extent there are moneys available therefor in subsequent Operating Years in the order of priority set forth in the Trust Agreement. Notwithstanding the foregoing, the unpaid balance of the Subordinate Management Fee will be paid in full, without interest, upon the expiration or Termination of this Agreement.

Section 4.2. Centralized Services Fees.

(a) **Hotel's Share of Costs of Centralized Services.** Manager and its Affiliates shall be paid for Hotel's *pro rata* share of Centralized Services a fixed annual amount for each Operating Year as set forth in Exhibit V.

(b) **Payment of Centralized Services Fees.** The Centralized Services Fees shall be paid monthly in arrears during the Term as an Operating Expense. Each time that Manager withdraws funds pursuant to the Cash Management Agreement for the payment of Centralized Services Fees, Manager shall be deemed to have made the representations set forth in Section 4.2(e) to each of Owner and the Trustee.

(c) **Reimbursements, Rebates and Credits.** To the extent that Manager or any Affiliate of Manager receives, directly or indirectly, (i) a fee or cost reimbursement from any third party, hotel or hotel chain in consideration of the provision of one or more of the Centralized Services to such third party, hotel or hotel chain, or (ii) any rebates, commissions or discounts from vendors or service providers whose costs are included as part of Centralized Services costs (including any profit element), such amounts so received will be offset against Centralized Services costs or rebated to Hotel.

(d) **True-Up of Centralized Services Fees.** Following each Operating Year Manager shall compare the actual expenses paid by Manager to provide the Centralized Services to the Hotel during such Operating Year to the fixed annual amount that has been paid to Manager on a monthly basis during such Operating Year. If Manager's actual expenses are more than the fixed annual amount that has been paid to Manager, the positive difference shall be payable to Manager from the Lockbox Fund. Such difference, if any, may be withdrawn by Manager from the Lockbox Fund annually no sooner than ten (10) Business Days after delivery to Owner by Manager of the Certified Annual Financial Statements for the prior Operating Year required to be delivered pursuant to the this Agreement. If the actual expenses are less than the fixed annual amount that has been paid to Manager, the negative difference, if any, shall be carried forward to the then-current Operating Year to offset the Centralized Services Fees in the current Operating Year.

(e) **Required Representations.** In connection with and as a condition to being paid Centralized Services Fees, Manager represents and warrants to Owner and the Trustee the following: (i) Centralized Services Fees for the applicable Centralized Services represent reimbursement of costs paid by Manager or its Affiliates to unrelated

third parties (including payments of salaries, wages, compensations and benefits payable to Manager's employees) for the reasonable and actual costs of providing such Centralized Services to the Hotel and all participating Other Grand Hyatt Hotels, which system wide costs may be determined using reasonable accounting procedures, applied on a consistent basis (which accounting procedures shall at all times comply with the requirements of Section 3.23, and may include carrying costs of facilities of Manager or its Affiliates); (ii) the Centralized Services Fees for the applicable Centralized Services do not include any Direct or Indirect Profit to Manager or its Affiliates; (iii) the allocation of the Centralized Services Fees among the Hotel and all participating Other Grand Hyatt Hotels shall be based on fair, reasonable and equitable allocations established by Manager in accordance with reasonable accounting procedures, consistently applied (which accounting procedures shall at all times comply with the requirements of Section 3.23); and (iv) without limiting clause (iii) preceding, the Hotel's allocated share and each participating Other Grand Hyatt Hotel's allocated share of Centralized Services Fees are and shall be determined using the same formula(s) (including fair, reasonable and equitable variables consistently applied).

(f) **Required Accounting.** Within two hundred twenty (220) days after the end of Manager's fiscal year, or such later date as may be mutually agreed upon by Owner and Manager, Manager shall furnish to Owner and the Trustee a report or reports from one or more Independent Accountants (collectively, the "**Annual Report of Independent Accountants**" or "**Report**") which shall state that the following procedures have been performed:

(i) It obtained schedules prepared by Manager of the Centralized Services Fees allocated to the Hotel during Manager's fiscal year.

(ii) It obtained schedules prepared by Manager of the Centralized Services Fees allocated to Other Grand Hyatt Hotels participating in the Centralized Services for which the Hotel was billed during Manager's fiscal year.

(iii) It agreed the total Centralized Services Fees shown on the schedules obtained in clauses (i) and (ii) to Manager's accounting records.

(iv) For the Centralized Services billed to the Hotel, it recalculated the Centralized Services Fees allocated to the Hotel and to participating Other Grand Hyatt Hotels and determined whether the Centralized Services Fees were computed using an allocation methodology in accordance with reasonable account procedures consistently applied.

(v) It obtained schedules prepared by Manager detailing the costs paid for the Centralized Services.

(vi) It agreed the costs shown on the schedules obtained in clause (v) to Manager's accounting records.

(vii) It compared the total Centralized Services Fees billed to the total costs paid and documented the difference between the total Centralized Services Fees billed and the total costs paid. In addition, it inquired of Manager as to whether any such difference has been billed or refunded to the participating Other Grand Hyatt Hotels or has been carried forward for inclusion in the determination of the subsequent year's Centralized Services Fees.

(viii) It obtained schedules prepared by Manager detailing all amounts received by Manager during Manager's fiscal year that represent Direct or Indirect Profit and indicating if and how such amounts were (A) reflected in Manager's accounting records, and (B) allocated back to the Hotel or Other Grand Hyatt Hotels.

(ix) It inquired of Manager if any of the amounts listed on the schedules obtained in clause (viii) were retained by Manager.

(x) Using the schedules obtained in clause (v), it requested general ledger detail for certain selected accounts reasonably determined by Manager and approved by Owner to be sufficient for purposes of the Report. It traced and agreed selected payment amounts to Manager's accounting records to determine if such payments represent Direct or Indirect Profit that should have been listed on the schedules prepared in clause (viii).

(xi) It prepared a schedule listing any exceptions noted during the performance of the above procedures, and included them in such Report.

Section 4.3. Partial Years. If for any reason this Agreement is terminated prior to the last day of an Operating Year or the first Operating Year, as the case may be, the Management Fee and the Centralized Services Fees for the Operating Year in which the Termination of this Agreement occurs shall be the *pro rata* amount based on the number of days in such partial Operating Year divided by 365. If the Hotel operations are ceased due to a Casualty, Taking, Emergency or Force Majeure Event, or a failure, revocation, lapse, non-issuance, non-reissuance or nonrenewal of any Certificate of Occupancy, or any other reason beyond the control of Owner for a period of more than thirty (30) days, the Management Fee and the Centralized Services Fees for the partial year of operations shall be the *pro rata* amount based on the number of days in such partial Operating Year divided by 365. Thereafter, until the Hotel operations commence, the Management Fee and Centralized Services Fees shall be paid solely to the extent of Business Interruption Proceeds as set forth in Article VII.

Section 4.4. Reimbursable Expenses.

(a) ***Reimbursable Expenses Defined.*** Subject to the terms of the Cash Management Agreement, the applicable provisions of the Trust Agreement and each Operating Budget, Manager shall be entitled to reimburse itself from the Lockbox Fund in accordance with Section 4.7 for all reasonable costs and expenses incurred by Manager and paid to non-Affiliates that are incurred in the ordinary course of operating the Hotel

pursuant to this Agreement (collectively, “**Reimbursable Expenses**”), including the following:

- (i) all Hotel Personnel Costs incurred in accordance with standard personnel policies applicable to Other Grand Hyatt Hotels (as they may be amended from time to time) with respect to any Hotel Personnel employed directly by Manager or its Affiliates;
- (ii) Out-of-Pocket Expenses incurred by Manager directly for the management of the Hotel and for the specific benefit of the Hotel;
- (iii) Centralized Services Fees payable under Section 4.2; and
- (iv) the Hotel’s properly and reasonably allocated share of all costs and charges payable or incurred to third parties for the provision of Centralized Services in accordance with this Agreement or for independent third-party consultants rendering services to the Hotel regularly used by Hyatt in the operation of Other Grand Hyatt Hotels;

provided, that in no event shall Reimbursable Expenses include any amounts paid by Manager, directly or indirectly, for political contributions, political consultant fees, gifts, gratuities, donations to charitable organizations or any other similar expenditures. Reimbursable Expenses shall not include the Senior Personnel Bonus Pool.

Manager shall keep accurate and complete records (including invoices and statements) to evidence that Manager incurred and paid the Reimbursable Expenses and shall provide copies of such records to Owner upon request.

(b) **Payment of Reimbursable Expenses.** Reimbursable Expenses properly documented in accordance with Section 4.4(a) shall be paid as Operating Expenses in accordance with the Cash Management Agreement, with the understandings that (i) Reimbursable Expenses shall be subject to the provisions of Section 4.4, and (ii) any Reimbursable Expenses in excess of amounts available in the Lockbox Fund shall be paid to Manager from the Working Capital Reserve Fund (and, if the Working Capital Reserve Fund is insufficient, then the insufficiency shall be paid from the Revenue Stabilization Fund) within thirty (30) days after Manager delivers to Owner of a request in the form of Exhibit L, supported by invoices and statements evidencing the applicable Reimbursable Expenses; provided, that the same is consistent with the applicable terms and conditions of this Agreement; and provided further, that there are sufficient funds in either the Working Capital Reserve Fund or the Revenue Stabilization Fund. If there are not sufficient funds in the Working Capital Reserve Fund and the Revenue Stabilization Fund within the required 30-day period, then any Reimbursable Expenses shall be paid as soon as there are funds available in the Lockbox Fund, the Working Capital Reserve Fund, or the Revenue Stabilization Fund.

(c) **Required Representations.** In connection with and as a condition to being paid Reimbursable Expenses, Manager represents and warrants to Owner and the Trustee

the following: (i) Reimbursable Expenses represent reimbursement of costs paid by Manager or its Affiliates to unrelated third parties (including payments of salaries, wages, compensations and benefits payable to Manager's employees) for the reasonable and actual costs of providing services, supplies, goods, products or equipment under this Agreement to the Hotel and all participating Other Grand Hyatt Hotels; (ii) the Reimbursable Expenses do not include any Direct or Indirect Profit received by Manager or an Affiliate of Manager; (iii) to the extent Reimbursable Expenses represent an allocation of costs between the Hotel and Other Grand Hyatt Hotels, the allocation of the Reimbursable Expenses among Hotel and all participating Other Grand Hyatt Hotels shall be based on fair, reasonable and equitable allocations established in accordance with reasonable accounting procedures, consistently applied (which accounting procedures shall at all times comply with the requirements of Section 3.23); and (iv) without limiting clause (iii) preceding, the Hotel's allocated share and each participating Other Grand Hyatt Hotel's allocated share of any such allocated Reimbursable Expenses are and shall be determined using the same formula(s) (including fair, reasonable and equitable variables consistently applied).

(d) ***Costs to Be Borne by Manager.*** Except as otherwise provided in this Agreement, the following costs shall be borne by Manager and shall not be paid or reimbursed from Total Operating Revenues (or otherwise by Owner) or charged to the Hotel as an Operating Expense or otherwise by the Manager:

- (i) Centralized purchasing and procurement services that are unrelated to the operation and supervision of the operation of the Hotel;
- (ii) Centralized educational and training programs that are unrelated to the operation and supervision of the operation of the Hotel;
- (iii) Corporate supervision of Hotel operations;
- (iv) Corporate planning and policy;
- (v) Corporate sales and marketing;
- (vi) Corporate finance;
- (vii) Corporate human resources;
- (viii) Corporate legal services;
- (ix) Corporate audits;
- (x) Trademarks;
- (xi) Product research & development;
- (xii) Corporate travel and marketing travel/trade show expenses unrelated to the operation and supervision of the operation of the Hotel; and

- (xiii) Corporate information and technology initiatives;
- (xiv) Other corporate overhead.

Section 4.5. Establishing Clearing Bank Accounts. On or prior to the Opening Date, Manager shall establish a Clearing Bank Account or Accounts on favorable terms for settling electronic transactions effected with bank and non-bank credit cards; provided, however, that the discount and other fees charged by any such bank as well as payment terms shall be competitive with the charges for such services and timeliness of payment prevailing among banks in the Hotel's market area; and provided further, that Manager shall notify Owner and the Trustee in writing of the name and location of each banking institution at which Manager maintains such Accounts, together with such information as Owner shall reasonably request in order to permit a security interest to be established in such Account or Accounts. During the Term, Manager shall promptly deposit during each Business Day all Total Operating Revenues (in excess of the Petty Cash Amount (as defined in the Trust Agreement) retained at the Hotel) into the Clearing Bank Accounts. Manager shall transfer funds in the Clearing Bank Accounts at the end of each Business Day into the Lockbox Fund.

Section 4.6. Working Capital Set-Aside Amount and Working Capital Reserve Fund. No later than the Opening Date, Owner shall deposit (or cause to be deposited) (a) the Working Capital Set-Aside Amount into the Lockbox Fund, and (b) the Working Capital Reserve Requirement into the Working Capital Reserve Fund. Manager shall have access to the Working Capital Set-Aside Amount as provided in the Cash Management Agreement and the Trust Agreement.

Section 4.7. Payment of Operating Expenses. At all times during the Term, Manager shall have the right to withdraw funds from the Lockbox Fund solely for the purpose of paying Operating Expenses (including the Base Management Fee), subject, however, to the terms, provisions and limitations of this Agreement, the Cash Management Agreement, the applicable provisions of the Trust Agreement, and the Trustee's security interest in the Lockbox Fund. All persons whom Manager authorizes as signatories shall conduct themselves in accordance with Manager's standard accounting policies and practices. Manager shall establish procedures reasonably satisfactory to Owner to ensure control over and accurate reporting of all transactions involving such accounts (including fidelity bonding for all persons handling cash). Owner shall have the right (but shall not be obligated) to designate one or more representatives (who may be employees or officers of Owner) who shall be required to co-sign any check for an expenditure that otherwise is subject to Owner's approval under this Agreement and which is (a) an item not covered by an approved Operating Budget or approved Capital Budget and for an amount exceeding \$25,000 (adjusted annually by the percentage change in the Bay Area CPI over the immediately preceding calendar year), or (b) Emergency Expenses which exceed the authorized spending limitations set forth in Sections 3.21(e), 3.21(g) and 3.21(h).

Section 4.8. Funds, Accounts and Disbursements. Manager agrees that the Cash Management Agreement and the applicable provisions of the Trust Agreement shall control and govern the use of Total Receipts. Without limiting the preceding sentence, Manager acknowledges that the various Funds established under the Trust Agreement are funded in the particular order and priority stated therein.

Section 4.9. Certification of Funds; Budget and Fiscal Provisions. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Payment and performance obligations for each Fiscal Year during the Term are subject to the appropriation of funds for the Agreement. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors. Owner's regularly scheduled payment obligations hereunder shall not at any time exceed the amount certified by the City Controller for the purpose and period stated in such certification. Except as may be provided by laws governing emergency procedures, officers and employees of Owner are not authorized to request, and Owner is not required to pay or reimburse Manager for, commodities or services provided by Manager which are outside the scope of this Agreement. Officers and employees of Owner are not authorized to offer or promise, nor is Owner required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the Agreement is certified by the City Controller without certification of the additional amount by the City Controller. The City Controller is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

Section 4.10. Limitation on Owner's Obligations. Notwithstanding anything to the contrary in this Agreement, Owner shall not have any responsibility or liability for the Trustee's failure to honor any requests of Owner to disburse amounts from any of the Funds pursuant to the Trust Agreement, but Owner shall use commercially reasonable efforts to enforce the Trustee's obligations under the Trust Agreement. Notwithstanding anything to the contrary in this Agreement, Manager acknowledges and agrees that the only funds which Owner shall be obligated to use to pay any sums due under this Agreement shall be the following (and then only to the extent such funds are made available to Owner to pay sums due under this Agreement and also subject to the limitations contained in and the rights of the Trustee under the Bond Documents): (a) the Working Capital Set-Aside Amount that is to be funded from the Key Money, which Working Capital Set-Aside Amount shall be used solely for the purpose of paying Operating Expenses; (b) Total Operating Revenues, all of which shall be used in accordance with this Agreement, the Cash Management Agreement and the Trust Agreement; and (c) Casualty Proceeds and Condemnation Proceeds received by Manager, Owner or the Trustee for events that occur during the Term, which proceeds shall be used in accordance with and only for the purposes set forth in Article VII and the Trust Agreement; provided, that Owner's obligations to pay Management Fees and any Unamortized Key Money pursuant to Section 5.9(b) upon a Termination of this Agreement shall be payable by Owner if and to the extent that amounts otherwise provided therefor under this Agreement and the Trust Agreement are insufficient to make such payments.

Section 4.11. Subordination of Agreement. Manager hereby subordinates this Agreement and Manager's rights under this Agreement to the provisions of the Trust Agreement.

Section 4.12. Certain Representations. Manager and Owner represent that the Management Fee was negotiated at arm's-length and, given the terms of this Agreement, is reasonable. Owner represents that, consistent with applicable requirements under the Code with respect to Qualified Management Agreements, it reasonably believes, based solely on the final study of the Hotel prepared by Jones Lang LaSalle Hotels, dated September 24, 2015, that Owner shall be able to pay Manager all sums payable to Manager under this Agreement when

due (subject, however, to all subordination provisions contained in this Agreement and in the Trust Agreement).

ARTICLE V

TERM AND TERMINATION

Section 5.1. Term.

(a) **Term.** Unless sooner terminated pursuant to the provisions of this Agreement, the term of this Agreement shall commence on the Execution Date and continue for a period of ten (10) years from and after the Opening Date (as it may be extended pursuant to paragraph (b) of this Section, the “**Term**”). Notwithstanding the foregoing and the definition of Execution Date, from the Execution Date through the Required Opening Date, only the following sections of this Agreement shall be in effect: the Recitals, 1.1, 1.2, 2.1, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.10, 3.11, 3.14, 3.16, 3.21, 3.22, 3.25 (relating to Pre-Opening allocated Centralized Services), 3.26, 3.28, 3.30, 3.31, 3.32, 3.33, 3.34, 3.35, 3.37, 3.38, 3.39, 3.40, 4.2 (relating to Pre-Opening allocated Centralized Services), 4.4, 4.5, 4.9, 4.10, 4.11, 5.1, 5.2, 5.3, 5.4, 5.6, 5.7, 5.8 and 5.9, and Articles VII, X, XI and XII. On the Opening Date, Manager and Owner shall commence full performance of their respective obligations under this Agreement; provided, that Owner may not terminate this Agreement without the consent of the Trustee.

(b) **Extension of Term.** Owner shall have the option, by written notice to Manager no less than one year prior to the end of the initial Term, to extend this Agreement for an additional five (5)-year term commencing on the expiration date of the initial Term and ending on the five (5)-year anniversary date thereof; provided, that (i) the Hotel is in compliance with the Brand Standards as of the date such notice is received by Manager, and (ii) the Building satisfies the Brand Standards as of the commencement of such five (5)-year renewal term. The Base Management Fee and Subordinate Management Fee, respectively, for each Operating Year during any such additional five (5)-year term shall be equal to (x) the average of Total Operating Revenues for the eighth (8th) and the ninth (9th) Operating Years, multiplied by (y) two and one-half percent (2.5%) and eighty-three hundredths of one percent (0.83%), respectively, for the eleventh (11th) Operating Year, adjusted for each Operating Year thereafter by the change in the Bay Area CPI for the preceding calendar year.

(c) **Termination of Technical Services Agreement or Pre-Opening Services Agreement.** If the Technical Services Agreement or the Pre-Opening Services Agreement is terminated for any reason other than the expiration of the term thereof, then this Agreement shall be deemed terminated; provided, that the Trustee shall have the ability to cure any default under the Technical Services Agreement or the Pre-Opening Services Agreement prior to Termination of this Agreement as set forth therein, in this Agreement or in the Trust Agreement.

(d) **Termination of Certificate of Occupancy.** Notwithstanding anything to the contrary in this Agreement, if after the Opening Date, Manager is required to cease all

or a portion of the operations of the Hotel due to the failure, revocation, lapse, non-issuance or non-reissuance or non-renewal of any Certificate of Occupancy not caused by Manager's negligence or willful misconduct (provided, that Manager's good faith compliance with such Certificate of Occupancy shall not be deemed to constitute Manager's negligence or willful misconduct), then all duties, responsibilities and obligations of Manager under this Agreement shall be suspended and excused day-to-day for the period of such failure with respect to such portion of the Hotel until Manager is able to commence full operation of the Hotel, and Manager shall not be in default under this Agreement during the period of such failure if such default is due to such failure; provided, that Owner and Manager shall continue to be obligated to maintain insurance as required under Article VI and Manager shall continue to comply with its covenant set forth in Section 3.30. Manager shall have no liability for any Claims or other costs and expenses associated with or resulting from such failure, revocation, lapse, non-issuance or non-reissuance or non-renewal of any Certificate of Occupancy not occasioned by Manager's negligence or willful misconduct (provided, that Manager's good faith compliance with the Certificate of Occupancy shall not be deemed to constitute Manager's negligence or willful misconduct). All costs and expenses incurred by Manager as a result of such failure, revocation, lapse, non-issuance or nonrenewal of such Certificate of Occupancy not caused by Manager's negligence or willful misconduct shall be deemed a Reimbursable Expense. If after the Opening Date, there is a failure, revocation, lapse, non-issuance or non-renewal of any Certificate of Occupancy which results in the impediment of operations of a portion of the Hotel, Manager shall continue to lawfully operate and manage that portion of the Hotel which it is able to continue to operate and manage in the manner set forth in this Agreement. If there is a failure, revocation, lapse, non-issuance or non-renewal of any Certificate of Occupancy after the Opening Date, Manager shall reasonably cooperate with Owner in obtaining a new Certificate of Occupancy. If, due to such a failure, revocation, lapse, non-issuance or non-renewal of any Certificate of Occupancy, the Hotel is not able to be operated and Owner has determined that such Certificate of Occupancy is not obtainable within two (2) years of the date of such failure, revocation, lapse, non-issuance or non-renewal, then this Agreement shall terminate.

(e) ***Termination for Insufficient Moneys.*** If there are not Sufficient Funds to pay Operating Expenses for a period of at least fifteen (15) consecutive days following the date upon which such funds are due, Manager may elect to terminate this Agreement on the next succeeding Business Day; provided, that Manager shall have provided Owner not less than sixty (60) days' prior written notice of the projected such insufficiency.

Section 5.2. Manager Events of Default. A Manager Event of Default shall occur if:

(a) without limiting other provisions of this Section, Manager breaches or fails to perform any covenant or agreement made by Manager under this Agreement and fails to cure such breach or failure within thirty (30) days after Manager's receipt of a written notice from Owner, the Trustee or the Asset Manager specifying the breach or failure to perform; provided, however, that if more than thirty (30) days is reasonably required to remedy such breach or failure, then Manager shall have an additional ninety

(90) days to cure such breach or failure so long as it is diligently pursuing such cure and such cure is likely to occur within such ninety (90) days;

(b) Manager fails to pay, within thirty (30) days from the date due, Gross Receipts Taxes, or withholding or other employment-related taxes; provided, however, that if Manager is contesting the amount of such items in good faith or has made a good faith determination that such Gross Receipts Taxes are not due, Manager may withhold payment of the disputed amount until the earlier of one hundred twenty (120) days after the payment's due date or the date on which the failure to make full payment would result in the assessment of interest or penalties or the imposition of any restriction upon the Hotel, or would otherwise have an adverse effect upon the Hotel or Owner;

(c) Manager fails to pay Insurance Costs when due and such failure is not cured within thirty (30) days after the date due (provided, that such delay in payment for such thirty (30) additional days does not result in a lapse of such insurance coverage and Manager pays any penalty, interest or other additional costs caused by such delay in payment), or permits the insurance coverages required by this Agreement to lapse for any reason;

(d) Owner determines, after consultation with Bond Counsel, that, due to Manager's actions in contravention with the terms of this Agreement or failure to act in accordance with the terms set forth in this Agreement or in a written direction from an Owner Authorized Representative, this Agreement does not constitute a Qualified Management Agreement; provided, however, that if such actions or failure to act can be cured within thirty (30) days of notice thereof to Manager, and Bond Counsel is of the opinion that the interest on the Bonds shall not be includible in gross income of the holders thereof for federal income tax purposes during such thirty (30) days, then Manager shall have thirty (30) days to cure such default;

(e) Prior to the Required Opening Date, a Manager Event of Default has occurred and is continuing under the Technical Services Agreement or the Pre-Opening Services Agreement beyond any applicable grace periods set forth therein;

(f) Manager fails to pay (i) any amounts owed to Owner, and/or the Trustee under an indemnity, hold harmless or reimbursement clause contained in this Agreement), or (ii) any other amounts due under this Agreement on the date required under this Agreement and such failure continues for a period of thirty (30) days after Manager receives written notice thereof;

(g) Manager fails on more than two (2) occasions during the Term to deposit cash receipts, checks, money orders and the like into the Clearing Bank Accounts or Lockbox Fund, as applicable, as soon as is reasonably practicable but in no event more than five (5) days after receipt by Manager thereof;

(h) Any representation or warranty made by Manager in this Agreement is false or misleading in any material respect and (i) there is no reasonable action which Manager could take to cause such representation or warranty to be true, correct and not

misleading in all material respects within thirty (30) days after receiving written notice thereof; or (ii) if such a reasonable action exists, Manager fails to have caused such representation or warranty to be true, correct and not misleading in all material respects prior to the end of such 30-day period;

(i) Manager assigns or purports to assign this Agreement or any of its rights under this Agreement in violation of the provisions of Section 10.1 or 10.2;

(j) Manager fails to continuously operate the Hotel during the Term, seven (7) days a week, twenty-four (24) hours a day, subject to the availability of Sufficient Funds;

(k) Pursuant to the Pre-Opening Services Agreement, the Liquor Licenses for the Hotel are not obtained by the Opening Date for reasons within Manager's control and such failure continues for a period of thirty (30) days after written notice from Owner, or any of the Liquor Licenses are revoked or terminated or otherwise declared ineffective by the applicable Governmental Authority due to Manager's act or that of its employees and is not fully restored within thirty (30) days after revocation or such declaration; or

(l) any of the following occur or exist:

(i) Manager files a voluntary case concerning itself under the Bankruptcy Code;

(ii) Manager consents to the filing of an involuntary petition or an involuntary case is filed against Manager under the Bankruptcy Code, and such involuntary case is not dismissed within ninety (90) days after the filing thereof;

(iii) the appointment of a custodian (as defined in the Bankruptcy Code) or a receiver for, or a custodian or receiver taking charge of all or any substantial part of the property of Manager, and such appointment is not revoked or dismissed within ninety (90) days after such appointment is made;

(iv) Manager commences any proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect, or any such proceeding is commenced against Manager and is not dismissed within 90 days after the commencement thereof;

(v) Manager is adjudicated insolvent or bankrupt;

(vi) Manager makes a general assignment of its assets for the benefit of creditors;

(vii) Manager calls a general meeting of substantially all of its creditors (either in number or in amount) with a view to arranging a composition or adjustment of its debts;

(viii) all or any substantial part of the property of Manager is attached, and such attachment or levy is not released within ninety (90) days thereafter;

(ix) Manager indicates in writing its consent to, approval of, or acquiescence, in any of the foregoing; or

(x) Manager takes any corporate action for the purpose of effecting any of the foregoing.

(m) Notwithstanding anything to the contrary in this Agreement, no Manager Event of Default shall occur if any item in subsections (a) through (c), (e), (f)(ii), (g), (j), or (k) arises out of, is caused by or results from, to any extent, any of the following:

(i) Force Majeure Event;

(ii) lack of Sufficient Funds for (A) Operating Expenses; (B) Capital Expenses for budgeted Capital Improvements and FF&E, unbudgeted (but approved) Capital Improvements or an Emergency; (C) Taxes, Excluded Taxes and Other Charges (but only to the extent that Manager has deposited in the Lockbox Fund collections that are attributable to such Excluded Taxes and Other Charges); or (D) Insurance;

(iii) an Owner Event of Default;

(iv) failure of the Trustee to make disbursements required under the Trust Agreement; provided that Manager has given notice of such failure to Owner and the Trustee and the Trustee has failed to cure such failure within thirty (30) days after the date of such notice; or

(v) failure, revocation, lapse, non-issuance, non-reissuance or non-renewal of any Certificate of Occupancy not due to Manager's negligence or willful misconduct (provided, that Manager's good faith compliance with such Certificate of Occupancy shall not be deemed to constitute Manager's negligence or willful misconduct).

Manager shall keep Owner and the Asset Manager informed, in writing, of all actions that Manager is taking in order to cure a breach or failure and to satisfy the requirements regarding commencing, pursuing and curing the applicable breach or failure, including satisfaction of time lines regarding the proposed cure and satisfaction of the curative procedure and steps.

Section 5.3. Owner Events of Default. An Owner Event of Default shall occur if:

(a) City fails to budget and appropriate for any Operating Year any material amounts due and payable to Manager pursuant to this Agreement in sufficient time for such payments to be made to Manager within thirty (30) days after Manager delivers written notice to Owner and the Trustee of its failure to receive any such amounts;

(b) Without limiting any other provision of this Section, Owner breaches or fails to perform any covenant or agreement made by Owner under this Agreement and fails to cure such breach or failure within thirty (30) days after Owner's receipt of written notice from Manager specifying the breach or failure to perform; provided, however, that if more than thirty (30) days is reasonably required to remedy such breach or failure, then Owner shall have an additional reasonable period to cure such breach or failure so long as it is diligently pursuing such cure and such cure is likely to occur within ninety (90) days;

(c) Manager is not paid its Management Fee, Centralized Services Fees or Reimbursable Expenses if and to the extent due, within the time required under this Agreement and such failure continues for a period of thirty (30) days after Manager delivers written notice to Owner and Trustee specifying such failure;

(d) Prior to the Required Opening Date, a material Owner Event of Default has occurred and is continuing under the Technical Services Agreement or the Pre-Opening Services Agreement beyond any applicable grace periods set forth therein;

(e) Any representation made by Owner under this Agreement is false or misleading in any material respect and (i) there is no reasonable action which Owner could take to cause such representation to be true, correct and not misleading in all material respects within thirty (30) days after receiving written notice thereof or (ii) if such a reasonable action exists, Owner fails to have caused such representation to be true, correct and not misleading in all material respects prior to the end of such 30-day period;

(f) Owner assigns or purports to assign the Hotel or its ownership rights in the Hotel in violation of the provisions of Section 10.3;

(g) any of the following occur or exist:

(i) Owner files a voluntary case concerning itself under the Bankruptcy Code;

(ii) Owner consents to the filing of an involuntary petition or an involuntary case is filed against Owner under the Bankruptcy Code, and such involuntary case is not dismissed within ninety (90) days after the filing thereof;

(iii) the appointment of a custodian (as defined in the Bankruptcy Code) or a receiver for, or a custodian or receiver taking charge of all or any substantial part of the property of Owner, and such appointment is not revoked or dismissed within ninety (90) days after such appointment is made;

(iv) Owner commences any proceeding under any reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction whether now or hereafter in effect, or any such proceeding is commenced against Owner and is not dismissed within 90 days after the commencement thereof;

- (v) Owner is adjudicated insolvent or bankrupt;
- (vi) Owner makes a general assignment of its assets for the benefit of creditors;
- (vii) Owner calls a general meeting of substantially all of its creditors (either in number or in amount) with a view to arranging a composition or adjustment of its debts;
- (viii) all or any substantial part of the property of Owner is attached, and such attachment or levy is not released within ninety (90) days thereafter;
- (ix) Owner indicates in writing its consent to, approval of, or acquiescence, in any of the foregoing; or
- (x) Owner takes any official action for the purpose of effecting any of the foregoing.

Section 5.4. Rights and Remedies upon Event of Default.

(a) ***Termination.***

(i) Termination by Owner. Upon the occurrence of a Manager Event of Default, Owner shall have the right, but not the obligation, to terminate this Agreement by giving written notice to Manager specifying a date, no earlier than ninety (90) and no later than one hundred forty (140) days after the giving of such notice, when the Agreement shall terminate.

(ii) Termination by Manager. Upon the occurrence of an Owner Event of Default, Manager shall have the right, but not the obligation, to terminate this Agreement by giving written notice to Owner specifying a date, no earlier than ninety (90) days and no later than one hundred twenty (120) days after the giving of such notice, when the Agreement shall terminate during which period Owner shall have the right to cure such Owner Event of Default; provided, that Owner shall have one (1) year from the date of such notice to cure such Owner Event of Default so long as (A) Manager continues to be paid its Management Fees, Centralized Services Fees and Reimbursable Expenses as and when due; (B) Owner shall continue to maintain Brand Standards to the extent of Sufficient Funds therefor; and (C) Capital Expenses which are part of each Annual Plan continue to be paid to the extent of Sufficient Funds therefor.

(b) ***Other Remedies.*** The rights of termination set forth in the preceding subsection (a) shall be in addition to, and not in lieu of, any other rights or remedies at law or in equity by reason of the occurrence of any such Event of Default, it being understood and agreed that the exercise of the remedy of termination shall not constitute an election of remedies and shall be without prejudice to any such other rights or remedies otherwise available to the non-defaulting Party. In addition, a non-defaulting

Party shall be entitled to pursue all other remedies available to it under Applicable Law as a result of an Event of Default, including to seek damages and specific performance.

(c) **Trustee Notice and Cure Rights.** At the same time as Manager delivers a notice to Owner under this Section, Manager shall provide the Trustee with a copy of the notice, including any notice of a default (failing which the notice of default to Owner shall be deemed ineffective), and the Trustee shall have the right but not the obligation to cure any such default to the same extent and for the same period of time afforded to Owner to cure such default under Section 5.4 and no longer, except (i) the Trustee shall have two (2) weeks to cure an Owner Event of Default under 5.3(b) after Manager delivers written notice to the Trustee specifying such failure; and (ii) as otherwise provided in this Section, below. Manager shall have no liability to Owner for any failure to deliver (or delay in delivering) any such notice of default to Owner and the Trustee; provided, however, that Owner's and the Trustee's time period for cure of any default shall not commence until a copy of such notice of default is delivered to both Owner and the Trustee; and provided further, that if one or more additional defaults shall occur during the cure period for a default, the cure period for each of the later defaults shall be each cure period applicable to each such default and not the cure period applicable to any other default. Manager shall accept any performance by the Trustee of any of Owner's covenants or agreements under this Agreement, and any cure of Owner's defaults, as if performed by Owner. Notwithstanding anything to the contrary in this Agreement, if Owner's default is one that cannot be cured by the Trustee's payment of money, then until such time as the Trustee has exercised such remedy which would allow the Trustee to cure Owner's defaults, the time period which the Trustee shall have to cure Owner's default shall be extended by the time necessary for the Trustee to take such action, plus a reasonable time thereafter (but not to exceed a total of ninety (90) days); provided, that the Trustee is diligently pursuing such actions.

(d) **Owner's Source of Payment.** Any damages owed to Manager by Owner shall be satisfied solely out of (i) the amounts from time to time in the Working Capital Reserve Fund, the Revenue Stabilization Fund, or the Lockbox Fund, and (ii) any insurance proceeds available to Owner.

Section 5.5. Performance Termination.

(a) **Right to Terminate.** In addition to any termination right that Owner has pursuant to Section 5.4, Owner shall have the right to terminate this Agreement under any of the following circumstances (each such event a "**Performance Termination Event**"), none of which shall constitute a Manager Event of Default:

(i) **ADR Requirement:** Commencing with the third (3rd) full Operating Year, if the ADR for the Hotel, as certified in writing by Manager's Chief Financial Officer, is less than 135% of the ADR for the Excluded Hotel in any two (2) Operating Years during all of which Operating Year Manager was the owner, lessee, operator, manager, franchisee or licensee of the Excluded Hotel or any substitute hotel pursuant to Section 3.30;

(ii) RevPAR Requirement: Commencing with the fourth (4th) full Operating Year, if the RevPAR for the Hotel is less than 120% of the average RevPAR for the Competitive Set in any two (2) consecutive Operating Years; or

(iii) NOI Requirement: Commencing with the fourth (4th) full Operating Year, if Net Operating Income is less than ten million two hundred thousand dollars (\$10,200,000) (the "**Hurdle Amount**"), in any two (2) consecutive Operating Years. The Hurdle Amount shall be adjusted each Operating Year commencing with the fourth (4th) full Operating Year by the Bay Area CPI for the immediately preceding calendar year.

Each of the foregoing requirements is independent of the others. For purposes of this Section, a full Operating Year is an Operating Year consisting of twelve (12) calendar months.

(b) ***Exceptions to Performance Termination Event.***

(i) Manager's Limited Right to Cure. Notwithstanding subsection (a) of this Section, Manager shall have the right (but not the obligation), to cure a Performance Termination Event described under clauses (a)(ii) and/or (iii) of this Section (a "**Revenues Failure**") as follows.

(A) Manager may cure a Revenues Failure resulting from failing to meet the RevPAR Requirement by the payment to Owner for deposit in the Revenue Fund, within thirty (30) days of receiving a notice of Termination of this Agreement from Owner pursuant to subsection (c) of this Section, for each of the two (2) consecutive Operating Years of such Revenues Failure, the amount equal to the difference between actual Net Operating Income and the imputed amount of Net Operating Income that would have been achieved for such period had the RevPAR Requirement been met in each such Operating Year.

(B) Manager may cure a Revenues Failure resulting from failing to meet the NOI Requirement by the payment to Owner for deposit in the Revenue Fund, within thirty (30) days of receiving a notice of Termination of this Agreement from Owner pursuant to subsection (c) of this Section, for each of the two (2) consecutive Operating Years of such Revenues Failure, the amount equal to the difference between the actual Net Operating Income and the Hurdle Amount in each such Operating Year.

(C) If a Revenues Failure includes a simultaneous failure in any Operating Year to satisfy the requirements under both clauses (a)(ii) and (iii) above, the payment of the higher of the amounts necessary under (A) or (B) above to cure each of such simultaneous failures shall cure both of such failures in such year. Manager shall have the option to cure a Revenues Failure only one (1) time during the Term.

(D) Upon payment of the amount in (A) or (B) above, as applicable, the Operating Years in which such Revenues Failures occurred shall, for all purposes, be deemed to be Operating Years in which the RevPAR Requirement and the NOI Requirement, as applicable, were met.

(ii) Certain Other Exceptions to Performance Termination Events. Notwithstanding Section 5.5(a), a Performance Termination Event shall be deemed not to have occurred if the Performance Termination Event is caused by: (A) a reduction in Total Operating Revenues as a direct result of: (I) a Capital Improvement which is part of the Annual Plan approved by Owner, (II) a Casualty, (III) a Taking, or (IV) Force Majeure Event; or (B) a lack of Sufficient Funds. Manager shall have the burden of proof to show that the existence of one of the foregoing conditions or events was the cause of the Performance Termination Event. In addition, if and to the extent that the hourly wage applicable to Substantially All Hotel Personnel, as required by the City's Minimum Wage Compensation Ordinance set forth in Administrative Code Chapter 12P ("MCO"), is increased for any Operating Year to an amount in excess of the Imputed Market Wage Rate, as defined below, then the Hurdle Amount for such Operating Year shall be reduced by the amount of the MCO Differential, as defined below.

For purposes of this subsection 5.5(b)(ii), the following terms shall have the following means:

"Imputed Market Wage Rate" means fifteen dollars (\$15) per hour, adjusted upwards by the average percentage increase, if any, in Bay Area CPI over the preceding five (5) calendar years.

"MCO Differential" means the total amount by which the wages paid to Hotel Personnel as required by the MCO exceeds the total amount of wages which would have been paid at the Imputed Market Wage Rate, as determined by Manager and approved by Owner.

(c) ***Owner's Exercise of Its Termination Rights.*** Owner shall exercise its termination rights pursuant to Section 5.5(a), if at all, by giving notice of Termination of this Agreement to Manager within ninety (90) days following the scheduled deadline for Manager's delivery of the Certified Annual Financial Statements for the Operating Year on which such Termination is based; provided, however, that if Manager does not deliver the Certified Annual Financial Statements by the scheduled deadline, the period of time to exercise such termination right shall be extended by the number of days that Manager is late with such delivery. Any such notice under this Section shall specify the Termination Date, which date shall be no earlier than ninety (90) days and no later than three hundred sixty-five (365) days following the date of Owner's notice of such Termination. If Owner fails to deliver notice to Manager within the required 90-day period under this Section, Owner's right to terminate this Agreement pursuant to this subsection shall expire as to the Performance Termination Event in question.

Section 5.6. Termination upon Prepayment of Management Fee. Notwithstanding anything to the contrary in this Agreement, as an alternative to every other termination provision of this Agreement, Owner may terminate this Agreement at its option for any reason by paying to Manager (i) the present value as of the date of Termination of this Agreement of the Management Fees that would have been payable to Manager from the date of such Termination through the scheduled expiration of this Agreement using a discount rate of five and two-thirds percent (5.66%), plus (ii) the Unamortized Key Money in accordance with Section 3.2; provided, that Owner shall not exercise its rights pursuant to this Section in order to replace Manager with a new operator during the Term.

Section 5.7. Termination Prior to Opening Date. This Agreement is subject to termination upon thirty (30) days prior written notice to the other Party:

(a) by Owner or Manager if Owner does not commence construction of the Hotel within two-and-one-half (2.5) years from the Execution Date;

(b) by Owner prior to commencement of construction of the Hotel if Owner determines in its sole discretion that the Hotel is no longer economically viable, including as a result of changes in: (i) the local lodging market; (ii) financing, construction or operating costs of the Hotel as projected by Owner; (iii) the regional economy; or (iv) other factors; or

(c) by Owner if Manager fails to deliver the Key Money to the Trustee on or before the date that is thirty (30) days prior to Opening Date.

Notwithstanding the foregoing, if Owner takes official action, within a thirty (30)-month period after Owner has terminated this Agreement pursuant to subsection (a) or (b) above, to resume the development of the Hotel on the Site, it shall provide prompt written notice thereof to Manager. Manager shall have the option to execute a new hotel management agreement with Owner, on the same terms as this Agreement, including the restrictive covenant set forth in Section 3.30. Such option shall be exercised by Manager by written notice to Owner within sixty (60) days of receipt of notice of such option from Owner.

Notwithstanding anything to the contrary in this Agreement, no termination fee shall be payable to either Party in the event this Agreement is terminated pursuant to this Section.

Section 5.8. Termination upon Inability to Issue Bonds. If for any reason, the Initial Series of Bonds are not issued by June 30, 2017, then either Manager or Owner may terminate this Agreement by delivering written notice to the other prior to the issuance of the Initial Series of Bonds. Notwithstanding anything to the contrary in this Agreement, no termination fee shall be payable to either Party in the event this Agreement is terminated pursuant to this Section. Notwithstanding the foregoing, if Owner takes official action, within a thirty (30)-month period after Owner has terminated this Agreement pursuant to this Section, to resume the development of the Hotel on the Site, it shall provide prompt written notice thereof to Manager. Manager shall have the option to execute a new hotel management agreement with Owner, on the same terms as this Agreement, including the restrictive covenant set forth in Section 3.30. Such option

shall be exercised by Manager by written notice to Owner within sixty (60) days of receipt of notice of such option from Owner.

Section 5.9. Actions to Be Taken on Termination. Upon Termination of this Agreement for any reason, the following shall be applicable (in addition to and without limitation of, the rights of the non-defaulting Party to pursue all other remedies available to it under Applicable Law):

(a) **Payment of Reimbursable Expenses.** All Reimbursable Expenses arising as a result of such Termination or as a result of the cessation of Hotel operations shall be for the account of Owner, and reimbursed to Manager upon receipt of any invoice or invoices (together with such reasonable supporting documentation as Owner may request) from Manager therefor, including expenses for the severing of Hotel Personnel (with severance benefits calculated according to policies applicable generally to employees of Other Grand Hyatt Hotels) incurred by Manager in the course of effecting the Termination of this Agreement or the cessation of Hotel operations; provided, however, that Manager shall be responsible for all liability associated with any failure to comply with the federal Worker Adjustment and Retraining Notification Act of 1988 to the extent due to Manager's negligence or willful misconduct if Manager has received at least ninety (90) days' notice prior to the Termination Date. Manager agrees to reasonably cooperate with Owner to minimize any and all expenses that Owner incurs under this Section.

(b) **Final Accounting.** Within forty-five (45) days after Termination of this Agreement, Manager shall provide to Owner a final and full accounting through the date of such Termination of all accrued but unpaid Management Fees, Centralized Services Fees, Reimbursable Expenses, and other payments due Manager under the terms of this Agreement through the date of such Termination. Within fifteen (15) days of Owner's receipt of such final and full accounting, Owner shall pay Manager all such Management Fees, Centralized Services Fees, Reimbursable Expenses and other payments due Manager under the terms of this Agreement (including any Unamortized Key Money) through the date of such Termination or provide Owner's objections thereto. If Owner disagrees with any amounts claimed by Manager, then Owner shall promptly meet with Manager to discuss resolution of the amounts which Owner disputes. Manager shall also provide financial and other records related to the operation of the Hotel to Owner through the date of Termination of this Agreement and shall continue to provide assistance to Owner after the Termination of this Agreement to the extent necessary for Certified Annual Financial Statements to be prepared. This obligation shall survive the Termination of this Agreement. Manager shall have reasonable access to the Hotel books and records necessary to provide the final accounting.

(c) **Vacating Hotel.** Manager shall peacefully vacate and surrender the Hotel to Owner.

(d) **Books and Records.** Manager shall deliver to Owner all books and records with respect to the Hotel and all contracts, agreements and other documents with respect to the Hotel that are not Manager's Proprietary Information or confidential

employee personnel files not permitted by law to be released by Manager to Owner, maintained by Manager and that are in the custody and control of Manager, including those provided for in Sections 3.7 and 3.23. Manager shall also deliver to Owner an explanation indicating each bookkeeping account code used by Manager for its management of the Hotel which is not defined in the Uniform System of Accounts, together with a brief description of each coded account.

(e) **Licenses and Permits.** Manager shall deliver to Owner all of the Liquor Licenses (subject to Applicable Law), restaurant and other Approvals held by Manager or an Affiliate in connection with the operation of the Hotel or any part thereof. In addition, Manager shall assign to Owner (but only to the extent assignable and to the extent applicable solely to the operation of the Hotel) all of Manager's right, title and interest in and to all such Approvals, provided, however, if Manager has expended any of its own funds in the acquisition of Approvals, Owner shall reimburse Manager for such expended funds. Manager recognizes that all Approvals held for the operation of the Hotel are held for the benefit of Owner, and Manager has no ownership therein, except in order to fulfill its obligations under this Agreement. The entity holding the Liquor Licenses shall, upon the request of Owner, enter into a temporary lease, license or such other agreement as may be permitted under Applicable Law to permit the continuous and uninterrupted sale of alcohol beverages at the Hotel consistent with prior operations. In such event, neither Manager nor the party holding the Liquor Licenses shall be entitled to compensation in connection with such arrangement, but shall be reimbursed by Owner for any cost or liability in connection therewith and shall be named as an additional insured on any "dramshop" or other liability insurance pertaining to the sale of alcoholic beverages at the Hotel. In addition, any such temporary lease, license or other arrangement shall (i) include a release of Manager and its Affiliates from all liabilities, obligations, reasonable costs and reasonable expenses, including reasonable attorneys' fees, arising out of or in connection with such temporary lease, license or other agreement, save and except for liabilities, obligations, costs and expenses arising out of Manager's negligence or willful misconduct; and (ii) provide for the termination of all obligations of Manager and its Affiliates thereunder within ninety (90) days following the date of Termination of this Agreement. Upon the Termination of this Agreement, Manager and the entity holding the Liquor Licenses shall surrender the Liquor Licenses and shall fully cooperate with Owner or Person designated by Owner in its attempts to transfer existing Approvals or obtain new Liquor Licenses for the Hotel.

(f) **Honoring Reservation Dates.** Owner shall honor all business confirmed for the Hotel in the ordinary course of business and in accordance with Section 5.9(m) with reservation dates after the Termination of this Agreement; provided, however, that Owner shall have no obligation to honor rooms at nominal or free rates to Manager's employees or members of any Hyatt frequent guest programs, or to honor any gift certificates or redemptions under Hyatt promotional programs, unless reimbursement in an amount at least equal to the amount that would be paid to any Other Grand Hyatt Hotel is provided by Manager. Owner shall assume the obligation to honor all advance booking deposits made by guests or patrons of the Hotel so long as a complete listing thereof has been provided to Owner by Manager and Manager has deposited into the

Lockbox Fund (or such other account as directed by Owner or if required by Applicable Law) the funds actually received for such bookings.

(g) **Assignment of Contracts.** Manager shall, to the extent required by Owner, assign to Owner its interest (if any) in, and Owner shall assume and confirm in writing its continuing responsibility for all obligations and liabilities relating to, any and all contracts (including collective bargaining agreements, licenses or concession agreements, and maintenance and service contracts) in effect with respect to the Hotel as of the date of Termination of this Agreement, with the exception of Hyatt System contracts that are not transferable. Manager acknowledges that Owner may further assign such interests to the Trustee.

(h) **Trademarks.** If this Agreement is terminated in accordance with its terms or for any other reason whatsoever, Owner shall afford Manager sufficient time prior to the effective date of the Termination to take all steps reasonably requested by Owner to disassociate the Hotel and Owner from the Hyatt Trademarks (with the exception of removing signage bearing the name or symbol of Manager and the repair of any damage caused by such removal, which shall be an Owner responsibility and expense). Owner shall in any event delete all Hyatt Trademarks from the Hotel name and cease to use all FF&E and operating supplies bearing any of the Hyatt Trademarks within a reasonable period of time after the Termination of this Agreement but not to exceed ten (10) Business Days (with the understanding that Manager shall cause the removal of all such FF&E and operating supplies bearing any of the Hyatt Trademarks upon Termination of this Agreement or promptly thereafter and shall reimburse Owner for the cost of such FF&E and operating supplies and signage which it uses at another Other Grand Hyatt Hotel or otherwise retains for its use). Manager shall have the right to remove from the Hotel, on or before the Termination Date, all of Manager's Proprietary Information, all other written materials bearing the Hyatt Trademarks, and Manager's Proprietary Software. Under no circumstances shall Owner copy, reproduce, or retain any of Manager's Proprietary Information, Proprietary Software or materials bearing the Hyatt Trademarks for the purpose of using such materials after the Termination Date.

(i) **Proprietary Software.** As of the Termination Date, Manager shall remove all Proprietary Software from the Hotel and shall disconnect the Hotel from its reservations systems and their related software applications. Manager shall provide reasonable assistance to Owner in facilitating the orderly transfer of Owner's records and data contained in Proprietary Software. Manager shall reasonably cooperate with Owner in order to avoid disruption in the operation of the Hotel in connection with the transition from Proprietary Software to one or more replacement systems and Manager shall be reimbursed for its reasonable costs incurred in so cooperating.

(j) **Protection of Guest Lists.** Manager and Owner will reasonably cooperate on the communications to be made to guests and business customers that have booked Hotel rooms or Hotel facilities or services prior to Termination of this Agreement for the purpose of informing such guests that the Hotel will no longer be operated by Manager. Manager shall not contact any such guests for the purpose of soliciting such Hotel guests

or business customers to cancel their previously-booked Hotel rooms or Hotel facilities or services and transfer such business to any other transient lodging in the local market.

(k) **Termination of Manager-Provided Insurance.** If, immediately preceding the date of Termination of this Agreement, the Hotel is included in Manager's insurance program, such participation shall be terminated as of the Termination Date for the periods after such termination date (but without in any way destroying or altering the occurrence base nature of any such policies) and Manager shall have the right to reimburse itself for such premiums which may have accrued to the date of Termination of this Agreement by withdrawing the appropriate amount thereof from the Taxes and Insurance Fund (with the understanding that if the Taxes and Insurance Fund is insufficient, Owner shall advance the insufficiency from the Revenue Stabilization Fund). If Owner pays its *pro rata* share of premiums for the Hotel under the chain-wide policies of insurance or the self-insurance program of Manager in advance, Manager shall reimburse Owner for the unearned portion of Insurance Costs (to the extent such apportionment is available from the insurer or the self-insurance program of Manager). Owner consents to the termination of the insurance program with respect to the Hotel as of the Termination Date and agrees that Manager shall have no further obligation, after the Termination Date, to provide or obtain any additional insurance coverage for the benefit of Owner or the Hotel thereafter.

(l) **Transition.** In addition to the actions set forth in this Agreement which are to be taken by the Parties upon the Termination of this Agreement, upon the expiration or earlier Termination of this Agreement, Manager and Owner shall reasonably cooperate with each other to effect an orderly transition of management functions from Manager to Owner, any transferee of Owner or to any managing agent designated by Owner or any transferee of Owner for a period of up to ninety (90) days from the date of notice of such Termination.

(m) **Receivables.** All receivables of the Hotel outstanding as of the Termination Date, including guest ledger receivables, shall continue to be the property of Owner. All payables of the Hotel outstanding as of the Termination Date shall continue to be the obligation of Owner. For a period of ninety (90) days following the Termination Date, Manager shall cooperate with Owner in all reasonable respects, but at Owner's sole cost and expense, in the collection of any receivables, and shall turn over to Owner any receivables of the Hotel collected directly by Manager after the Termination Date and any documentation of payables due and owing as of the Termination Date. Manager shall, on the Termination Date or as soon thereafter as reasonably practicable, but in no event later than five (5) days after the date of such Termination, provide Owner with a complete list of (a) all bookings for future reservations or use of Hotel rooms or Hotel facilities which may have been accepted or entered into by Manager on or at any time prior to the Termination of this Agreement; (b) the terms applicable thereto; (c) the amount of advance deposits (if any) received with respect to each such booking; and (d) all payables outstanding as of the Termination Date and due in the next thirty (30) days. Manager agrees that, except with Owner's prior written consent, Manager shall not book reservations for rooms or public space after (i) the date on which this Agreement

expires in accordance with the provisions of the Agreement; or (ii) the date of earlier Termination of this Agreement.

(n) **Survival.** The provisions contained in this Section shall survive the Termination of this Agreement.

ARTICLE VI

INSURANCE

Section 6.1. Maintenance of Insurance Coverage.

(a) **Required Insurance.** Subject to Section 6.1(b), Owner and Manager, respectively, shall, at all times during the Term and as an expense of the Hotel payable from the Taxes and Insurance Fund pursuant to the Trust Agreement, maintain or cause to be maintained insurance with respect to the Hotel in accordance with Exhibit N and with the Trust Agreement. In the event the insurance under the Trust Agreement is modified at any time, Owner and Manager shall agree to corresponding modifications to Exhibit N; provided, that such insurance is available at and on commercially reasonable rates and terms. Such insurance may be provided under Owner's or Manager's blanket insurance policies, subject to compliance with Exhibit N and the Trust Agreement. Prior to the Required Opening Date, Owner and Manager each shall deliver to the other Party certificates of insurance with respect to the insurance required by this Section.

(b) **Owner's Right to Provide Insurance.** Owner may arrange for any insurance required to be provided by Manager pursuant to this Section through blanket or other policies or programs available to Owner, as a cost and expense of the Hotel that shall be paid from the Taxes and Insurance Fund, to the extent available at premiums and otherwise on terms and conditions (including amounts of coverage and deductibles) at least as advantageous as those available through Manager; provided, that Owner shall not have the right to do so with respect to insurance Manager requires be provided under its blanket policies at all Other Grand Hyatt Hotels. If Owner desires to place its own insurance pursuant to this Section, Owner shall so notify Manager in writing at least sixty (60) days prior to the scheduled effective date of such insurance.

(c) **Insurance Consultant.** Upon the request of Owner (but not less frequently than once every twenty-four (24) months), Manager shall engage, as an Operating Expense, an Insurance Consultant, mutually agreed upon by both Parties, to review the insurance requirements in this Agreement and in the Trust Agreement. Upon receipt of the Insurance Consultant's written report and/or written recommendations, Manager shall deliver a copy thereof to each of Owner and the Trustee. If the Insurance Consultant recommends increases in any of the coverages or modifications in any of the terms of such insurance requirements and Owner approves such increases or modifications, Manager shall obtain the approved increases or modifications, to the extent such insurance is available at and on commercially reasonable rates and terms. Notwithstanding anything to the contrary in this Section, if the Insurance Consultant recommends any reduction in the insurance coverage required pursuant to paragraphs (a)

through (g) of Exhibit N, and Owner and Manager each approves such reduction, Manager shall maintain or cause to be maintained insurance at such reduced coverage; provided, that the Insurance Consultant shall have provided a statement to Owner and Manager to the effect that such reduced coverage provides the greatest amount of coverage available, in the judgment of the Insurance Consultant, at and on commercially reasonable rates and terms. Manager shall deliver a copy of any such statement to the Trustee.

Section 6.2. Parties Insured and Standard of Insurance. All insurance policies provided for in this Article shall be from financially responsible insurers rated no less than "A-/XII" by A.M. Best and shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved except to the extent otherwise required by this Agreement. Without in any way limiting the foregoing, the insurance shall conform to all subsections of this Section.

(a) **Named Insureds.** The insurance policies required by this Article, if obtained by Manager, shall name Manager as the named insured and Owner and the Trustee (for the benefit of the Registered Owners of the Bonds) as their interests may appear as additional insureds or, if such policies are obtained by Owner, shall name Owner as named insured and Manager and the Trustee (for the benefit of the Registered Owners of the Bonds) as their interests may appear as additional insureds.

(b) **Amounts of Coverage.** When maintained by Owner, amounts and types of coverages and amounts of deductibles shall be subject to the reasonable approval of Manager; provided, however, if the coverages and amounts conform to the requirements of this Agreement, including Exhibit N, then the coverages and amounts shall be deemed approved by Manager.

(c) **Waiver of Subrogation Requirements.** Where appropriate and obtainable (including the insurance provided for in Exhibit N), all policies shall waive subrogation rights against Manager, Owner, the Trustee and the Registered Owners of the Bonds.

(d) **Term; Notice of Termination.** Each insurance policy shall be for a term of not less than one (1) year; provided, that policies may be obtained for a lesser period to the extent necessary for the term thereof to end concurrently with other related coverages. Each insurance policy shall include a requirement that the insurer provide at least thirty (30) days' written notice of cancellation or material change in the terms and provisions of the policy to Manager, Owner and the Trustee.

(e) **Severability of Interests.** Each insurance policy where obtainable shall include a severability of interest clause.

(f) **Insurance Primary.** All insurance policies obtained by Manager shall be primary and without a right of contribution of any other insurance carried by or on behalf of Owner or the Trustee with respect to their respective interests in the Total Operating Revenues and the Hotel. All insurance policies obtained by Owner shall be primary and without a right of contribution of any other insurance carried by or on behalf of Manager

or the Trustee with respect to their respective interests in the Total Operating Revenues and the Hotel.

(g) **Occurrence Policies.** Each insurance policy shall be written on occurrence, rather than claims made, basis, except that boiler and machinery coverage may be on an accident basis and employment practices and directors and officers insurance may be on a claims made basis.

(h) **Agreed Value.** All property insurance policies shall contain an agreed value clause updated by the Insurance Consultant as provided in Exhibit N.

Section 6.3. Binders and Certificates. As soon as practicable prior to the effective date of the applicable coverages, the Party obtaining the insurance coverages under this Article shall provide the other Party with binders evidencing that the applicable insurance requirements of this Agreement have been satisfied and, as soon as practicable thereafter, shall provide certificates of insurance with respect to such coverages. As soon as practicable prior to the expiration date of each such policy, the Party obtaining such insurance shall provide the other Party with binders evidencing renewal of existing or acquisition of new coverages or certificates of insurance with respect thereto. Certified copies of renewed or new policies shall be made available by the Party obtaining insurance coverage under this Article for review by the other Party, upon the written request of such other Party, when such renewed or new policies are available.

Section 6.4. Schedule of Insurance. Upon written request, the Party obtaining insurance under this Article shall furnish the other with a schedule of insurance, listing the policy numbers of the insurance obtained, the names of the companies issuing such policies, the names of the parties insured, the amounts of coverage, the expiration date or dates of such policies, and the risks covered thereby.

Section 6.5. Duties of Manager. Manager shall promptly:

(a) cause to be investigated all accidents and claims for damage relating to the operation and maintenance of the Hotel, as they become known to Manager, shall report to Owner and the Trustee any such incident that is material, and shall either make available for review by Owner electronically on a continuous basis on a secure internet website, or provide to Owner a written report semiannually, setting forth all accidents and claims for damage relating to the Hotel in the form prepared by Manager for Other Grand Hyatt Hotels;

(b) cause to be investigated all damage to or destruction of the Hotel, as it becomes known to Manager, shall report to Owner and the Trustee any such incident that is material, together with the estimated cost of repair thereof, and shall provide to Owner a written report semiannually setting forth all damage to or destruction of the Hotel in the form prepared by Manager for Other Grand Hyatt Hotels;

(c) prepare any and all reports required by any insurance company as the result of an incident mentioned in this Section, acting as the agent for all other named insureds, additional insureds and loss payees; and

(d) retain on behalf of Owner all consultants and experts, including architects, engineers, contractors, accountants and attorneys, as needed, and as an expense of the Hotel, assist in analyzing any loss or damage, determining the nature and cost of repair, and preparing and presenting any proofs of loss or claims to any insurers.

Section 6.6. Review of Insurance. All insurance policy limits provided under this Article shall, at the request of either Party, be reviewed every year following the commencement of the Term, to determine the suitability of such insurance limits in view of exposures reasonably anticipated over the ensuing year. Owner and Manager hereby acknowledge that changing practices in the insurance industry and changes in the Applicable Law and industry custom may necessitate additions to types or amounts of coverage during the Term. Owner agrees to comply with any additional insurance requirements Manager reasonably requests in order to protect the Hotel and the respective interests of Owner and Manager; provided, however, that Owner shall not be required to comply with any such insurance requirements requested by Manager to the extent the same would violate the Bond Documents; and provided further, that any such additional insurance requirements, to the extent obtained by Owner, shall constitute a cost and expense of the Hotel that shall be paid from the Taxes and Insurance Fund. If during the Term changes in the insurance industry shall make any description of the required insurance coverages inaccurate or otherwise inappropriate, then Manager shall have the right, by notice to and with the prior written approval of Owner, to revise such requirement to accurately describe, in accordance with then current industry practice, the type of insurance which would be comparable to the required insurance coverage described in this Article or in Exhibit N.

Section 6.7. Subcontractor's and Vendor's Insurance. Manager shall require each Subcontractor which provides services on-site at the Hotel under a contract for \$10,000 or more to include in the applicable contract or agreement a no personal liability clause in favor of Owner and to produce a certificate of insurance showing that such party maintains commercial general liability insurance in an amount at least equal to \$2,000,000 per occurrence, workers' compensation or its facsimile at statutory levels and employer's liability coverage or its equivalent in the amount of \$1,000,000 each accident/disease - policy limit/disease - each employee. With respect to any Subcontractor which provides services on-site at the Hotel, Manager shall require each such party to name Manager and Owner as an additional insured under such party's commercial general liability insurance policy and waive any rights of subrogation. For contracts for less than \$10,000, Manager shall endeavor to include the insurance provisions and coverages set forth in this Section to the extent Manager deems advisable in Manager's reasonable discretion.

Section 6.8. Insurance by Manager. Any insurance required under this Article may, at Manager's option, be provided under policies of blanket insurance which cover other properties of Manager and its Affiliates, and a *pro rata* portion of such premiums shall be allocated to the Hotel on the same basis as allocated to participating Other Grand Hyatt Hotels. Except as otherwise provided in this Agreement, any policies of insurance maintained or caused to be maintained by Manager pursuant to the provisions of this Article may contain deductible

provisions in such amounts as are maintained with respect to Other Grand Hyatt Hotels, which Manager, as a cost and expense of the Hotel, shall pay. Further, in lieu of all or a part of workers' compensation insurance, any or all of the risks covered by such insurance at Manager's option shall be self-insured or self-assumed as a cost and expense of the Hotel under a self-insurance or assumption of risk program similar to those in effect at Other Grand Hyatt Hotels, up to such amounts which such risks are assumed or self-insured at Other Grand Hyatt Hotels with the prior written consent of Owner and the Trustee as to such amounts.

ARTICLE VII

INDEMNIFICATION

Section 7.1. Manager Standard of Care. In performing its services pursuant to this Agreement, Manager shall exercise that degree of skill, care and diligence as is customary and usual for operators of First-Class Hotels in the United States.

Section 7.2. Manager Indemnity. Manager shall indemnify, defend and hold harmless Owner and City and their respective board members, commissioners, officers, employees and agents (collectively, "**Owner Indemnified Parties**") from and against any and all damages, liabilities, costs, claims or expenses (including reasonable attorneys' fees and expenses) incurred by Owner as a result of third-party claims ("**Claims**") arising out of or related to (i) Manager's negligence (using the standard of care set forth in Section 7.1) or willful misconduct, (ii) the negligence or willful misconduct of its Affiliates, Subcontractors, concessionaires, licensees and agents, and (iii) Manager's breach of or default under this Agreement. Notwithstanding anything to the contrary in this Agreement, Manager shall not be obligated to indemnify Owner or the Owner Indemnified Parties for the following:

(a) Claims for which Owner has received reimbursement for its loss from the proceeds of insurance, and the deductibles and retentions associated with such claims (and, with respect to such coverage, Owner agrees that it will, in good faith, pursue its available insurance recoveries and/or cooperate with Manager in the pursuit of insurance recoveries prior to making demand on Manager for indemnity); and

(b) Claims arising out of, but only to the extent of, Owner's breach of contract, gross negligence or willful misconduct.

(c) Claims arising out of: (i) the financing of the Hotel, (ii) condemnation and casualty events, and (iii) the design and construction of the Hotel;

(d) Claims arising out of Owner's failure to fund the Working Capital Set-Aside Amount as and to the extent required under this Agreement;

(e) Claims arising out of any contracts directly entered into by Owner with respect to the Hotel or otherwise;

(f) Claims arising out of, but only to the extent of, Owner's failure to provide Manager timely notice of Termination of this Agreement pursuant to Section 3.24 which

prevents Manager from providing timely notice to Manager's employees of such Termination as required by Applicable Law.

(g) Claims arising out, but only to the extent of, Manager's execution of but not its performance under any contracts entered into by Manager pursuant to the terms of this Agreement and which are specifically approved by Owner as part of an Annual Plan; and

(h) Minor claims associated with customer satisfaction and similar matters arising in the ordinary course of business that are resolved in accordance with Manager's standard policies and procedures.

Section 7.3. Environmental Indemnity. Manager shall indemnify, defend and hold harmless the Owner Indemnified Parties from and against any and all Claims arising out of or related to any release of Hazardous Materials from, in, on or about the Property caused by an act or omission of Manager, its Affiliates, Hotel Personnel, their agents or contractors or Persons providing services on the Site, or any other Person under the management, control or supervision of Manager, at the Hotel or on the Site or otherwise arising as a result of Manager's operation of the Hotel, except to the extent that Manager demonstrates to the reasonable satisfaction of Owner that such release of Hazardous Materials constitutes a condition existing (i) prior to the Opening Date and Manager did not exacerbate such condition; or (ii) after the Opening Date and caused by Persons other than Manager, Hotel Personnel, their agents or contractors or Persons providing services on the Site, or any other Person under the management, control, or supervision of Manager. As used in this Section, release of Hazardous Materials includes any actual spilling, leaking, pumping, pouring, emptying, discharging, injecting, escaping, leaching, dumping or disposing into or on any property or the environment, and includes any threat of release as described herein to the extent regulated under any Environmental Laws.

Section 7.4. Indemnification Concerning Technology Systems. Manager shall indemnify, defend and hold harmless the Owner Indemnified Parties from and against any and all Claims arising out of or related to the operation or use of the Hotel's third-party computer systems, including the property management system, point of sale system, phone system, business center or similar technologies. Owner shall notify Manager promptly in writing of any such Claim, and reasonably cooperate in Manager's response to and defense of such Claim.

Section 7.5. Copyright Infringement. Manager shall also indemnify, defend and hold harmless the Owner Indemnified Parties from and against all Claims for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark, or any other proprietary right of any person or persons in consequence of the use at the Hotel of articles or services supplied in the performance of Manager's services under this Agreement. Infringement of patent rights, copyrights, or other proprietary rights in the performance of this Agreement, if not the basis for indemnification under the law, shall nevertheless be considered a material breach of contract.

Section 7.6. Appointment of Counsel. Any Owner Indemnified Party shall be entitled, upon written notice to Manager, to the timely appointment of legal counsel by Manager for the defense of any Claim, which legal counsel shall be subject to the approval of the Owner

Indemnified Party. If, in the Owner Indemnified Party's judgment, a conflict of interest exists between the Owner Indemnified Party and Manager at any time during the defense of the Owner Indemnified Party, the Owner Indemnified Party may appoint independent legal counsel of its choice for the defense of the Owner Indemnified Party as to such Claim. Additionally, regardless of whether the Owner Indemnified Party is appointed legal counsel or selects independent legal counsel (a) the Owner Indemnified Party shall have the right to participate in the defense of any Claim and approve any proposed settlement of such Claim; and (b) all costs, expenses and attorneys' fees of the Owner Indemnified Party shall be borne by Manager. If Manager fails to timely pay such costs, expenses and attorneys' fees, the Owner Indemnified Party may, but shall not be obligated to, pay such amounts and be reimbursed by Manager for the same. The Parties hereby acknowledge that it shall not be a defense to a demand for indemnity that less than all Claims asserted against the Owner Indemnified Party are subject to indemnification. If a Claim is covered by Manager's liability insurance, the Owner Indemnified Party shall not take or omit to take any action with the intention of causing the insurer not to defend such Claim or to disclaim liability in respect thereof.

Section 7.7. Payments Not Operating Expenses. Amounts payable by Manager pursuant to this Article shall not constitute Operating Expenses.

Section 7.8. Survival of Indemnification. The obligations set forth in this Section shall survive the Termination of this Agreement. Notwithstanding anything to the contrary in this Agreement, Owner and Manager mutually agree for the benefit of each other to look first to the appropriate insurance coverages in effect pursuant to this Agreement in the event any Claim regardless of the cause of such Claim.

ARTICLE VIII

DESTRUCTION; TAKING

Section 8.1. Destruction, Permanent Taking.

(a) ***Owner to Restore with Sufficient Available Casualty/Condemnation Amounts.*** If the whole or any part of the Hotel is damaged or destroyed by fire or other Casualty required to be insured against under Article VI above or Taken, then the Casualty Proceeds and/or the Condemnation Proceeds, as applicable, shall be paid as soon as practicable to the Trustee (with the understanding that any Casualty Proceeds and Condemnation Proceeds received by Manager, Owner or other named insured parties shall be turned over to the Trustee as soon as practicable) for deposit in the Insurance and Condemnation Proceeds Fund; provided, however, the foregoing shall be subject to the rights of the Trustee under the Bond Documents to apply the Casualty Proceeds and Condemnation Proceeds to the redemption of some or all of the Bonds. If the amounts in the Insurance and Condemnation Proceeds Fund, after such deposit, together with investment income reasonably expected to be received with respect thereto and any other funds available therefor (including amounts on deposit in the Revenue Stabilization Fund and the Working Capital Reserve Fund in that order) (collectively, the “**Available Casualty/ Condemnation Amounts**”), are not applied to the redemption of the Bonds (to the extent permitted under the Bond Documents) and are sufficient to repair or replace

the property damaged, destroyed or Taken, as certified in a statement of an independent architect to be mutually agreed upon by Manager and Owner (the “**Independent Architect**”), then Owner shall cause the repair or replacement of the property damaged, destroyed or Taken (“**Casualty Restoration**”). Notwithstanding the foregoing and subject to Section 8.1(b), Owner shall be under no obligation to engage a contractor to perform the repair and restoration of the Hotel if (i) all or substantially all of the Hotel is Taken; (ii) in Owner’s reasonable judgment, the portion of the Hotel Taken is such that the Hotel cannot be restored to economically feasible usefulness; (iii) the damage, destruction or Taking makes it imprudent or unreasonable to operate the remaining portion of the Hotel in accordance with the Operating Standards; or (iv) the Trustee, pursuant to and in accordance with the Bond Documents, does not make the Casualty Proceeds and/or Condemnation Proceeds available for repair or reconstruction.

(b) ***Insufficient Available Amounts - Owner’s Option to Terminate or Restore.*** If Owner does not repair, restore, replace or rebuild the Hotel due to insufficient Available Casualty/Condemnation Amounts and the damage, destruction or taking makes it imprudent or unreasonable to operate the remaining portion of the Hotel in accordance with the Operating Standards, then Owner may terminate this Agreement by giving notice to Manager (which shall be effective ninety (90) days after its delivery pursuant to Section 12.6) within thirty (30) days after the report is delivered by the Independent Architect.

Section 8.2. Taking for Temporary Use.

(a) ***Effect of Temporary Taking.*** Upon a Taking of all or part of the Hotel for temporary use and provided this Agreement is not terminated pursuant to Section 8.2(b), this Agreement shall remain in full force and effect and the awards or other proceeds on account of the Taking (including any interest included or paid with respect to such awards or proceeds), other than any portion of such awards or proceeds attributable to compensation for alterations or physical damage to the real or personal property used in the operation of the Hotel, shall be included in Total Operating Revenues for the period from the Opening Date to the commencement of the first full Operating Year and thereafter for the Operating Year or Years in which received. When and if the temporary use ceases and provided that this Agreement is not terminated pursuant to Section 8.2(b), Owner shall engage a contractor to make all such restoration, repairs and alterations as are necessary to restore the Hotel to its condition prior to the Taking for temporary use. Owner shall require its contractor to commence such restoration, repairs and alterations promptly and complete the same with diligence. Subject to the requirements of Generally Accepted Accounting Principles and the Uniform System of Accounts, the costs of any such work shall not be deducted as Operating Expenses in determining Gross Operating Profit.

(b) ***Termination Right.*** In the event any temporary Taking is reasonably anticipated to continue or continues for six (6) months or longer, either Manager or Owner may terminate this Agreement by delivery of written notice to the other party setting forth a termination date no sooner than thirty (30) days from the date of the notice.

Section 8.3. Commencement and Completion of Casualty Restoration. If Owner is required to repair or rebuild the Hotel due to fire or other Casualty pursuant to this Article, Owner shall commence the Casualty Restoration as soon as practicable after the occurrence of the damage or destruction and shall complete the work with diligence. If a right of Termination of this Agreement does exist, the obligation to commence the Casualty Restoration shall be delayed until the earlier of the giving of the applicable notice of such Termination (in which event the obligation shall not become operative) or the expiration of the applicable notice period (in which event the obligation to commence and complete the Casualty Restoration as provided in this Section shall become operative immediately).

Section 8.4. Effect of Termination. If this Agreement is terminated pursuant to this Article, all expenses arising as a result of the Termination of this Agreement or as a result of the cessation of Hotel operations shall be for the sole account of Owner.

Section 8.5. Reinstatement After Termination. Notwithstanding the foregoing, if Owner takes official action, within a thirty (30)-month period after Owner has terminated this Agreement pursuant to this Article, to resume the operation of the Hotel on the Site, it shall provide prompt written notice thereof to Manager. Manager shall have the option to execute a new hotel management agreement with Owner, on the same terms as this Agreement, including the restrictive covenant set forth in Section 3.30, for a term equal to the remaining term of this Agreement as of the date of such termination. Such option shall be exercised by Manager by written notice to Owner within sixty (60) days of receipt of notice of such option from Owner.

ARTICLE IX

BUSINESS INTERRUPTION

Section 9.1. Business Interruption.

(a) **Manager's Compensation during Business Interruption.** If the Hotel suffers damage or loss that results in an interruption in the operations of the Hotel, Manager shall continue to be obligated to perform its obligations under this Agreement and shall also generally coordinate the efforts of all parties involved in the repair and rebuilding of the Hotel; accordingly, Manager shall continue to receive all amounts that would be due to Manager under this Agreement had such damage or loss not occurred, including the Management Fee, the Centralized Services Fees and all Reimbursable Expenses, for the period of the business interruption; provided, however, for so long as Owner either participates in Manager's insurance program or maintains Business Interruption Insurance which provides benefits no less favorable to Manager than if Owner were participating in Manager's insurance program, the Parties acknowledge that payments pursuant to this Section shall be satisfied only by proceeds of such Business Interruption Insurance ("**Business Interruption Proceeds**") (whether insured through Manager's insurance program or a separate policy); and further provided, that Manager's right to receive payment during the period that Business Interruption Proceeds remain payable shall be subordinate to the payment of Debt Service on the Bonds. In the event of such a business interruption, for purposes of calculating the Centralized Services Fees, the Total Operating Revenues during the period of operation shall be increased by the

amount of Business Interruption Proceeds received under the Business Interruption Insurance during the period of the business interruption.

(b) ***Owner's Obligations during Partial Operation.*** If the Hotel suffers damage or loss that results in an interruption in the operation of the Hotel, Owner shall nevertheless be obligated to pay all expenses of operating and maintaining the Hotel (at the level which is reasonably necessary given the damage or loss that has occurred), except as provided otherwise in Section 9.1(a), regardless of whether there are available to Owner any Business Interruption Proceeds to cover such amounts, and Owner shall be responsible for depositing all such amounts necessary for the operation and maintenance of the Hotel in the Lockbox Fund during the period of the business interruption.

Section 9.2. Proceeds of Business Interruption Insurance.

(a) ***Allocation of Proceeds of Insurance.*** If the business of the Hotel is interrupted by any event or peril covered by Business Interruption Insurance, the Business Interruption Proceeds shall be paid to the Trustee, for allocation and distribution in accordance with the Trust Agreement; provided, that Manager's right to receive payment in accordance with the Trust Agreement during the period for which Business Interruption Proceeds remain available shall be subordinate to the payment of Debt Service on the Bonds.

(b) ***Deposit of Proceeds of Business Interruption Insurance.*** Notwithstanding anything to the contrary in this Agreement, Owner shall cause any Business Interruption Proceeds to be deposited by the Trustee when and as received in the Business Interruption Account within the Insurance and Condemnation Proceeds Fund, which account Owner shall cause to be established by the Trustee upon receipt of notice that the carrier of such insurance will be paying claims thereon to the Trustee. If Manager receives any Business Interruption Proceeds, Manager agrees to deposit such amounts in the Business Interruption Account held by the Trustee. Owner shall use commercially reasonable efforts to require the Trustee to hold the Business Interruption Account in trust for the intended beneficiaries of such funds separate and apart from any other Funds and Accounts. Owner shall use commercially reasonable efforts to require the Trustee to transfer any amounts deposited in the Business Interruption Account as soon as practicable in the following order of priority:

- (i) to the Lockbox Fund, an amount equal to Operating Expenses then due (including the Base Management Fee);
- (ii) to the Taxes and Insurance Fund, an amount equal to Taxes or Insurance Costs then due with respect to the ownership and operation of the Hotel;
- (iii) to the payment of Administration Expenses when due; and
- (iv) to the Debt Service Fund, an amount equal to Debt Service then due on the Bonds;

(v) to the Lockbox Fund, the balance, if any, for application by the Trustee as provided in the Trust Agreement.

(c) **Reduction in Deposits/Amounts Directly Received.** Notwithstanding the foregoing, the amounts required to be transferred pursuant to Section 9.2(b) shall be reduced to the extent the insurance carrier has directly paid Business Interruption Proceeds to either Manager or Owner, which reduction shall be allocated in any manner deemed fair and appropriate by Manager, Owner and the Trustee.

(d) **Characterization of Business Interruption Proceeds.** Business Interruption Proceeds received shall be deemed Total Operating Revenues and shall be deposited in accordance with the foregoing clause (b) of this Section.

ARTICLE X

ASSIGNMENTS

Section 10.1. Restrictions on Assignment.

(a) **Restriction.** Except as expressly provided in this Article, neither Party may effect an Assignment without the prior written consent of the other Party in its sole discretion. Notwithstanding the foregoing or any other provision to the contrary in this Agreement, Owner may assign this Agreement to the Trustee for the benefit of the Registered Owners of the Bonds, as security for Owner's obligations under the Trust Agreement and the other documents securing the payment of the Bonds. Any Assignment by a Party in violation of the terms of this Article shall be a material and non-curable breach of this Agreement by the assigning Party, governed by the terms of Article IV.

(b) **Definition of Assignment.** The term "Assignment" includes the following: (i) assignment, pledge, encumbrance or transfer in any manner of an interest in this Agreement, or any rights or obligations under this Agreement; (ii) any transfer of an aggregate of more than fifty percent (50%) (measured by fair market value or voting power) of the legal and/or beneficial interest of a Party (whether partnership interest, corporate stock, shares or otherwise) during any consecutive twelve (12)-month period; (iii) any transfer of an aggregate of more than fifty percent (50%) (measured by fair market value or voting power) of the legal and/or beneficial interest (whether partnership interest, corporate stock, shares or otherwise) by an investor or investors of any owner of a Party during any consecutive twelve (12)-month period; and (iv) any change in the actual or effective voting control of a Party or an owner of such Party.

(c) **Definition of Owner.** For purposes of this Article, the term "owner" means (i) the holder of fifty percent (50%) or more (measured by fair market value or voting power) of the legal and/or beneficial interest (whether partnership interests, corporate stock, shares or otherwise) of an entity; and (ii) the owner, as defined in clause (i), of an owner, as defined in clause (i).

Section 10.2. Permitted Assignments by Manager.

(a) ***Certain Permitted Assignments.*** So long as no Manager Event of Default has occurred of which Manager has received written notice from Owner and remains uncured after the expiration of any applicable cure period and subject to Section 10.2(b), Manager shall have the right, without Owner's consent but upon thirty (30) days' prior written notice to Owner with the information set forth in Section 10.2(b)(vii) below, to effect an Assignment to any of the following (each a "**Proposed Manager Assignee**"): (i) any Affiliate of Manager; (ii) any successor of Manager that may result from any merger, consolidation or reorganization; or (iii) any Person which constitutes a Qualified Assignee (excluding from such definition clause (iii) thereof) that acquires all or substantially all of the business and assets of the hotel management and license operations associated with hotels and resorts operating under the "Hyatt" brand and, in each of clauses (i), (ii) and (iii) in this Section, has the right to continue the hotel management business using the "Hyatt" brand.

(b) ***Conditions Precedent to Assignment.*** As a condition precedent to any Assignment under this Section, all of the following shall be satisfied:

(i) the Proposed Manager Assignee shall execute an assignment and assumption agreement in form and substance reasonably acceptable to Owner pursuant to which such assignee assumes and agrees to be bound by all of the terms and provisions of this Agreement;

(ii) subject to Manager's rights under Section 11.4 below, the Proposed Manager Assignee shall, at all times during the Term, have the right to continue the use of the "Hyatt" brand and continue the use of the name of the Hotel in use immediately prior to such transfer;

(iii) the Proposed Manager Assignee is recognized as having (or upon such Assignment shall be recognized as having) a national chain of First-Class Hotels;

(iv) the Proposed Manager Assignee shall continue to have the right to operate the Other Grand Hyatt Hotels under the Hyatt name and to provide the Centralized Services and other provisions to be furnished by Manager at the standards provided for in and otherwise in accordance with this Agreement;

(v) the Proposed Manager Assignee is not generally recognized in the community as being of ill repute with whom a prudent business person would not wish to associate in a commercial venture or a Person that would be considered by regulators in the gaming industry to be an unsuitable business associate of Manager and its Affiliates;

(vi) if the Proposed Manager Assignee is an Affiliate of Manager, then Manager shall not be relieved of any of its obligations or liabilities under this Agreement; and

(vii) Manager's notice of an Assignment to the Proposed Manager Assignee under Section 10.2(a) shall (A) identify in reasonable detail the owners of the Proposed Manager Assignee; (B) in the case of an Affiliate, provide documentary evidence (including a legal opinion) reasonably satisfactory to Owner and the Trustee that the Proposed Manager Assignee is an Affiliate of Manager; and (C) in the case of a merger, consolidation or reorganization of Manager or acquisition of assets of Manager, provide documentary evidence of the same (including a legal opinion) reasonably satisfactory to Owner and the Trustee.

Section 10.3. Permitted Assignments by Owner.

(a) ***Certain Permitted Assignments.*** So long as no Owner Event of Default has occurred of which Owner has received written notice from Manager and remains uncured after the expiration of any applicable cure period and subject to Section 10.3(b), Owner shall have the right, without Manager's consent but upon thirty (30) days' prior written notice to Manager with the information set forth in Section 10.2(b)(vii), to effect an Assignment to each of the following (each a "**Proposed Owner Assignee**"): (i) any Affiliate of Owner, or (ii) any Person which constitutes a Qualified Assignee.

(b) ***Conditions Precedent to Assignment.*** As a condition precedent to any Assignment under this Section, the Proposed Owner Assignee shall execute an assignment and assumption agreement in form and substance reasonably acceptable to Manager pursuant to which such assignee assumes and agrees to be bound by all of the terms and provisions of this Agreement.

(c) ***Rights to Encumber.*** Without limiting the generality of and notwithstanding Section 10.3(a), Owner may encumber, hypothecate, pledge, assign or grant a security interest in the Hotel and/or this Agreement in connection with the Bonds or other financing transactions.

Section 10.4. Effect of Permitted Assignments. A consent to any particular Assignment shall not be deemed to be a consent to any other Assignment or a waiver of the requirement that consent be obtained in the case of any other Assignment. Except as otherwise provided under Section 10.3 in the case of any permitted Assignment by Owner (if the terms and conditions thereof are complied with) or under Section 10.2(b) in the case of any permitted Assignment by Manager (if the terms and conditions thereof are complied with), the assigning Party shall be relieved of all liabilities and obligations under this Agreement accruing after the effective date of such Assignment; provided, however, notwithstanding the foregoing or anything to the contrary in Sections 10.2 or 10.3, no such Assignment shall relieve the assigning Party from its liabilities or obligations under this Agreement accruing prior to the effective date of the Assignment.

ARTICLE XI

TRADEMARKS AND OTHER PROPRIETARY MATERIALS

Section 11.1. Ownership of Trademarks. Owner acknowledges and agrees it has no rights to or interest in the Hyatt Trademarks, and agrees not to contest the rights of Manager or its Affiliates in respect of the Hyatt Trademarks, including any additions or improvements to the Hyatt Trademarks by whomever developed. Manager acknowledges and agrees it has no rights to or interest in Owner's trademarks, and agrees not to contest the rights of Owner or its Affiliates in respect of Owner's trademarks, including any additions or improvements to Owner's trademarks by whomever developed.

Section 11.2. Use of Trademarks. As part of the management services to be provided under this Agreement, Manager shall use the Hyatt Trademarks as it deems appropriate and advisable in operating the Hotel consistent with the terms of this Agreement, subject to the following terms:

(a) ***Prohibition on Use of Trademarks.*** Except for specifically identified incidental use in advertising and marketing the Hotel and upon receipt of specific written consent from Manager (which may be withheld in Manager's sole discretion), Owner may not itself use the Hyatt Trademarks or apply for international, United States federal, or state or territorial registration of any rights in the Hyatt Trademarks. Without Manager's prior consent (which may be withheld in Manager's sole discretion), Owner may not use any of the Hyatt Trademarks as all or part of its legal name or any other trade or assumed name under which Owner does business, and Owner shall disclose in any trade or assumed name filing that the Hotel is independently managed and that Owner has no ownership rights in the Hyatt Trademarks. Except as provided in Section 11.5, no other letter, word, design, symbol or other matter of any kind shall be superimposed on, associated with, or shown in such proximity to the Hyatt Trademarks so as to alter or dilute them and Owner shall not combine any of the Hyatt Trademarks with any other trademark, service mark or logo.

(b) ***Manager's Rights Regarding Hyatt Trademarks.*** Manager reserves the sole right and discretion to:

(i) set reasonable minimum operating standards (consistent with the Operating Standards and the other provisions of this Agreement) associated with the Trademarks for the Hotel which shall be met as a condition of continued association with the "Hyatt" brand name;

(ii) determine how and on what materials the Hyatt Trademarks may be used;

(iii) require the signing of secrecy agreements by Hotel Personnel and third parties (other than Owner) to protect the confidentiality and the proprietary nature of the Hyatt Trademarks;

(iv) subject to any limitations on contracts set forth in this Agreement, including Section 3.7, set standards for and designate approved third-party suppliers of products bearing any of the Hyatt Trademarks, and receive third-party commissions, fees or royalty payments from field of use licenses; and

(v) handle disputes and control actual or threatened litigation with third parties relating to any part of the Hyatt Trademarks.

(c) **Owner's Rights Regarding Owner's Trademarks.** Owner reserves the sole right and discretion to:

(i) determine how and on what materials Owner's trademarks may be used;

(ii) require the signing of reasonable agreements by Hotel Personnel and third parties to protect the proprietary nature of Owner's trademarks;

(iii) subject to any limitations on contracts set forth in this Agreement, including Section 3.7, set standards for and designate approved third-party suppliers of products bearing any of Owner's trademarks, and receive third-party commissions, fees or royalty payments from field of use licenses; and

(iv) handle disputes and control actual or threatened litigation with third parties relating to any part of Owner's trademarks.

Section 11.3. Third-Party Intellectual Property Rights. Manager shall not infringe upon or otherwise violate the patent rights, copyrights, trade secrets, trade names, trademarks, service marks or any other intellectual property rights of any Person in its operation and management of the Hotel and the performance of its other services under this Agreement.

Section 11.4. Manager's Rights Regarding Hyatt Name. Owner recognizes that the names "Hyatt" and "Grand Hyatt" when used alone or in conjunction with other words, together with the other names, logos or designs described on Exhibit O are owned by Manager or its Affiliates and are the exclusive property of Manager or its Affiliates (herein called "**Hyatt-Owned Hotel Names**"). Accordingly, Owner agrees that no right or remedy of Owner for any default of Manager under this Agreement shall, nor shall any provisions of this Agreement confer upon Owner, its successors or assigns the right to use Hyatt Owned Hotel Names or any other Hyatt Trademarks in the operation of the Hotel, or otherwise, nor to hold out the Hotel as a Grand Hyatt Hotel, after the expiration or earlier Termination of this Agreement.

Section 11.5. Name of Hotel; Signage; Advertising. Manager shall operate the Hotel under the name "Grand Hyatt at San Francisco International Airport." The words "Grand Hyatt" shall be displayed prominently on the Hotel in letters of approximately equal size. Manager shall not change the signage or physical appearance of the exterior of the Hotel without the prior written approval of Owner in its sole discretion. The size, location and design of all signage not on the Site or the Hotel shall comply with all Owner standards and guidelines and shall be subject to prior written approval by Owner. Owner agrees to display directional signing for the

Hotel in the Airport terminal buildings and to permit the use of directional signage for the Hotel on the access roadways to the Airport. If not included in the Work by the Design-Builder, the costs of all such signage may be treated by Owner as a Capital Expense. Any advertising signage by Manager in the Hotel or on the Property shall only be undertaken in conformance with Owner's policies and procedures with respect thereto.

Section 11.6. Proprietary Information. Owner acknowledges that Manager or one of its Affiliates is or shall become the owner or licensee of certain intellectual property (the "**Manager's Intellectual Property**") including Manager's Proprietary Information. Manager shall utilize Manager's Intellectual Property in connection with the operation of the Hotel to the extent that it deems appropriate for the purpose of carrying out its agreements and obligations under this Agreement, but such use shall be strictly on a non-exclusive basis, and neither such use nor anything contained in this Agreement shall confer any proprietary or other rights in Manager's Intellectual Property upon Owner or any third parties.

ARTICLE XII

MISCELLANEOUS

Section 12.1. Representations and Warranties of Manager. Manager represents and warrants to Owner as of the Execution Date as follows:

(a) ***Due Organization.*** Manager is duly organized, validly existing, and in good standing, is duly qualified to do business in the State, and has full power, authority and legal right to execute, perform, and timely observe all of the provisions of this Agreement. Manager's execution, delivery and performance of this Agreement have been duly authorized.

(b) ***Valid and Binding Obligation.*** This Agreement constitutes a valid and binding obligation of Manager, subject to bankruptcy, insolvency and other laws relating to or affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases, and does not and shall not constitute a breach of or default under the corporate documents or bylaws of Manager or the terms, conditions or provisions of any law, order, rule, regulation, judgment, decree, agreement or instrument to which Manager is a party or by which it or any of its assets is bound or affected.

(c) ***No Third Party Approval Required.*** No approval of any third party is required for Manager's execution and delivery and performance of this Agreement that has not been obtained prior to the execution of this Agreement.

Section 12.2. Representations of Owner. Owner represents to Manager as of the Execution Date and the Opening Date, as follows:

(a) ***Due Organization.*** Owner is duly organized and validly existing as a charter city and county under the Constitution and laws of the State, and has full power, authority and legal right to execute, perform, and timely observe all of the provisions of

this Agreement. Owner's execution, delivery and performance of this Agreement have been duly authorized.

(b) ***Valid and Binding Obligation.*** This Agreement constitutes a valid and binding obligation of Owner, subject to bankruptcy, insolvency and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases, and to limitation on remedies against municipalities under the laws of the State, and does not constitute a breach of or default under the Charter of Owner or the terms, conditions or provisions of any law, order, rule, regulation, judgment, decree, agreement or instrument to which Owner is a party or by which it or any of its assets is bound or affected.

(c) ***No Third Party Approval Required.*** No approval of any third party is required for Owner's execution, delivery and performance of this Agreement that has not been obtained prior to execution of this Agreement.

(d) ***Environmental.*** Except as disclosed in any Environmental Site Assessments delivered to Manager on or prior to the date of execution of this Agreement, Owner has no actual knowledge that the Site violates any Environmental Law.

Section 12.3. Governing Law; Jurisdiction; Venue. This Agreement and all disputes relating to the performance or interpretation of any term of this Agreement shall be construed under and governed by the laws of the State. To the extent permitted by law, Manager and Owner hereby irrevocably:

(a) consents to any suit, action or proceeding with respect to this Agreement being brought in any state or federal court of competent jurisdiction located in a judicial district which includes the City;

(b) waives any objection that it may have now or hereafter to the venue of any such suit, action or proceeding in any such court and any claim that any of the foregoing have been brought in an inconvenient forum;

(c) (i) acknowledges the competence of any such court; (ii) submits to the jurisdiction of any such court in any such suit, action or proceeding; and (iii) agrees that the final judgment in any such suit, action or proceeding brought in any such court shall be conclusive and binding upon it and may be enforced in any court to the jurisdiction of which it is or may be subject by a suit upon such judgment, a certified copy of which shall be conclusive evidence of its liability;

(d) submits to the non-exclusive jurisdiction of the federal courts in the City,
and

(e) agrees that service of process in any suit, action or proceeding may be made upon Manager's registered agent, together with a copy to each address set forth in this Agreement, or such other address of which Manager shall have given by written notice to Owner and agrees that such service shall in every respect be deemed to be

effective service upon it in any suit, action or proceeding and shall be taken and held to be valid personal service upon or personal delivery to it, to the fullest extent permitted by law.

Section 12.4. Waivers, Modifications, Remedies. No failure or delay by a Party to insist on the strict performance of any term of this Agreement, or to exercise any right or remedy consequent on a breach thereof, shall constitute a waiver of any breach or any subsequent breach of such term. Neither this Agreement nor any of its terms may be changed or modified, waived or terminated (unless as otherwise provided hereunder) except by an instrument in writing signed by the Party against whom the enforcement of the change, waiver or Termination of this Agreement is sought and with the written consent of the Trustee. Owner shall notify Manager of any revisions, amendments, supplements, modifications or other changes to the Trust Agreement and the Cash Management Agreement prior to the effectiveness thereof, as set forth in the Trust Agreement. Owner acknowledges that Manager shall have the right to consent to such revisions, amendments, supplements, modifications or other changes to the extent set forth in the Trust Agreement. No waiver of any breach shall affect or alter this Agreement, but each and every term of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach of this Agreement. The remedies provided in this Agreement are cumulative and not exclusive of the remedies provided by law or in equity.

Section 12.5. Severability of Provisions. If a court of competent jurisdiction determines that any term of this Agreement is invalid or unenforceable to any extent under Applicable Law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

Section 12.6. Notices. Notices, consents, determinations, requests, approvals, demands, reports, objections, directions and all other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given and to be effective on the date on which such communications are delivered by personal delivery, by facsimile transmission (with telephonic confirmation of receipt), nationally recognized overnight courier service, or by the United States Postal Service after being deposited with the United States Postal Service as Express Mail or as registered or certified matter, postage prepaid, return receipt requested, addressed to the Parties at the addresses specified below, or at such other address as the Party to whom the notice is sent has designated in accordance with this Section. All such communications from Manager to Owner shall also be given by Manager to the Trustee, at the address of the Trustee set forth in the Trust Agreement, and all such communications from Owner to Manager after the Opening Date shall also be given to the general manager of the Hotel at the address of the Hotel. Until a Party provides a change in address in accordance with this Section, notices shall be sent to the following addresses:

To Manager:

Hyatt Corporation
71 South Wacker Drive
12th Floor
Chicago, Illinois 60606
Attention: General Counsel
Telephone: (312) 780-5490
Facsimile: (312) 780-5282

To Owner:

San Francisco International Airport
632 West Field Road
P.O. Box 8097
San Francisco, California 94128
Attention: Anwar Elgonemy
Hotel & Special Projects
Director
Telephone: (650) 821-5804
Facsimile: (650) 821-5005

With a copy to:

San Francisco International Airport
632 West Field Road
P.O. Box 8097
San Francisco, California 94128
Attention: Sheryl L. Bregman
Airport General Counsel
Telephone: (650) 821-5083
Facsimile: (650) 821-5086

To the Trustee:

U.S. Bank National Association
Global Corporate Trust Services
One California Street, Suite 1000
San Francisco, California, 94111
Attention: Andrew Fung
Vice President
Telephone: (415) 677-3593
Facsimile: (415) 677-3769

Section 12.7. Successors and Assigns. Subject to the provisions of Articles VI and IX, this Agreement shall inure to the benefit of and shall be binding on the successors and assigns of the Parties.

Section 12.8. Estoppel Certificates. On request at any time and from time to time during the Term, Manager shall execute, acknowledge and deliver to Owner or the Trustee, within twenty (20) days following Manager's receipt of written request therefor, a certificate: (a) certifying that this Agreement has not been modified and is in full force and effect (or, if there have been modifications, that the same is in full force and effect as modified and specifying the modifications); (b) stating whether, to the best knowledge of the signatory of such certificate, any default exists, including any Event of Default, and if so, specifying each default of which the

signatory may have knowledge; and (c) providing any additional information and statements reasonably requested by Owner or the Trustee; provided, however, that in no event shall Manager be required to agree to any modifications or waivers with respect to this Agreement or other agreements in effect between the Parties. The Parties acknowledge that the estoppel shall not constitute an amendment, modification or waiver of any term or condition of this Agreement, or any right or remedy of Manager hereunder with respect to any claims that are not known by Manager as of the date of such estoppel certificate. On similar notice or request from Manager, Owner and Trustee shall execute and deliver to Manager a similar certificate.

Section 12.9. Entire Agreement. This Agreement, the Cash Management Agreement, the Technical Services Agreement and the Pre-Opening Services Agreement constitute the entire contract between the Parties relating to the operation of the Hotel and supersedes all prior contracts and understandings, written or oral. No representation, undertaking or promise shall be taken to have been given or be implied from anything said or written in negotiations between the Parties prior to the execution of this Agreement except as expressly stated in this Agreement. Neither Party shall have any remedy in respect of any untrue statement made by the other Party on which that Party relied in entering into this Agreement (unless such untrue statement was made fraudulently) and that Party's only remedy shall be for breach of contract as provided in this Agreement.

Section 12.10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

Section 12.11. Relationship of the Parties. Manager and Owner acknowledge and agree that this Agreement creates an independent contractor relationship. Nothing contained in this Agreement shall constitute, or be construed to be or to create, a partnership, joint venture or lease between Manager and Owner with respect to the Hotel or the operation thereof. This Agreement shall not be construed at any time to be an interest in real estate or a lien or security interest of any nature against the Hotel, the Site or any other land used in connection with the Site, or any equipment, fixtures, inventory, motor vehicles, contracts, documents, accounts, notes, drafts, acceptances, instruments, chattel paper, general intangibles or other personal property now existing or that may hereafter be acquired or entered into with respect to the Hotel or the operation thereof. Without limiting the generality of the foregoing, this Agreement shall not constitute or create a possessory interest of Manager in the Hotel pursuant to California Revenue and Taxation Code Section 107 or regulations adopted pursuant thereto. Notwithstanding anything to the contrary in this Agreement, in no event shall Manager have any right to bind Owner except as expressly set forth in this Agreement, nor shall Manager constitute an employee, agent or legal representative of Owner.

Section 12.12. No Personal Liability. Owner, Manager and the Trustee and their respective officers, directors, board members, commissioners, employees, agents or representatives shall not have any personal liability for the payment of any amounts under this Agreement, the breach of any duties, obligations, covenants, agreements, responsibilities, or the representations and warranties contained in this Agreement.

Section 12.13. Limited Obligations. THE PAYMENT OBLIGATIONS OF OWNER UNDER THIS AGREEMENT ("OBLIGATIONS") ARE SPECIAL LIMITED

OBLIGATIONS OF OWNER PAYABLE SOLELY FROM THE TOTAL OPERATING REVENUES OF THE HOTEL, AMOUNTS HELD BY THE TRUSTEE PURSUANT TO THE TRUST AGREEMENT AND AVAILABLE PROCEEDS OF THE BONDS AS PROVIDED IN THIS AGREEMENT. THE OBLIGATIONS SHALL NOT IN ANY MANNER OR TO ANY EXTENT CONSTITUTE GENERAL OBLIGATIONS OF OWNER OR THE CITY. THE OBLIGATIONS ARE NOT A CHARGE UPON THE REVENUES OR GENERAL FUND OF OWNER OR THE CITY OR UPON ANY MONEYS OR OTHER PROPERTY OF OWNER OR THE CITY OTHER THAN THE TOTAL OPERATING REVENUES OF THE HOTEL, AMOUNTS HELD BY THE TRUSTEE PURSUANT TO THE TRUST AGREEMENT AND AVAILABLE PROCEEDS OF THE BONDS. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY ARE PLEDGED TO THE PAYMENT OF THE OBLIGATIONS. THE OBLIGATIONS ARE NOT SECURED BY A LEGAL OR EQUITABLE PLEDGE OF, OR CHARGE, LIEN, OR ENCUMBRANCE UPON, ANY OF THE PROPERTY OF OWNER OR OF THE CITY OR ANY OF ITS OR THEIR INCOME, REVENUES OR RECEIPTS, EXCEPT TOTAL OPERATING REVENUES OF THE HOTEL; PROVIDED, THAT OWNER'S OBLIGATIONS TO PAY MANAGEMENT FEES AND ANY UNAMORTIZED KEY MONEY PURSUANT TO SECTION 5.9(B) UPON A TERMINATION OF THIS AGREEMENT SHALL BE PAYABLE FROM AVAILABLE FUNDS OF OWNER IF AND TO THE EXTENT THAT AMOUNTS OTHERWISE PROVIDED THEREFOR UNDER THIS AGREEMENT AND THE TRUST AGREEMENT ARE INSUFFICIENT TO MAKE SUCH PAYMENTS.

Section 12.14. Certification of Funds; Budget and Fiscal Provisions. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Payment and performance obligations for each Fiscal Year during the Term therefore are subject to the appropriation of funds for the Agreement. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors of the City. This Agreement shall not become effective until the City Controller has certified that amounts are or are expected to be available to satisfy Owner's payment obligations under this Agreement. Owner's payment obligations hereunder shall not at any time exceed the amount so certified by the City Controller. Except as may be provided by laws governing emergency procedures, officers and employees of Owner are not authorized to request, and Owner is not required to reimburse Manager for, commodities or services beyond the scope of this Agreement unless the change in scope is authorized by amendment and approved as required by Applicable Law. Officers and employees of Owner are not authorized to offer or promise, nor is Owner required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the Agreement is certified without certification of the additional amount by the City Controller.

Section 12.15. Further Assurances. The Parties shall do and procure to be done all such acts, matters and things and shall execute and deliver all such documents and instruments as shall be required to enable the Parties to perform their respective obligations under, and to give effect to the transactions contemplated by, this Agreement.

Section 12.16. Third Parties. Except as provided in the last two sentences of this Section, none of the obligations under this Agreement of either Party shall run to or be enforceable by any party other than the Parties to this Agreement or by a party deriving rights

under this Agreement as a result of an assignment permitted pursuant to the terms of this Agreement. The Trustee shall be a third-party beneficiary under this Agreement and all indemnities and disclaimers in favor of Owner shall extend to the Trustee as a third-party beneficiary under this Agreement. As a third-party beneficiary, the Trustee shall also have the right to enforce its rights under this Agreement and exercise any rights it has with respect to the Hotel under the Trust Agreement, as a result of any assignment pertaining to this Agreement, or under any other Bond Document; provided, that other than as expressly provided in this Agreement or as set forth in the Trust Agreement, the Trustee shall have no additional or different rights than Owner has under this Agreement. Manager acknowledges that the Trustee has certain approval rights to the consents, approvals and other actions by Owner in this Agreement.

Section 12.17. Disclosure. In the event Owner shall, at any time or from time to time, sell or offer to sell, any securities (including the Initial Series of Bonds) issued by Owner, Manager shall reasonably cooperate in providing adequate disclosure regarding it in any disclosure document in connection therewith and certify that such information is true and complete in all material respects and does not omit a material fact necessary to make such disclosure true and complete in all material respects for the purposes for which provided.

Section 12.18. Exhibits. The Exhibits which are attached to this Agreement are hereby incorporated into and made a part of this Agreement for all purposes.

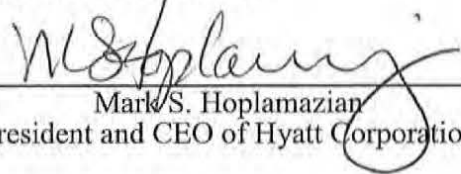
Section 12.19. Amendments to Trust Agreement. At least ten (10) days prior to executing any proposed amendment to the Trust Agreement or other Bond Documents, Owner shall deliver to Manager copies thereof. Owner shall not execute any such amendment without Manager's prior written consent if in the reasonable opinion of Manager delivered within ten (10) days after the receipt of the proposed amendments such amendments could adversely affect any of Manager's rights, recourses, remedies, entitlements, benefits, liabilities, burdens or obligations under this Agreement, the Cash Management Agreement or the Trust Agreement.

Section 12.20. Non-Waiver of Government Rights. By entering into this Agreement, Owner is specifically not obligating itself or any other Governmental Authority with respect to any discretionary or regulatory action relating to development or operation of the Hotel, including rezoning, variances, environmental clearances, regulatory plan approvals, code compliance or any other Governmental Authority approvals or regulatory actions which are or may be required or authorized.

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IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year first above written.

HYATT CORPORATION

By 
Mark S. Hoplamazian
President and CEO of Hyatt Corporation

AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO

By 
John L. Martin
Airport Director

Attest:

By 
Jean Caramatti, Secretary
Airport Commission

Resolution No: 15-0178

Adopted on: September 22, 2015

Approved as to form:
DENNIS J. HERRERA,
City Attorney

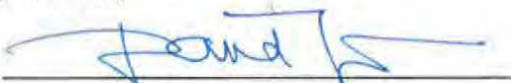
By 
David J. Stevens
Deputy City Attorney

EXHIBIT A

SCOPE OF HOTEL

The Hotel shall include the following (with all numbers approximate):

- 1) 350 soundproofed guest rooms (including 33 suites);
- 2) 17,500 net square feet of meeting space, including:
 - (a) 6,600 square-foot ballroom;
 - (b) 3,000 square-foot junior ballroom;
 - (c) Six (6) meeting rooms (total of 6,000 square feet);
 - (d) Two (2) boardrooms (total of 900 square feet); and
 - (e) Club lounge (1,000 square feet);
- 3) 100-seat three-meal restaurant (with 12-seat holding bar);
- 4) 40-seat wine and sushi bar (lobby lounge);
- 5) 50-seat rooftop cocktail lounge;
- 6) 20-seat casual café;
- 7) “Grab & go” outlet;
- 8) In-room dining;
- 9) 7,500-square-foot health club featuring a fitness center, changing rooms and showers, whirlpool, sauna and spa;
- 10) Indoor 75-foot-long heated lap pool (3 lanes);
- 11) 24-hour business center;
- 12) Gift shop;
- 13) 215-space surface parking lot; and
- 14) Other agreed-upon facilities and amenities.

EXHIBIT B

OWNER MANDATORY CONTRACTING PROVISIONS

1. Nondiscrimination; Penalties

a. Manager Shall Not Discriminate

In the performance of this Agreement, Manager agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status, or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts

Manager shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing), and shall require all subcontractors to comply with such provisions. Manager's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. Nondiscrimination in Benefits

Manager does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract

As a condition to this Agreement, Manager shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form CMD-12B-101 with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division.

e. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this section by reference and made a part of this Agreement as though fully set forth herein. Manager shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Manager understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Manager and/or deducted from any payments due Manager.

2. Requiring Minimum Compensation for Covered Employees

- a. Manager agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (“MCO”), as set forth in San Francisco Administrative Code Chapter 12P (“Chapter 12P”), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the Internet at www.sfgov.org/olse/mco . A partial listing of some of Manager's obligations under the MCO is set forth in this section. Manager is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this section.
- b. The MCO requires Manager to pay Manager's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Manager is obligated to keep informed of the then-current requirements. Any subcontract entered into by Manager shall require the subcontractor to comply with the requirements of the MCO, and shall contain contractual obligations substantially the same as those set forth in this section. It is Manager’s obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this section against Manager.
- c. Manager shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be reputably presumed to be retaliation-prohibited by the MCO.
- d. Manager shall maintain employee and payroll records as required by the MCO. If Manager fails to do so, it shall be presumed that Manager paid no more than the minimum wage required under state law.
- e. The City is authorized to inspect Manager’s job sites and conduct interviews with employees and conduct audits of Manager.

- f. Manager's commitment to provide the minimum compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if Manager fails to comply with these requirements. Manager agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Manager's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.
- g. Manager understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of this Agreement, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Manager fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Manager fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.
- h. Manager represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.
- i. If Manager is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Manager later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Manager shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Manager and this department to exceed \$25,000 in the fiscal year.

3. Requiring Health Benefits for Covered Employees

Manager agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance ("HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the Internet at www.sfgov.org/olse . Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

- a. For each Covered Employee, Manager shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Manager chooses to offer the health plan option,

such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.

- b. Notwithstanding the above, if Manager is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.
- c. Manager's failure to comply with the HCAO shall constitute a material breach of this Agreement. City shall notify Manager if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Manager fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Manager fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.
- d. Any subcontract entered into by Manager shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this section. Manager shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the subcontract. Manager shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this section against Manager based on the Subcontractor's failure to comply, provided that City has first provided Manager with notice and an opportunity to obtain a cure of the violation.
- e. Manager shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Manager's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.
- f. Manager represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.
- g. Manager shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on this Agreement.
- h. Manager shall keep itself informed of the current requirements of the HCAO.
- i. Manager shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

- j. Manager shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten (10) business days to respond.
- k. Manager shall allow City to inspect Manager's job sites and have access to Manager's employees in order to monitor and determine compliance with HCAO.
- l. City may conduct random audits of Manager to ascertain its compliance with HCAO. Manager agrees to cooperate with City when it conducts such audits.
- m. If Manager is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000, but Manager later enters into an agreement or agreements that cause Manager's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Manager and the City to be equal to or greater than \$75,000 in the fiscal year.

4. First Source Hiring Program

This section incorporates the requirements of the First Source Hiring Program pursuant to San Francisco Administrative Code Chapter 83 (entitled "First Source Hiring Program"). Manager agrees to participate and comply with the provisions of the First Source Hiring Program. As part of Manager's Agreement with the City, Manager shall incorporate provisions of the First Source Hiring Program into any Joint Venture Partnership and shall require subcontractors to do the same. The Mayor's Office of Economic and Workforce Development is Manager's main contact for the First Source Hiring Program. For more information regarding First Source Hiring Program, go to: <http://www.workforcedevelopmentsf.org/>.

a. Definitions

The provisions of Chapter 83 of the San Francisco Administrative Code apply to this Agreement. Manager shall comply fully with, and be bound by, all of the provisions that apply to this Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 83.

Entry Level Position: Any non-managerial position that requires either: (a) No education above a high school diploma or certified equivalency; or (b) Less than two (2) years training or specific preparation; and (c) Shall include temporary positions and paid internships. Trainee: An economically disadvantaged worker identified by the First Source Hiring Program as having the appropriate training, employment background, and skill set for an available Entry Level Position specified by Manager.

b. First Source Hiring Goals

- Over the life of this Agreement, Manager shall make good faith efforts to hire a minimum number of Trainees referred by the First Source Hiring Program to fulfill available Entry Level Positions, based on the Manager Fee Schedule below:

Manager Fee Schedule	Minimum Number of Trainees to be Hired (over the life of this Agreement)
\$11,000,000 – \$13,999,999	6
(> = \$14M, for each additional \$3 million in Manager fees, add one additional Trainee)	

- Manager may decline to hire a Trainee if Manager considers the Trainee in good faith and deems the Trainee is not qualified. The final decision to hire a Trainee shall be made by the Manager.
- Manager shall hire the Trainee on a full-time basis for at least twelve (12) months or on part-time basis for twenty-four (24) months.
- Trainees must be obtained through the First Source Hiring Program and Manager must consider all Trainees fairly and equally and comply with the non-discrimination provisions pursuant to local, state, and federal laws. No existing employee may count toward the total number of Trainees hired.

c. Procedures

- Within thirty (30) days of award of contract, Manager will email the First Source Hiring Administrator and schedule to meet with staff from the First Source Hiring Program. At the meeting, Manager will provide information on Entry Level Positions, number of Trainees to be hired, job description, start date, and rate of pay. If Manager cannot quantify the numbers of Trainees to be hired, Manager must still meet with the First Source Hiring Program and present a workforce plan of good faith efforts towards the First Source Hiring Goals.
- Manager is required to notify the First Source Hiring Program of all available Entry Level Positions.
- Manager will designate a representative to monitor all employment related activity and be the main contact for the First Source Hiring Program.
- Manager will maintain documentation and records supporting good faith efforts toward the First Source Hiring Program.

d. As-Needed Contracts

Contractors awarded As-Needed contracts shall follow the provisions of the First Source Hiring Program. However, the First Source Hiring Goals will not be based on each individual Contract Service Order (“CSO”) but rather from the total number of CSOs issued to the contractor. Since a contractor does not know when or how many CSOs will be issued, the contractor shall hire Trainees only if the increase in CSOs creates entry-level employment opportunities.

e. Noncompliance

Failure to meet the criteria of the First Source Hiring Program does not impute bad faith but rather will trigger a review for compliance. If the City deems Manager is noncompliant and acted in bad faith towards the First Source Hiring Program, then the City may withhold progress payments and assess liquidated damages as defined in San Francisco Administrative Code Chapter 83.

5. Conflict of Interest

Through its execution of this Agreement, Manager acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

6. Federal Non-Discrimination Provisions

49 CFR Part 21. Manager for itself, its personal representatives, successors in interest, and assigns, as part of the consideration of this Agreement, does hereby covenant and agree that Manager shall maintain and operate the Airport facilities and services in compliance with all requirements imposed pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A, Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, as said regulations may be amended. Manager, for itself, its personal representatives, successors in interest, and assigns, agrees that Manager in its operation at and use of the Airport, covenants that (1) No person on the grounds of race, color, national origin, or sex shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities; (2) That in the construction of any improvements on, over, or under the Airport and the furnishing of services thereon, no person on the grounds of race, color, national origin, or sex shall be excluded from participation or denied the benefits of, or otherwise be subject to discrimination, (3) That Manager shall use all City premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, DOT, Subtitle A—Office of the Secretary of Transportation, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended. These Regulations are incorporated as though fully set forth herein. Manager agrees to include the above statements in any subsequent contract that it enters into with subcontractors and cause those agreements to similarly include the statements, and cause those businesses to include the statements in further agreements.

49 CFR Part 23. This Agreement is subject to the requirements of the United States Department of Transportation's regulations, 49 Code of Federal Regulations, Part 23. Manager agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered

by 49 Code of Federal Regulations Part 23. Manager agrees to include the above statements in any subsequent contract covered by 49 Code of Federal Regulations, Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.

Failure by Manager to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Owner deems appropriate.

7. Owner Intellectual Property

Pursuant to Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with Owner at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to Owner intellectual property, without the Airport Director's prior consent.

8. Labor Peace/Card Check Rule

Without limiting the generality of other provisions herein requiring Manager to comply with all Airport Rules and Regulations, Manager shall comply with the Owner's Labor Peace/Card Check Rule, adopted on February 1, 2000, pursuant to Airport Commission Resolution No. 00-0049 (the "Labor Peace/Card Check Rule"). Capitalized terms not defined in this provision are defined in the Labor Peace/Card Check Rule.

To comply with the Labor Peace/Card Check Rule, Manager shall, among other actions: (a) Enter into a Labor Peace/Card Check Rule Agreement with any Labor Organization which requests such an agreement and which has registered with the Airport Director or his/her designee, within thirty (30) days after Labor Peace/Card Check Rule Agreement has been requested; (b) Not less than thirty (30) days prior to the modification of this Agreement, Manager shall provide notice by mail to any Labor Organization or federation of labor organizations which have registered with the Airport Director or his/her designee ("registered Labor Organizations"), that Manager is seeking to modify or extend this Agreement; (c) Upon issuing any request for proposals, invitations to bid, or similar notice, or in any event not less than thirty (30) days prior to entering into any subcontract, Manager shall provide notice to all registered Labor Organizations that Manager is seeking to enter into such subcontract; and (d) Manager shall include in any subcontract with a Subcontractor performing services pursuant to any covered Contract, a provision requiring the Subcontractor performing services pursuant to any covered Contract, a provision requiring the Subcontractor to comply with the requirements of the Labor Peace/Card Check Rule. If Airport Director determines that Manager violated the Labor Peace/Card Check Rule, Airport Director shall have the option to terminate this Agreement, in addition to exercising all other remedies available to him/her.

9. Protection of Private Information

Manager has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of

Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Manager agrees that any failure of Manager to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Agreement, bring a false claim action against Manager pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar Manager.

10. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor, or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the Internet at:

[http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1) .

A contractor, subcontractor, or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, or consultant: (a) Knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) Conspires to defraud the City by getting a false claim allowed or paid by the City; (d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) Is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

11. MacBride Principles—Northern Ireland

Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this Agreement on behalf of Manager acknowledges and agrees that he or she has read and understood this section.

12. Prohibition on Political Activity with City Funds

In accordance with San Francisco Administrative Code Chapter 12.G, Manager may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, "**Political Activity**") in the performance of the services provided under this Agreement. Manager agrees to comply with San Francisco Administrative Code Chapter 12.G, and any implementing rules and regulations promulgated by the City's Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Manager violates the provisions of this section, the City may, in addition to any other rights or remedies available under this Agreement, (i) Terminate this Agreement, and (ii) Prohibit

Manager from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Manager's use of profit as a violation of this section.

13. Tropical Hardwood and Virgin Redwood Ban

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

14. Preservative-treated Wood Containing Arsenic

Manager may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative.

Manager may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Manager from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes, or facilities that are partially or totally immersed in saltwater.

15. Compliance with Americans with Disabilities Act

Manager acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services, and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Manager shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state, and local disability rights legislation. Manager agrees not to discriminate against disabled persons in the provision of services, benefits, or an activity provided under this Agreement, and further agrees that any violation of this prohibition on the part of Manager, its employees, agents, or assigns will constitute a material breach of this Agreement.

16. Sunshine Ordinance

In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations, and all other records of communications between City and persons or companies seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

17. Limitations on Contributions

Through execution of this Agreement, Manager acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies, or equipment, for the sale or lease of any land or building, or for a grant, loan, or loan guarantee, from making any campaign contribution to (1) An individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) A candidate for the office held by such individual, or (3) A committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved.

Manager acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Manager further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Manager's board of directors; Manager's chairperson, chief executive officer, chief financial officer, and chief operating officer; any person with an ownership interest of more than 20% in Manager; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Manager.

Additionally, Manager acknowledges that Manager must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Manager further agrees to provide to City the names of each person, entity, or committee described above.

18. Drug-Free Workplace Policy

Manager acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Manager agrees that any violation of this prohibition by Manager, its employees, agents, or assigns will be deemed a material breach of this Agreement.

19. Resource Conservation

Chapter 5 of the San Francisco Environment Code ("**Resource Conservation**") is incorporated herein by reference. Failure by Manager to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

20. Proprietary or Confidential Information of City

Manager understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Manager may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Manager agrees that all information disclosed by City to Manager shall be held in confidence and used only in performance of this Agreement. Manager shall exercise the same

standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

21. Ownership of Results

Any interest of Manager or its subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files, and media, or other documents prepared by Manager or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Manager may retain and use copies for reference and as documentation of its experience and capabilities.

22. Subcontracting

Manager is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is permitted under this Agreement or first approved by City in writing. Neither Party shall, on the basis of this Agreement, contract on behalf of or in the name of the other Party. An agreement made in violation of this provision shall confer no rights on any Party and shall be null and void.

23. Food Service Waste Reduction Requirements

Manager agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement.

By entering into this Agreement, Manager agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Manager agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Manager's failure to comply with this provision.

24. Consideration of Criminal History in Hiring and Employment Decisions

- a. Manager agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at:

http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca

A partial listing of some of Manager's obligations under Chapter 12T is set forth in this Section. Manager is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

- b. The requirements of Chapter 12T shall only apply to Manager's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, and shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, whose employment is or would be in whole or in substantial part physically located in the City and County of San Francisco, which excludes Airport property.
- c. Applicants or employees who would be or are performing work in furtherance of this Agreement may be required to be screened by the U.S. Department of Homeland Security for security badging. A rejection by the U.S. Department of Homeland Security of an applicant's or employee's security badging application, and the resulting inability of Manager to hire the applicant or assign the employee to perform services under this Agreement, shall not be considered an Adverse Action under Chapter 12T.
- d. Manager shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Manager's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.
- e. Manager or Subcontractor shall not inquire about, require disclosure of, or if such information is received, base an Adverse Action on an applicant's or potential applicant for employment or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.
- f. Manager or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (e), above. Manager or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

- g. Manager or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement that Manager or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.
- h. Manager and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under Manager or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.
- i. Manager understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

25. Diesel Vehicles

The San Francisco Environment Code currently requires a reduction in the number of passenger vehicles and light-duty trucks in the City's Municipal Fleet and use of biodiesel fuel (B20) by all diesel-using City departments, with goals set for diesel equipment to convert to use of biodiesel fuel. To the extent Manager purchases or leases any new diesel fuel vehicles for use in connection with operation of the Hotel, Owner encourages use of a biodiesel blend and Manager agrees to investigate use of a biodiesel blend in operation of its diesel vehicles, if any.

26. Sugar-Sweetened Beverage Prohibition

[Not applicable – Waiver Obtained.]

EXHIBIT C

LEGAL DESCRIPTION OF SITE

The approximately 4.2-acre site known as (Plot 2) located adjacent to U.S. Highway 101 at the main entrance to the Airport in the County of San Mateo, California, legally described as follows:

(ATTACHED)

San Francisco International Airport

Plot 2 (Hotel Site)

Drawing No. CA 2015-01 (Exhibit C)

A portion of the San Francisco International Airport being located in Lot III of Section 3, Township 4 South, Range 5 West, Mount Diablo Base and Meridian as shown on Swamp and Overflowed Lands Survey No. 11, dated September 29, 1862 in Book 2, Page 64, County of San Mateo, State of California

Commencing at the intersection of the centerline of the Bayshore Freeway and the Axis line to the San Francisco International Airport, which point of intersection is California Highway Commission Station "F3" Line 392+32.13, Route 101, District IV as shown on Sheet 6, Drawing No. R-35.6 entitled Right of Way Record Map;

Thence along said Axis line, North $73^{\circ}57'33''$ East a distance of 999.50 feet;

Thence, South $16^{\circ}02'40''$ East a distance of 241.04 feet;

Thence, South $73^{\circ}51'18''$ West a distance of 332.54 feet to the Point of Beginning;

Thence, South $16^{\circ}08'42''$ East a distance of 173.40 feet;

Thence, North $73^{\circ}51'18''$ East a distance of 255.36 feet to the beginning of a curve concave to the southwest and having a radius of 25.00 feet;

Thence southwesterly 57.09 feet along said curve, through a central angle of $130^{\circ}50'34''$ and having a chord bearing and distance of South $40^{\circ}43'25''$ East, 45.47 feet, to the point of a compound curve concave to the northwest and having a radius of 527.07 feet;

Thence southwesterly 154.03 feet along said curve, through a central angle of $16^{\circ}44'37''$ and having a chord bearing and distance of South $33^{\circ}04'10''$ West, 153.48 feet, to the point of tangent;

Thence, South $41^{\circ}26'29''$ West a distance of 49.74 feet to the beginning of a curve concave to the southeast and having a radius of 321.00 feet;

Thence southerly 335.80 feet along said curve, through a central angle of $59^{\circ}56'17''$ and having a chord bearing and distance of South $11^{\circ}28'20''$ West, 320.70 feet;

Thence, South $41^{\circ}53'07''$ West a distance of 81.63 feet to a curve on the boundary common to the San Francisco International Airport and the California Highway Commission as recorded in a Joint Deed in Volume 2562, Page 404 of the Official Records of San Mateo County, being the beginning of a non-tangent curve concave to the northeast and having a radius of 1739.00 feet, to which a radial line bears South $41^{\circ}53'07''$ West;

Thence northwesterly 419.81 feet along said boundary curve, through a central angle of 13°49'54" and having a chord bearing and distance of North 41°11'53" West, 418.79 feet, to the point of a compound curve concave northeasterly and having a radius of 226.00 feet, to which a radial line bears South 55°43'02" West;

Thence northerly 114.35 feet along said curve, through a central angle of 28°59'24" and having a chord bearing and distance of North 19°47'16" West, 113.13 feet, to the point of a compound curve concave to the east and having a radius of 286.24 feet, to which a radial line bears North 83°40'34" West;

Thence departing from said boundary, northeasterly 344.27 feet along said curve, through a central angle of 68°54'42" and having a chord bearing and distance of North 40°46'47" East, 323.89 feet, to the point of tangent;

Thence, North 73°54'00" East a distance of 14.96 feet to the Point of Beginning;

The above described parcel contains 182,942 square feet / 4.20 acres, more or less

The above described parcel is encumbered by an Aerial Easement for the benefit of the California Highway Commission per Instrument No. 2000-151058, Official Records of San Mateo County, as shown on Exhibit C1, attached hereto and made a part hereof.



Brad Luken
California Licensed Land Surveyor 8680
San Francisco International Airport



06/12/15

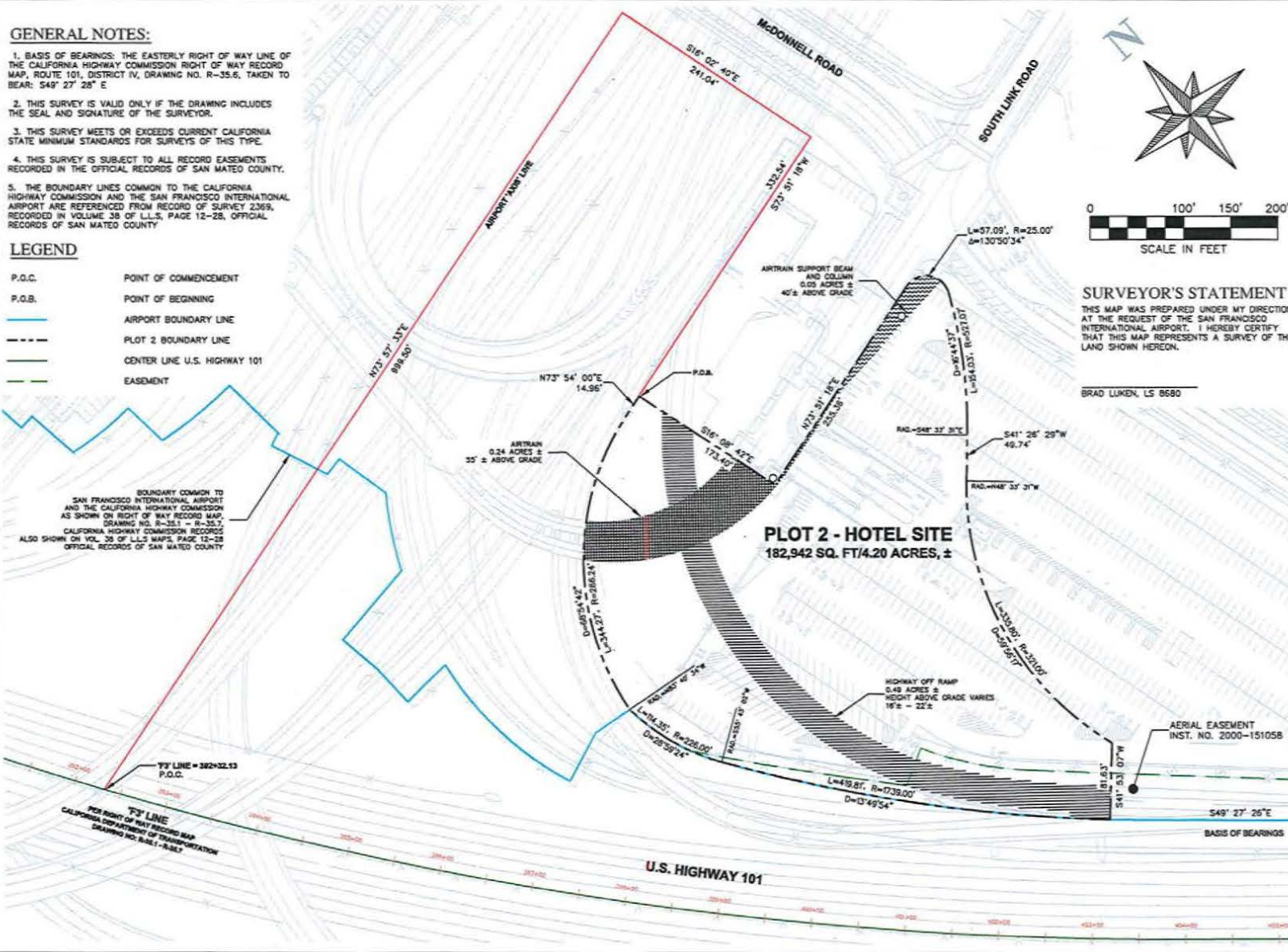
The basis of bearing for this description is the easterly right of way of the boundary common to the San Francisco International Airport and the California Highway Commission, Right of Way Record Map, Route 101, District IV as shown on Drawing No. R35.6 and is taken to bear: South 49°27'28" East

GENERAL NOTES:

1. BASIS OF BEARINGS: THE EASTERLY RIGHT OF WAY LINE OF THE CALIFORNIA HIGHWAY COMMISSION RIGHT OF WAY RECORD MAP, ROUTE 101, DISTRICT IV, DRAWING NO. R-35.6, TAKEN TO BEAR: S49° 27' 28" E
2. THIS SURVEY IS VALID ONLY IF THE DRAWING INCLUDES THE SEAL AND SIGNATURE OF THE SURVEYOR.
3. THIS SURVEY MEETS OR EXCEEDS CURRENT CALIFORNIA STATE MINIMUM STANDARDS FOR SURVEYS OF THIS TYPE.
4. THIS SURVEY IS SUBJECT TO ALL RECORD EASEMENTS RECORDED IN THE OFFICIAL RECORDS OF SAN MATEO COUNTY.
5. THE BOUNDARY LINES COMMON TO THE CALIFORNIA HIGHWAY COMMISSION AND THE SAN FRANCISCO INTERNATIONAL AIRPORT ARE REFERENCED FROM RECORD OF SURVEY 2369, RECORDED IN VOLUME 38 OF L.L.S. PAGE 12-28, OFFICIAL RECORDS OF SAN MATEO COUNTY

LEGEND

- | | |
|--------|------------------------------|
| P.O.C. | POINT OF COMMENCEMENT |
| P.O.B. | POINT OF BEGINNING |
| | AIRPORT BOUNDARY LINE |
| | PLOT 2 BOUNDARY LINE |
| | CENTER LINE U.S. HIGHWAY 101 |
| | EASEMENT |



SFO
San Francisco International Airport

NO.	DATE	DESCRIPTION	BY

PLOT 2 - HOTEL SITE

EXHIBIT C1

LICENSED LAND SURVEYOR
BRADLEY KASCH LUKEN
 EXP. 12/31/15
 NO. 8680
 STATE OF CALIFORNIA

APPROVED: _____
 DEPUTY AIRPORT DIRECTOR

PRINCIPAL: _____

DRAWN BY: _____

DATE: 12 JUNE 2015

SCALE: 1" = 100'

SHEET NUMBER: _____

SEQUENCE NUMBER: _____ of _____

EXHIBIT D

ENVIRONMENTAL REQUIREMENTS APPLICABLE TO HOTEL*

Requirements	Compliance Description
	Transportation
1. Commuter Benefits Ordinance (San Francisco Environment Code, Section 421)	<p>Manager will be required to comply with the Tenant Trip Reduction Program ("TTRP") as adopted under Rule 10 of the Airport Commission's Rules and Regulations. The TTRP requires tenants (including lessees, permittees, and other occupiers of land or premises within the boundaries of the Airport) with more than 20 employees to participate in one or more of the following programs: (a) Pre-tax deductions for use of public transit; (b) Reimbursement for transit or vanpool costs in the form of Muni fast passes; and/or (c) Providing a shuttle to the nearest rail station from the Airport.</p> <p>Tenants are also required to periodically remind their employees of the available transit programs. All tenants at SFO are currently enrolled in this program.</p> <p>Project Phase: Hotel Operations</p>
2. Biodiesel for Municipal Fleets (Executive Directive 06-02)	<p>While not a requirement to the extent Manager purchases or leases any new diesel vehicles for use in connection with its operation of the Hotel, Owner would encourage use of a biodiesel blend.</p> <p>Project Phase: Hotel Operations</p>
3. Bicycle Parking in City-Owned and Leased Buildings (San Francisco Planning Code, Section 155.1)	<p>The Hotel would adhere to this Planning Code and provide the appropriate number of Class 1 and Class 2 bicycle parking stalls on-site.</p> <p>Project Phases: Hotel Design, Construction, and Operations</p>
4. Transportation Management Programs (San Francisco Planning Code, Section 163)	<p>Owner has a Transportation System Management ("TSM") program managed by the Owner's Landside Operations group, aimed at reducing the number of passenger and employee-generated, single-occupant vehicle ("SOV") trips to the Airport. On-site TSM is</p>

* These requirements are those identified by Owner in its environmental review process for the Hotel, and are not a complete or exhaustive list of the environmental requirements that may otherwise apply to the Hotel pursuant to Applicable Law.

also provided for employees and tenants. The TSM includes the Tenant Trip Reduction Program aimed at employees and tenant trips to the Airport.

The passenger component of the TSM primarily involves outreach programs aimed at educating passengers on the public transit options available to them to reduce SOV trips. Manager will be required to participate in Owner's TSM program.

Project Phase: Hotel Operations

LEED Design

5. Green Building Requirements for City Buildings: Indoor Water Use Reduction (San Francisco Environment Code, Chapter 7)

As a City-owned facility, the Hotel will be required to comply with Chapter 7 of the San Francisco Environment Code and achieve a minimum of 30% reduction in the use of indoor potable water, as calculated to meet and achieve LEED Credit WE3.2.

Project Phases: Hotel Design and Construction
6. Resource Efficiency and Green Building Ordinance (San Francisco Environment Code, Chapter 7)

The Hotel will be required to achieve the LEED Gold certification, and meet the requirements of the Commercial Water Conservation Ordinance.

Project Phases: Hotel Design and Construction
7. Green Building Requirements for City Buildings: Energy Efficient Lighting Retrofit Requirements (San Francisco Environment Code, Chapter 7)

These requirements (or those in the CCR Title 24, Part 6, or subsequent state standards, whichever are more stringent) shall apply in all cases except those in which a City department is not responsible for maintenance of light fixtures or exit signs.

Manager will be responsible for maintenance of light fixtures and exit signs at the Hotel (in compliance with Chapter 7 of the San Francisco Environment Code with respect to maintenance of light fixtures and exit signs).

Project Phase: Hotel Operations
8. Green Building Requirements for City Buildings: Energy Performance (San Francisco Environment Code, Chapter 7)

The Hotel will be required to comply with one of two options available to achieve LEED credit EA1.

Project Phases: Hotel Design and Construction
9. Green Building Requirements for City Buildings: Renewable Energy (San Francisco Environment Code, Chapter 7)

The LEED Project Administrator for the Hotel will be required to submit documentation verifying compliance with one of the two options (LEED credit A2 or LEED prerequisite EA1).

Project Phases: Hotel Design and Construction

10. Green Building requirements for City Buildings: Commissioning (San Francisco Environment Code, Chapter 7)
- The Hotel will be required achieve LEED credit EA3 and prerequisite EA1.
- Project Phases: Hotel Design and Construction

Waste Reduction

11. Resource Efficiency and Green Building Ordinance (San Francisco Environment Code, Chapter 7)
- The ordinance requires all City buildings to provide adequate recycling space. Manager will be required to provide adequate recycling space in the Hotel.
- Project Phases: Hotel Design, Construction, and Operations

12. Resource Conservation Ordinance (San Francisco Environment Code, Chapter 5)
- Manager will be required to divert solid waste to recycling in order to assist Owner in meeting its diversion goal. Manager will be required to sort and consolidate recyclable materials, which would then be further sorted off-site by the recycle collections vendor (contracted by Owner).

The Hotel will be required to comply with Chapter 5 of the San Francisco Environment Code. However, the paper-purchasing requirements under this ordinance are not applicable to the Hotel, as Manager would supply its own paper products.

Project Phase: Hotel Operations

13. Green Building Requirements for City Buildings: Recycling (San Francisco Environment Code, Chapter 7)
- Manager will be required to recycle used fluorescent and other mercury-containing lamps, batteries, cathode ray tubes, electronic equipment, and aerosol cans, etc., as required by the San Francisco Environment Code Chapter 7.

Project Phase: Hotel Operations

14. Mandatory Recycling and Composting Ordinance (San Francisco Environment Code, Chapter 19)
- Manager will be required to separate its refuse into recyclables, compostables, and trash.
- Project Phase: Hotel Operations

Environment/Conservation

15. Green Building Requirements for City Buildings: Enhanced Refrigerant Management (San Francisco Environment Code,
- The Hotel will be required to comply with the City's Environment Code regarding enhanced refrigerant management. Further, per CalGreen, the Hotel will be required to avoid CFCs in HVAC and refrigerating

- Chapter 7)
- equipment.
- Project Phase: Hotel Operations
16. Green Building Requirements for City Buildings: Low Emitting Materials (San Francisco Environment Code, Chapter 7)

The Hotel will be required to comply with Chapter 7 of the San Francisco Environment Code by achieving LEED credits EQ 4.1, 4.2, 4.3, and 4.4 for design and construction of new buildings, including submittal of documentation for verification of compliance. Owner will also try to achieve LEED Pilot Credit 2, if possible.

Project Phases: Hotel Design and Construction
 17. Stormwater Management Ordinance and Construction Pollution Prevention (San Francisco Environment Code, Chapter 7)

The Hotel will be required to comply and achieve LEED SS6.2 credit. As required for municipal projects, the Hotel will develop and implement construction activity pollution prevention and stormwater management controls to achieve the LEED prerequisite SSp1, or similar criteria adopted by the San Francisco Public Utilities Commission.

Project Phases: Hotel Design and Construction
 18. Tropical Hardwood and Virgin Redwood Ban (San Francisco Environment Code, Chapter 8)

As indicated in Exhibit B, the Hotel will comply with this ordinance, and would ban use of tropical hardwood and virgin redwood.

Project Phases: Hotel Design, Construction, and Operations
 19. Wood Burning Fireplace Ordinance (San Francisco Building Code, Chapter 31, Section 3102.8)

The Hotel will comply with this ordinance, as it will not include any wood burning fireplaces.

Project Phases: Hotel Design, Construction, and Operations
 20. Regulation of Diesel Backup Generators (San Francisco Health Code, Article 30)

The Hotel will include a back-up emergency diesel generator. The generator would be equipped with the best available control technologies as determined by the California Air Resource Board, or the Bay Area Air Quality Management District to reduce air emissions as required by San Francisco Health Code Article 30.

Project Phases: Hotel Design, Construction, and Operations

EXHIBIT E

OPERATING STANDARDS

The Operating Standards imposed upon Manager with respect to the Hotel, subject to the terms of the Agreement, are as follows (collectively, the “Operating Standards” and individually as an “Operating Standard”):

1. To cause the Hotel to be operated as a First-Class Hotel consistent with the standards for a four (4)-diamond AAA Rating as of the Execution Date;
2. To cause the Hotel to be operated in a manner consistent with the requirements and limitations set forth in this Agreement (including those relating to the applicable Operating Budget and the applicable Capital Budget);
3. To cause the Hotel to be operated at a level of quality and service equal to or better than that prevailing from time to time and applicable to the operation of Substantially All Other Grand Hyatt Hotels, including with the Brand Standards;
4. To cause the Hotel to be operated in accordance the Brand Standards;
5. To cause the Hotel to be operated in accordance the Hotel Environmental Requirements; and
6. To cause the Hotel to be operated, to the extent consistent with the clauses above, in a manner reasonably calculated to (A) protect and preserve the assets that comprise the Hotel; (B) maximize over the Term the profitability of the Hotel.

EXHIBIT F
CASH MANAGEMENT AGREEMENT
(ATTACHED)

CASH MANAGEMENT AND LOCKBOX AGREEMENT

among

**U.S. BANK NATIONAL ASSOCIATION,
as Depository Bank**

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee**

AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

and

HYATT CORPORATION

Relating to

**Airport Commission of the City and County of San Francisco
Special Facility Revenue Bonds
(San Francisco International Airport Hotel)
Series 201_**

Dated as of [DATE], 201_

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CASH MANAGEMENT AND LOCKBOX AGREEMENT

This CASH MANAGEMENT AND LOCKBOX AGREEMENT, dated as of [DATE], 201_ (this "Agreement"), among U.S. BANK NATIONAL ASSOCIATION, a national banking association (in such capacity, the "Depository Bank"), U.S. BANK NATIONAL ASSOCIATION, a national banking association, as trustee under the Trust Agreement (defined below) (in such capacity, the "Trustee"), AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the "Owner"), and HYATT CORPORATION (the "Manager");

RECITALS:

WHEREAS, Owner has determined to issue its \$[AMOUNT] aggregate principal amount of Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel) Series 201_ (the "Series 201_ Bonds" and together with any additional bonds issued under the Trust Agreement, the "Bonds") pursuant to that certain Trust Agreement, dated as of [DATE], 201_ (as amended or supplemented in accordance with the terms thereof, the "Trust Agreement") for the purpose of financing the acquisition, construction, equipping and furnishing of the Hotel (as defined in the Trust Agreement); and

WHEREAS, subject to the terms and conditions of the Trust Agreement, Owner will pledge under the Trust Agreement the Total Operating Revenues (as defined below) to the Trustee as security for the payment of the Bonds and performance by Owner of its other obligations under the Trust Agreement with respect to the Bonds, and has agreed, pursuant to the Trust Agreement, to establish a deposit account and a securities account with the Depository Bank and to cause such Total Operating Revenues (less the Petty Cash Amount) to be deposited in such deposit account, and has further pledged the Lockbox Fund (defined below) to the Trustee as security for the Bonds; and

WHEREAS, Owner has entered into a Hotel Management Agreement, dated as of [DATE], 2015 (as amended or supplemented in accordance with the terms thereof, the "Management Agreement"), with Manager, pursuant to which Manager has agreed to manage and operate the Hotel, subject to the terms and conditions hereof and thereof; and

WHEREAS, the aforementioned parties desire to establish the Lockbox Fund and the Investment Account (defined below), and to set forth the terms and conditions upon which the Total Operating Revenues will be deposited and maintained in, and withdrawn from, the Lockbox Fund, the Investment Account and certain other funds established under the Trust Agreement; and

WHEREAS, although certain provisions contained herein are also included in the Trust Agreement, the Depository Bank, the Trustee, Owner and Manager intend that Manager has contractual rights against the Depository Bank, the Trustee or Owner as provided herein if the Depository Bank, the Trustee or Owner violate, breach or otherwise default under the terms, conditions and provisions of this Agreement, and the terms, conditions and provisions of this Agreement are intended to be self-operative without reference to the Trust Agreement;

NOW THEREFORE, in consideration of the mutual premises recited above and contained herein and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Defined Terms. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Trust Agreement and by this reference are incorporated herein.

Section 2. Interpretation.

(a) The Table of Contents and captions to the Articles and Sections of this Agreement are for convenience of reference only and in no way define, limit, describe or affect the scope or intent of any part of this Agreement.

(b) Defined terms in this Agreement shall include in the singular number the plural and in the plural number the singular.

(c) Unless otherwise stated, any reference in this Agreement to any Person shall include its permitted successors and assigns and, in the case of any Governmental Authority, any Person succeeding to its functions and capacities.

(d) Unless otherwise expressly specified, any agreement, contract or document defined or referred to in this Agreement means such agreement, contract or document in the form (including all amendments, schedules, exhibits, appendices, attachments, clarification letters and the like relating thereto) as of its date of execution, and as the same may thereafter be amended, supplemented, replaced or otherwise modified from time to time in accordance with the terms hereof and thereof.

(e) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(f) The words "include," "includes" and "including" shall not be limiting, and shall be deemed in all instances to be followed by the phrase "without limitation."

(g) Any reference to a Section, Article or Exhibit is a reference to a Section, Article or Exhibit of this Agreement, unless otherwise specified.

(h) The phrase "and/or" means either or both of the items referenced thereby.

(i) References to "days" mean calendar days unless otherwise indicated.

(j) Unless the context clearly requires otherwise, the word "or" is not exclusive.

(k) Unless the language specifies or the context implies that a term of this Agreement is a condition, all of the terms of this Agreement shall be deemed and construed to be covenants to be performed by the designated Party.

(l) Unless expressly stated otherwise in this Agreement, whenever a matter is submitted to a Party for approval or consent in accordance with the terms of this Agreement, that Party has a duty to not unreasonably withhold, condition or delay such approval or consent.

Section 3. Establishment of Lockbox Fund and Investment Account.

(a) Lockbox Fund. The Trustee shall establish and maintain with the Depository Bank an interest bearing deposit account currently numbered _____ and titled "U.S. Bank National Association, as Trustee for Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds – Lockbox Fund" (as such deposit account may be renumbered or retitled, the "Lockbox Fund"). The Lockbox Fund shall be assigned the federal tax identification number of the City, which number is _____. All parties agree that the Lockbox Fund is a deposit account. The Trustee, the Depository Bank and Owner represent, warrant and covenant that the Lockbox Fund is not now, and will not at any time be, evidenced by a certificate of deposit, passbook or other similar instrument.

(b) Lockbox Investment Account. The Trustee shall establish and maintain with the Depository Bank a securities account currently numbered _____ and titled "U.S. Bank National Association, as Trustee for Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds – Lockbox Investment Account" (as such securities account may be renumbered or retitled, the "Investment Account"). The Investment Account shall be assigned the federal tax identification number of Owner.

(c) Preliminary Working Capital Account. Commencing on a date that is at least seven days prior to the Opening Date, the Trustee is required pursuant to Section 5.05(c) of the Trust Agreement to transfer from the Preliminary Working Capital Account of the Construction Fund into the Lockbox Fund, all amounts on deposit in the Preliminary Working Capital Account of the Construction Fund (which amount shall equal or be greater than the Working Capital Set Aside Amount) less the Petty Cash Amount upon receipt by the Trustee of a Written Request of Owner. At such time, Owner shall cause the Trustee to transfer the Petty Cash Amount to Manager. In addition, if required by Section 5.05(d) of the Trust Agreement, the Trustee shall transfer amounts in the Reservation Deposit Account of the Construction Fund to the Lockbox Fund. Such amounts shall be subject to disbursement and withdrawal for the purposes and in the manner set forth herein with respect to amounts held in the Lockbox Fund.

(d) Working Capital Reserve Fund. Prior to the Opening Date, Owner shall cause to be deposited to the Working Capital Reserve Fund the amount of \$2,500,000, and pursuant to of the Trust Agreement, the Trustee is required to deposit such amount to the Working Capital Reserve Fund. Thereafter, additional amounts shall be deposited into the Working Capital Reserve Fund in the manner set forth in the Trust Agreement. The funds in the Working Capital Reserve Fund shall be subject to disbursement and withdrawal for the purposes and manner set forth in the Trust Agreement and described below.

Section 4. Establishment of Clearing Bank Accounts and Provisions for Manager's Retention of Petty Cash. As part of the process of depositing all Total Operating Revenues into the Lockbox Fund, Manager may also establish one or more segregated deposit accounts (collectively, the "Clearing Bank Accounts") in order to obtain for the Hotel the most favorable terms available for settling electronic transactions effected with bank and non-bank credit cards or for other purposes customary in the upscale hotel industry; provided, however, that all Clearing Bank Accounts shall be "zero balance" accounts such that, at the end of each Business Day, all amounts contained therein (except for *de minimis* amounts) shall be automatically withdrawn and transferred to the Lockbox Fund, and except as provided in this Section, no other withdrawals from the Clearing Bank Accounts shall be permitted. Costs of maintaining such Clearing Bank Accounts shall be paid or credited as an Operating Expense. The Trustee and Owner acknowledge and agree that (a) Manager shall have the right to maintain customary and reasonable petty cash accounts at the Hotel and to fund those accounts in an amount or amounts aggregating not more than the Petty Cash Amount, (b) credit card processors will require the ability to access, debit for charge back purposes and offset the Clearing Bank Accounts set up for the purpose of handling credit card payments, and (c) Manager shall retain or receive directly from the Lockbox Fund all Excluded Taxes and Other Charges pursuant to Section 5.01(e) of the Trust Agreement (to the extent deposited with the Depository Bank).

Section 5. Deposit of Total Operating Revenues.

(a) Credit Card Companies. Manager shall immediately instruct each bank, corporation, processor or other entity (each, a "Credit Card Company") with which Manager has entered into a merchant's or other agreement with respect to the processing of charge card, debit card or comparable forms of payment that all receipts payable with respect to the Hotel, in accordance with such merchant's or other agreement or otherwise, shall be transferred when due by wire transfer or the ACH System for deposit in a Clearing Bank Account or the Lockbox Fund, notwithstanding contrary terms of any such merchant's or other agreement.

(b) Clearing Bank Accounts. Manager shall immediately instruct all Persons that now or hereafter maintain open accounts with Manager, or from whom Manager receives or will receive payment on an "accounts receivable" basis, the payments on which open accounts or accounts receivable constitute or will constitute Total Operating Revenues, to deliver all such payments when due under such accounts to Manager for deposit in a Clearing Bank Account or the Lockbox Fund whether in the form of checks, drafts, cash, money orders or any other type of payment whatsoever. Manager shall not direct any such Person to make payments due under such accounts in any other manner.

(c) Manager and Owner Deposits. Manager agrees to deposit promptly in the Lockbox Fund or a Clearing Bank Account any Total Operating Revenues it may receive directly or from any third party; provided, however, that Manager may retain the Petty Cash Amount on the Hotel premises and may retain Excluded Taxes and Other Charges as provided in Section 4 of this Agreement (which Excluded Taxes and Other Charges Manager shall pay as provided in the Management Agreement). Owner shall deposit promptly in the Lockbox Fund any Total Operating Revenues it may receive directly or from any third party.

(d) Prohibited Actions. Without the prior written consent of an Authorized Commission Representative, no party hereto shall (i) terminate, amend, revoke, modify or contradict any instruction letter delivered pursuant to Sections 5(a) and (b) above in any manner, or (ii) cause any tenant, debtor or Credit Card Company to pay any amount of Total Operating Revenues in any manner other than as provided specifically herein.

Section 6. Disbursements From the Lockbox Fund.

(a) Disbursements to Manager by Depository Bank. On and after the Opening Date, unless the Management Agreement has been terminated, the Depository Bank shall periodically disburse amounts deposited in the Lockbox Fund to Manager as periodically requested by Manager, pursuant to either check or draft drawn by Manager directly against such Lockbox Fund, or by written instructions provided by Manager to the Trustee specifying the amount to be transferred by the Trustee to Manager, for the payment of: (i) Operating Expenses, including the Base Management Fee, then due and owing; and (ii) any Excluded Taxes and Other Charges deposited to the Lockbox Fund; provided, that if a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement, any Operating Expenses not included in the Annual Plan shall be disbursed to Manager only with the prior written consent of an Authorized Commission Representative. The Base Management Fee then due and owing shall be paid out on the first Business Day of each month immediately prior to any other disbursements, including the disbursements to the Trustee as provided in Section 6(b) below and any Excluded Taxes and Other Charges deposited to the Lockbox Fund.

(b) Disbursements to the Trustee by Depository Bank. On the first Business Day of each month, the Trustee will withdraw all amounts in the Lockbox Fund in excess of Working Capital Set-Aside Amount for deposit into the Revenue Fund pursuant to Sections 5.01(d) and 5.07 of the Trust Agreement, provided, however, that such withdrawal by the Trustee will not be made prior to the disbursement of Operating Expenses in accordance with the provisions of Section 6(a) above.

(c) Investments. Amounts held in the Lockbox Fund shall be invested by the Depository Bank in Investment Securities as directed by a Letter of Instructions. In the absence of such directions, the Trustee shall hold such amounts uninvested. Any Investment Security purchased pursuant to this paragraph shall be a financial asset and shall be credited by the Depository Bank to the Investment Account. All interest or gain derived from any such Investment Security shall be deposited in the Lockbox Fund. All other proceeds of any such Investment Security shall be deposited in the Lockbox Fund, whether upon maturity or disposition. Any Investment Security purchased pursuant to this paragraph shall mature at such time as will permit funds to be available to make the transfers required by Sections 6(a) and (b).

Section 7. Other Funds Held by Trustee and Manager's Rights to Disbursements. Pursuant to the Trust Agreement, the Trustee has established and maintains certain Funds and Accounts (each as defined below) into which the Trustee will deposit (a) the Available Revenues in accordance with Section 5(b) above, and (b) any other funds constituting Total Operating

Revenues received from Owner, Manager or any other Person. Manager has requested that the Trustee and Owner enter into this Agreement for the purpose of paying Operating Expenses (including the Base Management Fee), costs of FF&E, Capital Expenses and other expenses for which Sufficient Funds are available as provided under the Management Agreement. Manager's right to seek disbursements from the Trustee, the Trustee's obligations to make such disbursements and the terms and conditions under which such disbursements are to be made are set forth in the Trust Agreement and the Management Agreement, which provisions are reproduced in the following subparagraphs (provided, however, that to the extent that there is an inconsistency between the following terms and conditions and the terms and conditions of the Trust Agreement, the terms and conditions of the Trust Agreement shall govern and control):

(a) Taxes and Insurance Fund. Pursuant to the Trust Agreement, the Trustee has established or will establish a reserve for the payment of Taxes and insurance premiums (the "Taxes and Insurance Fund") into which the Trustee shall deposit a portion of the Available Revenues in an amount equal to the Taxes and Insurance Set Aside Amount. Unless the Management Agreement has been terminated, the Trustee is required under the terms of the Trust Agreement to make disbursements as directed by a Request of Manager, in substantially the form attached to the Trust Agreement as Exhibit E, to pay all Taxes (including personal property taxes) and insurance premiums that become due and payable with respect to the ownership and operation of the Hotel as set forth in Section 5.08 of the Trust Agreement.

(b) Working Capital Reserve Fund. Pursuant to the Trust Agreement, the Trustee has established or will establish the Working Capital Reserve Fund into which the Trustee will deposit a portion of the Available Revenues (after funding the deposits required by Section 5.07(a) *First* through *Seventh* of the Trust Agreement) until the Working Capital Reserve Requirement has been met and thereafter maintained. Unless the Management Agreement has been terminated, the Trustee is required under the terms of the Trust Agreement to make disbursements from the Working Capital Reserve Fund to Manager as directed by a Request of Manager (and consented to by an Authorized Commission Representative in writing if payment of such amount would require the consent of an Authorized Commission Representative under the Management Agreement) in substantially the form attached to the Trust Agreement as Exhibit F to pay for Operating Expenses, Capital Expenses, other expenses and items expressly provided for in the Management Agreement and/or other expenses which, if not included in the Annual Plan, shall be approved in writing by an Authorized Commission Representative and the Asset Manager, at any time during which such expenses exceed Total Operating Revenue for such month plus the amount otherwise available to pay such expenses in the Lockbox Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Revenue Stabilization Fund (to the extent amounts in such Funds are authorized to be used for such expenses) all in accordance with Section 5.15(b) of the Trust Agreement. In addition, unless the Management Agreement has been terminated, the Trustee is required under the terms of the Trust Agreement to apply amounts on deposit in the Working Capital Reserve Fund for repair or replacement of the Hotel in the event of casualty damage or for the payment of amounts reasonably determined by Manager as are required to be made to protect life, health or property from imminent danger or to comply with Applicable Laws, at any time during which such expenses exceed Total Operating

Revenue for such month plus the amount otherwise available in the Lockbox Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Revenue Stabilization Fund to pay such expenses (to the extent amounts in such Funds are authorized to be used for such expenses).

(c) FF&E Reserve Fund and Capital Reserve Fund. Pursuant to the Trust Agreement, the Trustee has established or will establish one or more reserves for renewal and replacement of FF&E and/or Capital Expenses (the "FF&E Reserve Fund" and the "Capital Reserve Fund") into which FF&E Reserve Fund and Capital Reserve Fund the Trustee is required to deposit a portion of the Available Revenues (after funding the deposits required by Section 5.07(a) *First* through *Second* of the Trust Agreement with respect to the FF&E Reserve Fund and the deposits required by Section 5.07(a) *First* through *Eighth* of the Trust Agreement with respect to Capital Reserve Fund) in amount equals to the FF&E Set Aside Amount and the Capital Reserve Set Aside Amount, respectively. Unless an Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Management Agreement has been terminated, the Trustee is required under the terms of the Trust Agreement to make disbursements as directed by a Request of Manager in substantially the form attached to the Trust Agreement as Exhibit G (for the FF&E Reserve Fund) and Exhibit H (for the Capital Reserve Fund) of funds deposited in the FF&E Reserve Fund and Capital Reserve Fund for purpose of paying for (i) FF&E and Capital Expenses included within the Capital Budget or otherwise expressly authorized by the HMA, (ii) if funds in the Revenue Stabilization Fund are insufficient to make such payments, amounts reasonably determined by Manager to be required to be made to protect life, health or property from imminent danger or to comply with Applicable Laws, all in accordance with Section 5.16 (for the FF&E Reserve Fund) and Section 5.17 (for the Capital Reserve Fund) of the Trust Agreement, and (iii) with the prior written consent of the Asset Manager and an Authorized Commission Representative, FF&E and Capital Expenses not included in the Capital Budget. If a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement, the Trustee is required under the terms of the Trust Agreement to make disbursements as directed by a Request of Manager (with the prior written consent of an Authorized Commission Representative and the Asset Manager) in writing in substantially the form attached to the Trust Agreement as Exhibit G (for the FF&E Reserve Fund) and Exhibit H (for the Capital Reserve Fund) for the purposes and in the manner described in the immediately preceding sentence and in addition Manager shall provide a weekly report summarizing all amounts paid out of the FF&E Reserve Fund and Capital Reserve Fund during each week to the Trustee and Owner.

(d) Revenue Stabilization Fund. Pursuant to the Trust Agreement, the Trustee has established the Revenue Stabilization Fund into which the Trustee will deposit a portion of the Available Revenues (after funding the deposits required by Section 5.07(a) *First* through *Tenth* of the Trust Agreement). Unless the Management Agreement has been terminated, the Trustee is required under the terms of the Trust Agreement to make disbursements from the Revenue Stabilization Fund as directed by a Request of Manager in substantially the form attached to the Trust Agreement as Exhibit I: (i) to pay amounts reasonably determined by Manager as required to protect life, health or property from

imminent danger or to comply with Applicable Laws; (ii) not less than three Business Days after such request, to pay for Operating Expenses, Capital Expenses within the Capital Budget, Taxes and Insurance Costs, or any other expenses requested by Manager with prior written notice to Owner and the Asset Manager, at any time during which such Operating Expenses, Capital Expenses or other expenses exceed the Total Operating Revenue for such month plus the amount otherwise available in the Lockbox Fund, the FF&E Reserve Fund and Capital Reserve Fund (to the extent amounts in such Funds are authorized to be used for such expenses and items); and (iii) for such other purposes as set forth in, and in accordance with the requirements of, Section 5.18 of the Trust Agreement with respect to the Revenue Stabilization Fund; provided that if the payment of such Operating Expenses, Capital Expenses or other expenses is not authorized under the Management Agreement or require the consent or approval of Authorized Commission Representative under the Management Agreement or hereunder, such Request shall be conditioned upon approval by an Authorized Commission Representative and the Asset Manager.

(e) Statements. The Trustee shall provide Owner and Manager with a monthly statement of the amounts available in the Funds and Accounts.

Section 8. Deposit Account Agreement; Fees.

(a) The parties agree to the terms and conditions of the Depository Bank's Deposit Account Agreements, the current forms of which is attached hereto and incorporated herein by this reference as Exhibit B, as such terms and conditions may hereafter be changed from time to time.

(b) Owner agrees to pay the fees of the Depository Bank in accordance with the customary fees charged by the Depository Bank for the services described herein, as such fees are established from time to time.

Section 9. Termination of Depository Bank. Owner may replace the Depository Bank with a new Depository Bank reasonably acceptable to the Trustee and Manager upon five Business Days' notice to the other parties to this Agreement. Manager and the Trustee hereby each agree to take all reasonable action necessary to facilitate the transfer of the obligations, duties and rights of the Depository Bank to the successor thereof selected by Owner in its reasonable discretion. In the event of termination of the Depository Bank, the parties agree to establish a new Lockbox Fund, Investment Account and Clearing Bank Accounts (if such Clearing Bank Accounts are maintained with the Depository Bank) with a successor Depository Bank, and amend this Agreement to the extent necessary. No existing Depository Bank may resign or be replaced unless and until an eligible successor Depository Bank has assumed the obligations of the Depository Bank hereunder in writing.

Section 10. Trustee Control; Depository Bank.

(a) Trustee Control. The Lockbox Fund and the Investment Account shall be subject to the sole and exclusive dominion, control and discretion of the Trustee, subject to the terms, covenants and conditions of this Agreement.

(b) No Owner Withdrawals. Except as provided in the last sentence of Section 11, Owner shall not have any right or authority to make use of, or withdraw or transfer, any money, security entitlements, or other property on deposit in or credited to the Lockbox Fund or the Investment Account, or to give any instructions or entitlement orders with respect to the Lockbox Fund or the Investment Account, or any money, security entitlements, or other property on deposit therein or credited thereto.

(c) Depository Bank Compliance with Instructions. Notwithstanding any other provision of this Agreement, the Depository Bank agrees that it will comply with the instructions of the Trustee directing disposition of funds in the Lockbox Fund without further consent by Owner or any other person or entity. The Depository Bank and the Trustee shall comply with the instructions of Manager in accordance with the terms of this Agreement. The Depository Bank represents and covenants that it has not and will not agree with any person or entity other than the Trustee to comply with instructions or other directions concerning the Lockbox Fund or the disposition of funds on deposit therein originated by any Person other than the Trustee.

(d) Depository Bank Compliance with Entitlement Orders. Notwithstanding any other provision of this Agreement, the Depository Bank agrees that it will comply with entitlement orders originated by the Trustee without further consent by Owner or any other person or entity. The Depository Bank represents and covenants that it has not and will not agree with any person or entity other than the Trustee that it will comply with entitlement orders originated by any person or entity other than the Trustee.

(e) Depository Bank Representations and Agreements. The Depository Bank represents and warrants that it is as of the date hereof and shall be for so long as it is the Depository Bank hereunder, a corporation or national bank that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity hereunder with respect to the Investment Account. The Depository Bank agrees with the parties hereto that the Investment Account is an account to which financial assets may be credited. The Depository Bank agrees with the parties hereto that each item of property credited to the Investment Account shall be treated as a financial asset. The Depository Bank represents and covenants that it is not and will not be a party to any agreement that limits, conditions, or conflicts with the provisions of this Agreement. The Depository Bank covenants that it will not take any action inconsistent with the provisions of this Agreement applicable to it. The Depository Bank represents and covenants that it has not entered and will not enter into any agreement with Owner relating to the Lockbox Fund or the Investment Account other than this Agreement.

(f) Subordination. The Depository Bank hereby subordinates all security interests, encumbrances, claims and rights of setoff it may have, now or in the future, against the Lockbox Fund or the Investment Account, or any money, security entitlements, or other property on deposit therein or credited thereto, other than in connection with the payment of the Depository Bank's customary fees and charges and for the reversal of provisional credits.

(g) Notice of Liens. Upon receipt of written notice of any lien, encumbrance, or adverse claim against the Lockbox Fund or the Investment Account, or any money, security entitlements, or other property on deposit therein or credited thereto, the Depository Bank will make reasonable efforts promptly to notify Owner and Trustee thereof.

(h) Limitation on Liability. The duties of Depository Bank are strictly limited to those set forth in this Agreement and Depository Bank is not acting as a fiduciary for any party to this Agreement. Depository Bank shall be protected in relying on any form of instruction, notice, or other communication purporting to be from an authorized representative of Owner or the Trustee, which Depository Bank, in good faith, believes to be genuine and what it purports to be. Depository Bank shall have no duty to inquire as to the genuineness, validity or enforceability of any such instruction, notice or communication. The Lockbox Fund Account and all actions and undertakings by Depository Bank shall be subject to all rules and regulations relating to the Lockbox Fund and to applicable law. The Depository Bank shall have no responsibility or liability to Owner, the Trustee, Manager or any other Person or entity for complying with (i) any instructions concerning the Lockbox Fund originated by the Trustee or Manager, and (ii) any entitlement order concerning the Investment Account or any security entitlement credited thereto originated by the Trustee, and shall have no responsibility to investigate the appropriateness of any such instructions or entitlement order, even if Owner notifies the Depository Bank that the Trustee is not legally entitled to originate any such instructions or entitlement order.

(i) Monthly Statements. The Depository Bank shall use its commercially reasonable best efforts to furnish to the Trustee, Owner, and Manager a monthly statement within 10 days after the end of each month covering receipts, disbursements, allocation and application of amounts on deposit in the Lockbox Fund and the Investment Account for such month. The Trustee shall have no duty to review any statements furnished to it by the Depository Bank.

Section 11. Covenants of Owner, Manager and Trustee.

(a) Manager hereby covenants that it will withdraw amounts from the Lockbox Fund for the sole purpose of paying Operating Expenses (including the Base Management Fee).

(b) The Trustee hereby expressly acknowledges and agrees that Manager shall be authorized to pay the Base Management Fee directly to Manager each month or otherwise when due as provided in Section 6(a) hereof.

(c) Owner hereby irrevocably appoints the Trustee as its attorney-in-fact (coupled with an interest) with full authority after an Event of Default under the Management Agreement to take any or all actions in the name of Owner which Owner is permitted to take under this Agreement.

(d) The Trustee agrees with Manager to instruct the Depository Bank in accordance with the provisions of the Trust Agreement.

Section 12. Remedies of Trustee. After an Event of Default under the Trust Agreement shall have occurred and be continuing, the Depository Bank shall follow the instructions and entitlement orders given by the Trustee; provided, however, that the Trustee shall continue to be bound by the Trust Agreement and this Agreement. Notwithstanding anything contained herein to the contrary, as set forth in Section 5.20(a) of the Trust Agreement, so long as the Management Agreement has not expired or been terminated, Manager shall continue to be entitled to Request and receive funds as provided in Sections 6 and 7 of this Agreement and in Article V of the Trust Agreement even upon the occurrence and during the continuance of an Event of Default under the Management Agreement, the breach of any provision of the Trust Agreement, or the occurrence of any event or condition which with the giving of notice, the passage of time, or both, would constitute an Event of Default under the Management Agreement. Notwithstanding anything contained herein to the contrary, the Trustee and Manager agree that so long as the Management Agreement has not expired or terminated, the exercise of the rights and remedies by the Trustee and the Bondholders under the Trust Agreement shall not affect the rights of Manager to access funds as set forth in Article V of the Trust Agreement, Sections 6 and 7 of this Agreement, and Article III of the Management Agreement. If the Management Agreement has expired or been terminated and a new Management Agreement has not been entered into, until a replacement Manager has entered into a Management Agreement with Owner, Owner shall be entitled to submit Requests and receive funds as described in Article V of the Trust Agreement and as described herein as if Owner was Manager.

Section 13. Successors and Assigns; Assignments.

(e) This Agreement shall bind and inure to the benefit of and be enforceable by the Trustee, Owner and, so long as the Management Agreement or any successor agreement with Manager is in effect, Manager, and their respective successors and assigns.

(f) Owner shall not have the right to assign its rights and obligations under this Agreement to any person.

(g) Any successor Trustee under the Trust Agreement shall automatically become a party to this Agreement without the execution or filing of any paper or the performance of any further act.

(h) Upon termination of the Management Agreement, Manager shall assign its rights and delegate its obligations hereunder to any successor manager of the Hotel which Owner has caused to assume in writing such rights and obligations and may, with the written consent of the Trustee, assign its rights and delegate its obligations hereunder to any other person.

Section 14. Term. This Agreement shall terminate ten (10) years from its dated date (the "Expiration Date"); provided, that Owner shall have the option to extend this Agreement for

an additional ten (10) years, with the assent of the other parties to this Agreement, by providing written notice of its intention to do so to the other parties to this Agreement at least one hundred twenty (120) days prior to the Expiration Date. Unless a party provides written notice to Owner and the other parties of its rejection of such extension at least sixty (90) days prior to such Expiration Date, the Expiration Date shall be deemed to be extended for an additional ten (10) years.

Section 15. Termination of Agreement. This Agreement may be terminated by Depository Bank upon ninety (90) days prior written notice to all parties. Notwithstanding any other provision of this Agreement, Manager's rights and obligations under this Agreement shall terminate upon termination of the Management Agreement and any successor agreement with Manager with respect to the management of the Hotel; provided, that Manager shall be entitled to all amounts then due and owing to it under the Management Agreement in the manner and to the extent described in the Management Agreement.

Section 16. Amendments. This Agreement may be amended from time to time upon the written agreement of all parties hereto.

Section 17. Notices. Notices to the Trustee, the Depository Bank, Owner and Manager shall be deemed given if sent in accordance with the Trust Agreement or the Management Agreement, as applicable.

Section 18. Owner Contracting Provisions. The Trustee and the Depository Bank each agrees to observe and perform the covenants set forth in Exhibit A hereto, which are incorporated herein by this reference.

Section 19. Governing Law; Venue; Jurisdiction. This Agreement and all disputes relating to the performance or interpretation of any term of this Agreement shall be construed under and governed by the laws of the State of California. To the extent permitted by law, each party hereto hereby irrevocably:

(i) consents to any suit, action or proceeding with respect to this Agreement being brought in any state or federal court of competent jurisdiction located in a judicial district which includes the City;

(j) waives any objection that it may have now or hereafter to the venue of any such suit, action or proceeding in any such court and any claim that any of the foregoing have been brought in an inconvenient forum;

(k) (i) acknowledges the competence of any such court; (ii) submits to the jurisdiction of any such court in any such suit, action or proceeding; and (iii) agrees that the final judgment in any such suit, action or proceeding brought in any such court shall be conclusive and binding upon it and may be enforced in any court to the jurisdiction of which it is or may be subject by a suit upon such judgment, a certified copy of which shall be conclusive evidence of its liability;

(l) submits to the non-exclusive jurisdiction of the federal courts in the City,
and

(m) with the exception of the Trustee and Depository Bank, agrees that service of process in any suit, action or proceeding may be made upon each parties' registered agent, together with a copy to each address set forth herein, or such other address of which each party shall have given by written notice to the other parties and agrees that such service shall in every respect be deemed to be effective service upon it in any suit, action or proceeding and shall be taken and held to be valid personal service upon or personal delivery to it, to the fullest extent permitted by law.

Section 20. Conditions Precedents. The Trustee's and Owner's compliance with the provisions of this Agreement permitting Manager to access funds as set forth herein is a condition precedent to the obligations of Manager under the Management Agreement.

Section 21. Inconsistencies with Management Agreement and Trust Agreement. Owner, Manager and the Trustee hereby agree that any inconsistencies between this Agreement and the Management Agreement or Trust Agreement shall be governed and controlled by the Trust Agreement; provided, however, the terms, conditions and provisions of this Agreement shall be self-operative without reference to the Trust Agreement except as specifically provided for herein and to the extent such provisions are not inconsistent with the terms, conditions and provisions of the Trust Agreement, and no Event of Default [with respect to the Bonds] or the occurrence of any event or condition which with the giving of notice, the passage of time or both would constitute an Event of Default [with respect to the Bonds], shall impair, restrict or otherwise affect Manager's rights under this Agreement or the obligations, duties or liabilities of the Trustee or Owner under this Agreement.

Section 22. Certification of Funds; Budget and Fiscal Provisions. This Agreement is subject to the budget and fiscal provisions of the City's Charter. Payment and performance obligations for each Fiscal Year during the Term therefore are subject to the appropriation of funds for the Agreement. City budget decisions are subject to the discretion of the Mayor and the Board of Supervisors of the City. This Agreement shall not become effective until the City Controller has certified that amounts are or are expected to be available to satisfy Owner's payment obligations under this Agreement. Owner's payment obligations hereunder shall not at any time exceed the amount so certified by the City Controller. Except as may be provided by laws governing emergency procedures, officers and employees of Owner are not authorized to request, and Owner is not required to reimburse Manager for, commodities or services beyond the scope of this Agreement unless the change in scope is authorized by amendment and approved as required by Applicable Law. Officers and employees of Owner are not authorized to offer or promise, nor is Owner required to honor, any offered or promised additional funding in excess of the maximum amount of funding for which the Agreement is certified without certification of the additional amount by the City Controller.

Section 23. Third Party Beneficiary to Trust Agreement. The Trustee and Owner acknowledge and agree that Manager will directly and indirectly benefit from the Trust Agreement. Notwithstanding anything to the contrary, the Trustee and Owner further acknowledge and agree that as a material inducement to Manager's agreement to enter into this Agreement and the Management Agreement, it shall be deemed a third-party beneficiary of the Trust Agreement to the extent set forth in Section 12.05 of the Trust Agreement and, as such, the

Trust Agreement shall be for the additional benefit of Manager to the extent set forth in Section 12.05 of the Trust Agreement.

Section 24. No Personal Liability. Owner, Manager, the Trustee and the Depository Bank and their respective officers, directors, board members, commissioners, employees, agents or representatives shall not have any personal liability for the payment of any amounts under this Agreement, the breach of any duties, obligations, covenants, agreements, responsibilities, or the representations and warranties contained in this Agreement.

Section 25. Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which shall constitute but one and the same instrument.

Section 26. Severability. If a court of competent jurisdiction determines that any term of this Agreement is invalid or unenforceable to any extent under applicable law, the remainder of this Agreement (and the application of this Agreement to other circumstances) shall not be affected thereby, and each remaining term shall be valid and enforceable to the fullest extent permitted by law.

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

DEPOSITORY BANK:

U.S. BANK NATIONAL ASSOCIATION,
as Depository Bank

By: _____
Name: _____
Title: _____

TRUSTEE:

U.S. BANK NATIONAL ASSOCIATION, as
Trustee

By: _____
Name: _____
Title: _____

OWNER:

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By: _____
Name: _____
Title: _____

Approved as to form:
DENNIS J. HERRERA
City Attorney

By _____
Deputy City Attorney

MANAGER:

HYATT CORPORATION

By: _____

Name: _____

Title: _____

EXHIBIT A

MANDATORY CONTRACTING PROVISIONS

1. Nondiscrimination; Penalties

a. Trustee/Depository Bank Shall Not Discriminate

In the performance of this Agreement, Trustee/Depository Bank agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status, or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts

Trustee/Depository Bank shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing), and shall require all subcontractors to comply with such provisions. Trustee/Depository Bank's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. Nondiscrimination in Benefits

Trustee/Depository Bank does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract

As a condition to this Agreement, Trustee/Depository Bank shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form CMD-12B-101 with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division.

e. **Incorporation of Administrative Code Provisions by Reference**

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this section by reference and made a part of this Agreement as though fully set forth herein. Trustee/Depository Bank shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Trustee/Depository Bank understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Trustee/Depository Bank and/or deducted from any payments due Trustee/Depository Bank.

2. Requiring Minimum Compensation for Covered Employees

- a. Trustee/Depository Bank agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (“MCO”), as set forth in San Francisco Administrative Code Chapter 12P (“Chapter 12P”), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the Internet at www.sfgov.org/olse/mco . A partial listing of some of Trustee/Depository Bank's obligations under the MCO is set forth in this section. Trustee/Depository Bank is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this section.
- b. The MCO requires Trustee/Depository Bank to pay Trustee/Depository Bank's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Trustee/Depository Bank is obligated to keep informed of the then-current requirements. Any subcontract entered into by Trustee/Depository Bank shall require the subcontractor to comply with the requirements of the MCO, and shall contain contractual obligations substantially the same as those set forth in this section. It is Trustee/Depository Bank's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this section against Trustee/Depository Bank.
- c. Trustee/Depository Bank shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be reputably presumed to be retaliation-prohibited by the MCO.
- d. Trustee/Depository Bank shall maintain employee and payroll records as required by the MCO. If Trustee/Depository Bank fails to do so, it shall be presumed that Trustee/Depository Bank paid no more than the minimum wage required under state law.

- e. The City is authorized to inspect Trustee/Depository Bank's job sites and conduct interviews with employees and conduct audits of Trustee/Depository Bank.
- f. Trustee/Depository Bank's commitment to provide the minimum compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if Trustee/Depository Bank fails to comply with these requirements. Trustee/Depository Bank agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Trustee/Depository Bank's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.
- g. Trustee/Depository Bank understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of this Agreement, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Trustee/Depository Bank fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Trustee/Depository Bank fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.
- h. Trustee/Depository Bank represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.
- i. If Trustee/Depository Bank is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Trustee/Depository Bank later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Trustee/Depository Bank shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Trustee/Depository Bank and this department to exceed \$25,000 in the fiscal year.

3. Requiring Health Benefits for Covered Employees

Trustee/Depository Bank agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance ("HCAO"), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the Internet at www.sfgov.org/olse . Capitalized terms used in

this section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

- a. For each Covered Employee, Trustee/Depository Bank shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Trustee/Depository Bank chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.
- b. Notwithstanding the above, if Trustee/Depository Bank is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.
- c. Trustee/Depository Bank's failure to comply with the HCAO shall constitute a material breach of this Agreement. City shall notify Trustee/Depository Bank if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Trustee/Depository Bank fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Trustee/Depository Bank fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.
- d. Any Subcontract entered into by Trustee/Depository Bank shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this section. Trustee/Depository Bank shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Trustee/Depository Bank shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this section against Trustee/Depository Bank based on the Subcontractor's failure to comply, provided that City has first provided Trustee/Depository Bank with notice and an opportunity to obtain a cure of the violation.
- e. Trustee/Depository Bank shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Trustee/Depository Bank's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.
- f. Trustee/Depository Bank represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.

- g. Trustee/Depository Bank shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on this Agreement.
- h. Trustee/Depository Bank shall keep itself informed of the current requirements of the HCAO.
- i. Trustee/Depository Bank shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.
- j. Trustee/Depository Bank shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten (10) business days to respond.
- k. Trustee/Depository Bank shall allow City to inspect Trustee/Depository Bank's job sites and have access to Trustee/Depository Bank's employees in order to monitor and determine compliance with HCAO.
- l. City may conduct random audits of Trustee/Depository Bank to ascertain its compliance with HCAO. Trustee/Depository Bank agrees to cooperate with City when it conducts such audits.
- m. If Trustee/Depository Bank is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000, but Trustee/Depository Bank later enters into an agreement or agreements that cause Trustee/Depository Bank's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Trustee/Depository Bank and the City to be equal to or greater than \$75,000 in the fiscal year.

5. Conflict of Interest

Through its execution of this Agreement, Trustee/Depository Bank acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

6. Owner Intellectual Property

Pursuant to Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with Owner at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any

intellectual property confusingly similar to Owner intellectual property, without the Airport Director's prior consent.

7. Protection of Private Information

Trustee/Depository Bank has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Trustee/Depository Bank agrees that any failure of Trustee/Depository Bank to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Agreement, bring a false claim action against Trustee/Depository Bank pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar Trustee/Depository Bank.

8. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor, or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the Internet at:

[http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1) .

A contractor, subcontractor, or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, or consultant: (a) Knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) Conspires to defraud the City by getting a false claim allowed or paid by the City; (d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) Is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. MacBride Principles—Northern Ireland

Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this Agreement on behalf of Trustee/Depository Bank acknowledges and agrees that he or she has read and understood this section.

10. Prohibition on Political Activity with City Funds

In accordance with San Francisco Administrative Code Chapter 12.G, Trustee/Depository Bank may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, “**Political Activity**”) in the performance of the services provided under this Agreement. Trustee/Depository Bank agrees to comply with San Francisco Administrative Code Chapter 12.G, and any implementing rules and regulations promulgated by the City’s Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Trustee/Depository Bank violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) Terminate this Agreement, and (ii) Prohibit Trustee/Depository Bank from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Trustee/Depository Bank’s use of profit as a violation of this section.

11. Tropical Hardwood and Virgin Redwood Ban

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

12. Preservative-treated Wood Containing Arsenic

Trustee/Depository Bank may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term “preservative-treated wood containing arsenic” shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative.

Trustee/Depository Bank may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Trustee/Depository Bank from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” shall mean a pressure-treated wood that is used for construction purposes, or facilities that are partially or totally immersed in saltwater.

13. Compliance with Americans with Disabilities Act

Trustee/Depository Bank acknowledges that, pursuant to the Americans with Disabilities Act (“**ADA**”), programs, services, and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Trustee/Depository Bank shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state, and local disability rights legislation. Trustee/Depository Bank agrees not to discriminate against disabled persons in the

provision of services, benefits, or an activity provided under this Agreement, and further agrees that any violation of this prohibition on the part of Trustee/Depository Bank, its employees, agents, or assigns will constitute a material breach of this Agreement.

14. Sunshine Ordinance

In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations, and all other records of communications between City and persons or companies seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

15. Limitations on Contributions

Through execution of this Agreement, Trustee/Depository Bank acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies, or equipment, for the sale or lease of any land or building, or for a grant, loan, or loan guarantee, from making any campaign contribution to (1) An individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) A candidate for the office held by such individual, or (3) A committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved.

Trustee/Depository Bank acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Trustee/Depository Bank further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Trustee/Depository Bank's board of directors; Trustee/Depository Bank's chairperson, chief executive officer, chief financial officer, and chief operating officer; any person with an ownership interest of more than 20% in Trustee/Depository Bank; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Trustee/Depository Bank.

Additionally, Trustee/Depository Bank acknowledges that Trustee/Depository Bank must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Trustee/Depository Bank further agrees to provide to City the names of each person, entity, or committee described above.

16. Drug-Free Workplace Policy

Trustee/Depository Bank acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Trustee/Depository Bank agrees that any violation of this prohibition by Trustee/Depository Bank, its employees, agents, or assigns will be deemed a material breach of this Agreement.

17. Resource Conservation

Chapter 5 of the San Francisco Environment Code (“**Resource Conservation**”) is incorporated herein by reference. Failure by Trustee/Depository Bank to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

18. Proprietary or Confidential Information of City

Trustee/Depository Bank understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Trustee/Depository Bank may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Trustee/Depository Bank agrees that all information disclosed by City to Trustee/Depository Bank shall be held in confidence and used only in performance of this Agreement. Trustee/Depository Bank shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

19. Ownership of Results

Any interest of Trustee/Depository Bank or its subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files, and media, or other documents prepared by Trustee/Depository Bank or its subcontractors in connection with services to be performed under this Agreement, shall become the property of and will be transmitted to City. However, Trustee/Depository Bank may retain and use copies for reference and as documentation of its experience and capabilities.

20. Audit and Inspection of Records

Trustee/Depository Bank agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Trustee/Depository Bank will permit City to audit, examine, and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records, or personnel, and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Trustee/Depository Bank shall maintain such data and records in an accessible location and condition for a period of not less than five (5) years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this section.

21. Subcontracting

Trustee/Depository Bank is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

22. Food Service Waste Reduction Requirements

Trustee/Depository Bank agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement.

By entering into this Agreement, Trustee/Depository Bank agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Trustee/Depository Bank agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Trustee/Depository Bank's failure to comply with this provision.

23. Consideration of Criminal History in Hiring and Employment Decisions

- a. Trustee/Depository Bank agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at:

http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:sanfrancisco_ca

A partial listing of some of Trustee/Depository Bank's obligations under Chapter 12T is set forth in this Section. Trustee/Depository Bank is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

- b. The requirements of Chapter 12T shall only apply to Trustee/Depository Bank's or Subcontractor's operations to the extent those operations are in furtherance of the

performance of this Agreement, and shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, whose employment is or would be in whole or in substantial part physically located in the City and County of San Francisco, which excludes Airport property.

- c. Applicants or employees who would be or are performing work in furtherance of this Agreement may be required to be screened by the U.S. Department of Homeland Security for security badging. A rejection by the U.S. Department of Homeland Security of an applicant's or employee's security badging application, and the resulting inability of Trustee/Depository Bank to hire the applicant or assign the employee to perform services under this Agreement, shall not be considered an Adverse Action under Chapter 12T.
- d. Trustee/Depository Bank shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Trustee/Depository Bank's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.
- e. Trustee/Depository Bank or Subcontractor shall not inquire about, require disclosure of, or if such information is received, base an Adverse Action on an applicant's or potential applicant for employment or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.
- f. Trustee/Depository Bank or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (e), above. Trustee/Depository Bank or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.
- g. Trustee/Depository Bank or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement that Trustee/Depository Bank or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.
- h. Trustee/Depository Bank and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under Trustee/Depository Bank or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese,

and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.

- i. Trustee/Depository Bank understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

EXHIBIT B
DEPOSITORY ACCOUNT AGREEMENTS

EXHIBIT G
TRUST AGREEMENT
(ATTACHED)

TRUST AGREEMENT

by and between

AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO

and

**U.S. BANK NATIONAL ASSOCIATION,
as Trustee**

Relating to the

**Airport Commission of the City and County of San Francisco
Special Facility Revenue Bonds
(San Francisco International Airport Hotel),
Series 201_**

Dated as of [DATE], 201_

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TRUST AGREEMENT

This TRUST AGREEMENT, dated as of [DATE], 201_ (this "Trust Agreement"), between the AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO (the "Commission"), and U.S. BANK NATIONAL ASSOCIATION, a national banking association, which is authorized by law to exercise the trust powers and accept the duties and obligations of the Trustee set forth in this Trust Agreement, and its successors and assigns (the "Trustee");

RECITALS

WHEREAS, the Commission is a duly constituted commission of the City established and authorized to transact business and exercise its powers in connection with the construction, management, supervision, maintenance, extension, operation, use and control of all property comprising San Francisco International Airport (the "Airport") under the provisions of Section 4.115 of the Charter of the City effective July 1, 1996, as amended (the "Charter"); and

WHEREAS, the Commission is authorized pursuant to the Charter to issue revenue bonds to finance the cost of capital improvements for the benefit of the Airport; and

WHEREAS, pursuant to Resolution No. 91-0210, adopted by the Commission on December 3, 1991, as amended and supplemented (collectively, the "Master Airport Revenue Bond Resolution"), the Commission is authorized (i) to designate an existing or planned facility, structure, equipment or other property, real or personal, which is at the Airport or part of any facility or structure at the Airport as a "Special Facility," (ii) to provide that the revenues earned by the Commission from or with respect to such Special Facility ("Special Facility Revenues") shall not be included in Revenues (as defined in the Master Airport Revenue Bond Resolution) of the Airport and (iii) to issue revenue bonds or other evidences of indebtedness for borrowed money ("Special Facility Revenue Bonds") payable from the Special Facility Revenues to finance the Special Facility; and

WHEREAS, pursuant to and in accordance with the provisions of the Charter and the Master Airport Revenue Bond Resolution, the Commission desires to issue one or more series of Special Facility Revenue Bonds for the purpose of financing costs of acquiring, designing, constructing, equipping and operating the Hotel (as defined in this Trust Agreement) located at the Airport, and funding certain reserves and other required amounts in connection therewith; and

WHEREAS, the Commission has authorized the issuance of \$[PAR AMOUNT] Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 201_ (the "Series 201_ Bonds"), the net proceeds of which shall be used to [(i) finance all or a portion of the costs related to the planning, engineering, design, development, construction, furnishing and equipping of a full service hotel (as further defined in this Trust Agreement, the "Hotel"), (ii) pay interest on the Series 201_ Bonds during construction of the Hotel and for approximately the first [#] months following the anticipated opening date of the Hotel, (ii) fund a debt service reserve fund for the Series [201_] Bonds, (iv) fund initial working capital for the Hotel, and (vi) pay certain costs of issuance; and

WHEREAS, the Commission has entered into a Design-Build Agreement (as defined in this Trust Agreement) with the Design-Builder (as defined in this Trust Agreement), which requires the Design-Builder to plan, engineer, design, construct, develop, fixture, furnish and equip the Hotel; and

WHEREAS, the Commission and Manager (as defined in this Trust Agreement) [will have][has] entered into an Management Agreement (as defined in this Trust Agreement), pursuant to which Manager will manage the Hotel and be obligated to pay to the Commission revenues generated from the operation of the Hotel; and

WHEREAS, the Commission is authorized to issue bonds in the future in compliance with the provisions of this Trust Agreement which will be secured on a parity with the Series 201_ Bonds (the "Additional Bonds" and together with the Series 201_ Bonds, the "Bonds"); and

WHEREAS, the Bonds will be issued pursuant to Applicable Law, including Section 4.115 of the Charter; and

WHEREAS, the Bonds are to be repaid from the Net Revenues (as defined in this Trust Agreement) of the Hotel as provided in this Trust Agreement; and

WHEREAS, the Trustee has the power to enter into this Trust Agreement and to execute the trust hereby created and has accepted the trust created hereby; and

WHEREAS, in order to provide for the authentication and delivery of the Bonds, to establish and declare the terms and conditions upon which the Bonds are to be issued and secured and to secure the payment of the principal thereof, Redemption Price, if any, and interest thereon, the Commission has authorized the execution and delivery of this Trust Agreement; and

WHEREAS, all acts and proceedings required by law necessary to make the Series 201_ Bonds, when executed by the Commission, authenticated and delivered by the Trustee and duly issued, the valid, binding and legal limited obligations of the Commission, and to constitute this Trust Agreement a valid and binding agreement for the uses and purposes in this Trust Agreement set forth in accordance with its terms, have been done and taken, and the execution and delivery of this Trust Agreement have been in all respects duly authorized;

NOW, THEREFORE, in order to secure the payment of the principal of, Redemption Price, if any, and interest on, all Bonds at any time issued and Outstanding under this Trust Agreement, according to their tenor, and to secure the performance and observance of all the covenants and conditions therein and in this Trust Agreement set forth, and to declare the terms and conditions upon and subject to which the Bonds are to be issued and received, and in consideration of the premises and of the mutual covenants in this Trust Agreement contained and of the purchase and acceptance of the Bonds by the Registered Owners thereof, and for other valuable consideration, the receipt of which is hereby acknowledged, the Commission does hereby covenant and agree with the Trustee, for the benefit of the Registered Owners from time to time of the Bonds, as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1.01 Definitions. Except as otherwise expressly provided in this Trust Agreement or unless the context otherwise requires, capitalized terms have the meanings assigned to such listed below: “*Account*” or “*Accounts*” means any one or more of the accounts from time to time created in any of the Funds established by this Trust Agreement or by any Supplemental Trust Agreement.

“*Accountant*” means any nationally recognized certified public accountant or firm of certified public accountants or accounting corporation of recognized experience and qualifications selected by the Commission, and may be the Independent Accountant.

“*Accountant’s Certificate*” means a certificate or opinion signed by an Accountant.

“*Additional Bonds*” means any Bonds, other than the Series 201_ Bonds, issued pursuant to Article III.

“*Administrative Costs Fund*” means the Administrative Costs Fund established by Section 5.02.

“*Administrative Code*” means San Francisco Administrative Code.

“*Administrative Expenses*” means the reasonable fees and expenses of Asset Manager and the Trustee paid in accordance with this Trust Agreement and directly relating to the Hotel and limited as provided in the applicable Operating Budget. Administrative Expenses shall be supported by documentation evidencing such expenses and shall not exceed \$300,000 in any Operating Year, as adjusted each Operating Year for the change in the Bay Area CPI for the immediately preceding calendar year.

“*Affiliate*” means, with respect to any Person, as of the relevant date, any other Person directly or indirectly controlling, controlled by, or under common control with such Person, and any Person directly or indirectly controlling, controlled by or under common control with such entities and, without limiting the generality of the foregoing, shall include (a) any Person which beneficially owns or holds 50% or more of any class of voting securities of such designated Person or 50% or more of the equity interest in such designated Person and (b) any Person of which such designated Person beneficially owns or holds 50% or more of any class of voting securities or in which such designated Person beneficially owns or holds 50% or more of the equity interest. The term control (including “controls,” “controlled by,” and “under common control with”) means the ability through ownership, direct or indirect, of voting stock or other equity interests, to direct or cause the direction of the management and policies of a person, partnership, corporation, limited liability company or other entity.

“*Agent*” or “*Agents*” means the Trustee, the Registrar, any paying agent, and any escrow agent, authentication agent or other agent of the Commission or of any other Agent, or any or all of them, as the context may require.

“*Agreed Scope of the Hotel*” has the meaning set forth in the Management Agreement.

“*Airport*” means San Francisco International Airport.

“*Airport Rules and Regulations*” means the Rules and Regulations of the Airport adopted by the Airport Commission on October 21, 2014, as the same may be amended from time to time. As of the date of this Trust Agreement, the Airport Rules and Regulations are available online at: <http://media.flysfo.com/media/sfo/about-sfo/sfo-rules-and-regulations.pdf>.

“*Annual Plan*” means the Operating Budget and Capital Budget for the applicable Operating Year.

“*Applicable Law*” means: (i) all laws, statutes, acts, ordinances, rules, regulations, permits, licenses, authorizations, directives, orders, requirements and other Approvals of all Governmental Authorities, including the City’s Charter and Administrative Code and the Airport Rules and Regulations, that now or hereafter may be applicable to Manager, its businesses or operations, the Commission and/or the Hotel, and, (a) with respect to obligations of the Commission, the acquisition and construction of the Hotel, including those relating to zoning, building, health, safety, Hazardous Materials, natural resources, environmental matters, and accessibility of public facilities, and (b) with respect to obligations of Manager, the maintenance, use and operation thereof, including those relating to employees, health, safety, Hazardous Materials (to the extent resulting from the operation of the Hotel by Manager) and environmental matters; and (ii) the requirements of all documents properly filed in the real property records with respect to the Property.

“*Application for Payment*” means the application for payment attached to a Requisition submitted pursuant to Section 5.04.

“*Approvals*” means licenses, approvals, permits, certificates, authorizations, registrations and similar documents required, issued, granted or approved by any Governmental Authority having jurisdiction over Manager, the Commission, the Property or the Hotel.

“*Approved Plan*” or “*Approved Plans*” has the meaning set forth in the Technical Services Agreement.

“*Architect*” means the Person or Persons serving as Architect of Record pursuant to the Design-Build Agreement.

“*Asset Manager*” means a Person with significant experience in the hospitality industry, including at least five (5) years of asset management experience, selected by Owner, with prompt notice of such selection provided by the Commission to the Trustee and Manager, which Person may be an employee of Owner.

“*Assigned Commission Documents*” means the Design-Build Agreement and any contracts with respect to the Hotel executed by the Design-Builder under such Agreement.

[“*Assignment and Subordination of Management Agreement*” means the Assignment and Subordination of Management Agreement, dated as of [DATE], 201_, among the Commission, the Trustee and Manager, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms thereof.]

"Authorized Commission Representative" means the Commission's Airport Director or such other Persons as may be designated to act on behalf of the Commission by written certificate furnished to the Trustee containing the specimen signature of such Persons and signed on behalf of the Commission by the Airport Director, which Person(s) shall be acting solely in his, her or its representative capacity on behalf of the Commission and not individually.

"Authorized Denominations" means, with respect to the Series 201_ Bonds, \$5,000 principal amount and integral multiples thereof, and with respect to all other Bonds, unless otherwise provided in a Supplemental Trust Agreement, \$5,000 principal amount and integral multiples thereof.

"Available Amount" has the meaning set forth in Section 7.18(a).

"Available Revenue" means, for any period of time, (a) Total Operating Revenues determined on a cash basis for such period of time, plus (b) any portion of the Working Capital Set-Aside Amount remaining in the Lockbox Fund during such period of time, and less (i) Operating Expenses determined on a cash basis for such period of time, and (ii) the Working Capital Set-Aside Amount.

"Base Management Fee" has the meaning set forth in the Management Agreement.

"Bay Area CPI" means the Consumer Price Index for All Urban Consumers, All Items, for the San Francisco-Oakland-San Jose, CA, market area, as published by the Bureau of Labor Statistics of the United States Department of Labor, using the years 1982-84 as a base of 100, or if such index is discontinued, the most comparable index published by any federal governmental agency.

"BICE" means the Commission's Building Inspection and Code Enforcement division with the responsibility to administer and enforce the applicable building codes, including the following responsibilities: review and approve all Airport design and construction projects and tenant improvement proposals; issue Airport building permits; inspect all demolition activities and construction installed within Airport boundaries and in conjunction with ongoing Airport projects; enforce compliance with various building codes, construction standards and regulations; and issue certificates of occupancy.

"Bond" or *"Bonds"* means the Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), issued by the Commission from time to time in Series pursuant to this Trust Agreement, including the Series 201_ Bonds and any Additional Bonds.

"Bond Counsel" means a firm of attorneys, selected by the Commission, whose experience in matters relating to the issuance of obligations by states and their political subdivisions is nationally recognized.

"Bond Documents" means this Trust Agreement and the Cash Management Agreement.

"Bond Provider" means the provider of the Payment Bond and the Performance Bond to be required by the Design-Build Agreement.

“*Bondholder*,” “*Holder*,” or “*Registered Owner*” means the person in whose name any of the Bonds are registered on the books kept and maintained by the Trustee as Registrar.

“*Building*” means the building to be constructed on the Site in accordance with the Design-Build Agreement, which shall include those components, elements and features set forth in the definition of the Hotel in this Section, and which shall include the Systems.

“*Business Day*” means a day that is not a Saturday, Sunday or legal holiday on which banking institutions in the States of California, Minnesota or New York are authorized or required by law or executive order to remain closed or the New York Stock Exchange or DTC is closed.

“*Business Interruption Account*” means the segregated Account within the Insurance and Condemnation Proceeds Fund in which the Business Interruption Proceeds are to be deposited by the Trustee when and as received, which Account shall be established by the Trustee upon receipt of notice that the carrier of such insurance will be paying claims thereon to the Trustee.

“*Business Interruption Insurance*” means business interruption insurance maintained pursuant to the Management Agreement.

“*Business Interruption Proceeds*” has the meaning set forth in the Management Agreement.

“*Capital Budget*” means the approved annual plan and budget setting forth all approved Capital Improvements and Capital Expenses for the Hotel for the relevant Operating Year, prepared in accordance with the terms of Section 3.21 of the Management Agreement.

“*Capital Expense*” means any item of expense that, according to Generally Accepted Accounting Principles, generally is required to be capitalized rather than expensed on the financial statements of the Hotel.

“*Capital Improvement*” means an item of any nature incorporated into the Hotel, the cost of which is a Capital Expense.

“*Capitalized Interest Account*” means, collectively, the Series 201_ Capitalized Interest Account and any other Fund or Account created under any Supplemental Trust Agreement and designated as a Capitalized Interest Account.

“*Capital Reserve Fund*” means the Capital Reserve Fund established by Section 5.02.

“*Capital Reserve Set Aside Amount*” means an amount in each Operating Year equal to two percent (2%) of Total Operating Revenues. The Capital Reserve Set Aside Amount shall not be classified as an Operating Expense or Capital Expense; provided, that upon disbursement of funds from the Capital Reserve Fund, the disbursed amounts shall be classified as an Operating Expense or Capital Expense in accordance with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles.

“*Cash Management Agreement*” means the Cash Management and Lockbox Agreement, dated as of [DATE], 201_, among the Commission, the Trustee, the Depository Bank and

Manager, or any other agreement with substantially the same terms and conditions with a replacement Depository Bank.

“*Casualty*” means the damage or destruction of the Hotel at any time or times by fire or other casualty.

“*Casualty Proceeds*” means the proceeds (excluding Business Interruption Proceeds) paid under any casualty and property insurance policy maintained by Manager or the Commission with respect to the Hotel as a result of damage to or destruction of the Hotel arising as a result of a Casualty.

“*Cede & Co.*” means the nominee of the DTC.

“*Centralized Services*” means the collective reference to the following services, programs and group benefits (as are, from time to time, provided generally to all Other Grand Hyatt Hotels): (i) centralized accounting and payroll services; (ii) system-wide marketing, advertising, public relations and promotion, including search engine marketing; (iii) system-wide reservation systems, including for airline and global distribution systems; (iv) frequent guest loyalty and rewards programs; (v) supervision and control services provided to the Hotel; (vi) human resources services provided to the Hotel; (vii) financial services provided to the Hotel; (viii) targeted marketing programs that include the Hotel; (ix) information and technology systems and services provided to the Hotel, including network connectivity, email, internet distribution programs, and high-speed internet services; (x) revenue management services; and (xi) mandatory contract services (including credit card acceptance, music licenses and certain telecommunications services). Centralized Services include Chain Services.

“*Centralized Services Fees*” means the fixed amount for each Operating Year set forth in the Management Agreement, subject to adjustment as set forth in such Agreement.

“*Certificate*,” “*Statement*,” “*Request*,” “*Direction*,” “*Requisition*” or “*Order*” of the Commission means a written certificate, statement, request, direction, requisition or order signed in the name of the Commission by an Authorized Commission Representative. Any such instrument and supporting opinions or representations, if any, may, but need not, be combined in a single instrument with any other instrument, opinion or representation, and the two or more so combined shall be read and construed as a single instrument.

“*Certificate of Occupancy*” means the Temporary or Final Certificate of Occupancy.

“*Certificate of Reduction in Debt Service*” means a certificate signed by an Authorized Commission Representative to the effect that the Debt Service in each Fiscal Year on the Bonds to be Outstanding immediately after the issuance of the Series of Refunding Bonds to which such certificate relates is not greater than the Debt Service in each Fiscal Year on the Bonds Outstanding immediately prior to the issuance of such Series of Refunding Bonds.

“*Certificate of Substantial Completion*” has the meaning set forth in the Pre-Opening Services Agreement.

“*Certified Annual Financial Statements*” means audited financial statements consisting of (i) a statement of net position, (ii) a statement of revenues, expenses and changes in net position, and (iii) a statement of cash flows, and a certificate of the Independent Accountant to the effect that, subject to any qualifications contained therein, the financial statements fairly present, in conformity with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles, the financial position, results of operations, and cash flows of the Hotel for the Operating Year then ended.

“*Chain Services*” means the marketing and sales program generally made available by Manager from time to time to the Hyatt System, including the following as of the Execution Date: (i) convention, business and sales promotion services (including the maintenance and staffing of Hyatt’s global sales offices and regional sales offices located in various parts of the United States and the world), (ii) chain-wide marketing, advertising and public relations services for Other Grand Hyatt Hotels and Hyatt’s other individual full-service brands, (iii) centralized reservations services, (iv) revenue management, and (v) operational departmental supervision and control services for, among others, food and beverage, rooms, accounting, engineering and human resource departments. Manager may, in its discretion from time to time, change the specific services which are part of the foregoing general services.

“*City*” means the City and County of San Francisco, California.

“*Charter*” means the Charter of the City effective July 1, 1996, as amended.

“*Closing*” or “*Closing Date*” means [DATE], 201_.

“*Code*” means the Internal Revenue Code of 1986, as amended, and the United States Treasury Regulations proposed or in effect with respect thereto.

“*Commission*” means the Airport Commission of the City and County of San Francisco.

“*Construction Fund*” means the Construction Fund established by Section 5.02, and includes any separate accounts or subaccounts established therein pursuant thereto.

“*Consultant*” means any Person at the time employed by the Commission (or, to the extent specifically provided in this Trust Agreement or in any Supplemental Trust Agreement, by or on behalf of the Trustee) to carry out the duties imposed by or pursuant to this Trust Agreement or a Supplemental Trust Agreement, which Person shall be experienced, have a national and favorable reputation in the matters for which such Person is so employed, and be independent of the Design-Builder, Manager and the Commission.

“*Continuing Disclosure Certificate*” means the Continuing Disclosure Certificate, if any, executed by the Commission in connection with the issuance of any Series of Bonds pursuant to Rule 15c2-12 promulgated by the Securities and Exchange Commission, as supplemented and amended and any successor thereto.

“Costs,” “Costs of the Hotel” or “Hotel Costs” means all costs and expenses of acquisition, planning, design, development, supervision, construction, furnishing, opening and equipping, and improvement of the Hotel, and obtaining Approvals with respect thereto, heretofore and hereafter paid or incurred by or on behalf of the Commission. Such Costs of the Hotel shall include:

(a) contractors’ fees and charges, the cost of labor, services, materials and supplies used or furnished in site improvement and construction, training and testing costs, the cost of purchasing and installing machinery, equipment, facilities, rolling stock and ancillary items, and the cost of utility services;

(b) the costs of preparing surveys, cost estimates, appraisals, plans and specifications (including any preliminary study or planning or any aspect thereof), fees for architectural, engineering, supervisory and consulting services, planning and development costs, the costs of obtaining governmental or regulatory permits, licenses, franchises and approvals, and any other fees or expenses necessary to establishing feasibility or practicability;

(c) working capital and reserves therefor in such amounts as shall be determined by the Commission to be reasonably required during construction of the Hotel and for placing the Hotel in operation, and such additional amounts of working capital and reserves therefor as may thereafter be determined;

(d) premiums of all insurance and surety and payment bonds required to be maintained, all claims and expenses relating to injury and damage, and casualty and liability insurance premiums in connection with insurance against loss from such claims, applicable during the period of construction and placing the Hotel or any portion thereof in operation;

(e) interest to accrue on the Bonds during construction of the Improvements to the Hotel being financed with such Bonds to the extent such amounts are on deposit in a Capitalized Interest Account;

(f) training and testing costs which are properly allocable to the acquisition, placing in operation or construction of the Hotel or any portion thereof;

(g) Costs of Issuance, to the extent not otherwise described in this definition;

(h) legally required or permitted federal, state and local taxes and payments in lieu of taxes applicable during the period of construction and placing the Hotel or any portion thereof in operation;

(i) all amounts payable by the Commission under any other contracts, agreements or other arrangements relating to the acquisition, design, construction and equipping of the Hotel;

(j) amounts due the United States of America as rebate of investment earnings with respect to the proceeds of the Bonds or as penalties in lieu thereof;

(k) amounts payable with respect to capital costs for the expansion, reinforcement, enlargement or other improvement of facilities determined by the Commission as necessary in connection with the utilization of the Hotel and the capital costs associated with the removal from service or reductions in service of any facilities as a result of the expansion, reinforcement, enlargement or other improvement of such facilities or the construction of the Hotel; and

(l) all other costs and expenses relating to the acquisition, design, construction, equipping and placing in service of the Hotel or any portion thereof, including costs of environmental mitigation and remediation.

“*Costs of Issuance*” means the items of expense relating to the authorization, sale and issuance of Bonds, which items of expense may include: travel expenses; printing costs; costs of reproducing documents; computer fees and expenses; filing and recording fees; initial fees and charges of the Trustee, Consultants, Registrar, any paying agent and other Agents; initial fees and charges of banks, insurers or other parties pursuant to guarantees or bond insurance policies; bond discounts; legal fees and charges; consulting fees and charges; auditing fees and expenses; financial advisor’s fees and charges; costs of credit ratings; insurance premiums; fees and charges for the execution, transportation and safekeeping of Bonds; and any other administrative or other costs of issuing, carrying and repaying such Bonds and investing the Bond proceeds.

“*Costs of Issuance Account*” means the Costs of Issuance Account in the Construction Fund established by Sections 5.02 and 5.03.

“*Date of Final Completion*” means the date stated in the written acceptance of the Work by the Commission, issued in accordance with Section 6.22(k) of the City’s Administrative Code, when the Work has been fully and satisfactorily completed in accordance with the Development Agreements.

“*Date of Substantial Completion*” means the stage in the progress of the Work, when the Work (or a specified part thereof) is sufficiently complete in accordance with the Design-Build Agreement, including receipt of a Temporary Certificate of Occupancy, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended.

“*Debt Service*” means, as of any date of calculation, with respect to any particular period and with respect to all Bonds, all Bonds of any Series or any portion thereof as the context requires, an amount equal to the sum of (i) interest accruing during such period on such Outstanding Bonds and not accounted for with amounts on deposit in a Capitalized Interest Account held by the Trustee for such Bonds, and (ii) that portion of each Principal Payment and Mandatory Sinking Fund Installment for such Outstanding Bonds which would accrue during such period if each such Principal Payment and Mandatory Sinking Fund Installment for such Bonds were deemed to accrue daily in equal amounts from the next preceding Principal Payment Date for such Bonds (or, if there shall be no such preceding date, from a date one (1) year preceding such Principal Payment Date or from the date of issuance of the such Bonds, whichever date is later). Such interest, principal and Mandatory Sinking Fund Installment payments for the Outstanding Bonds shall be calculated on the assumption that no Bonds Outstanding at the date of calculation shall cease to be Outstanding except by reason of the

payment of principal and Mandatory Sinking Fund Installments on the due dates thereof and on the basis of the actual number of days within the relevant period.

“Debt Service Coverage Ratio” means with respect to the Outstanding Bonds, a fraction calculated by dividing the Net Revenues for a particular period of time by the Net Debt Service for the Outstanding Bonds for the same period of time.

“Debt Service Coverage Requirement” means with respect to the Outstanding Bonds, a Debt Service Coverage Ratio for such Bonds which is not less than 1.05:1.00 during the first (1st) Operating Year, not less than 1.15:1.00 during the second (2nd) Operating Year, and not less than 1.25:1.00 for each Operating Year thereafter.

“Debt Service Account” means the Debt Service Account in the Debt Service Fund established by Section 5.02.

“Debt Service Fund” means the Debt Service Fund established by Section 5.02, together with the Accounts established therein.

“Debt Service Reserve Fund” means the Debt Service Reserve Fund established by Section 5.02.

“Defeasance Securities” means:

(a) Cash deposits (insured at all times by the Federal Deposit Insurance the Commission or otherwise collateralized with obligations described in the next paragraph);

(b) Direct obligations of (including obligations issued or held in book entry form on the books of the Department of Treasury) the United States of America. In the event these securities are used for defeasance, they shall be non-callable and non-prepayable; and

(c) Obligations the timely payment of which is backed by the full faith and credit of the United States of America (in the event these securities are used for defeasance, they shall be non-callable and non-prepayable).

“Depository” means initially DTC, or any other securities depository selected as set forth in Section 3.13 with respect to the Bonds.

“Depository Bank” means such banking institution or institutions as the Commission shall from time to time designate in writing to the Trustee, at which the account or accounts shall be established and maintained with respect to the Lockbox Fund pursuant to the Cash Management Agreement.

“Design-Build Agreement” means the Design-Build Agreement dated as of [DATE], 201_ between the Commission and the Design-Builder, for the design and construction of the Hotel, as supplemented and amended from time to time in accordance with its terms.

“Design-Build Standards” means the quality of services and work performed and practiced equal to or better than that provided by design-builders nationally recognized as design-builders of First-Class Hotels with a four (4)-diamond AAA Rating of similar type, size and complexity as the Hotel.

“Design-Builder” means the Person or Persons with experience and expertise in the design and construction of hotels to be selected by the Commission through a competitive process.

“Development Agreements” means, collectively, all documents and instruments pertaining to the construction or development of the Hotel, including the Design-Build Agreement, the Technical Services Agreement and the Pre-Opening Services Agreement.

“Disbursement” means a disbursement of funds in the applicable Accounts within the Construction Fund to cover Costs of the Hotel.

“Disbursement Package” means all of the certificates, lien waivers, releases, statements, invoices and other information and documents required to be submitted with an Application for Payment pursuant to Section 5.04.

“DTC” means The Depository Trust Company or any successor securities depository thereto.

“Emergency” means a situation which constitutes an actual and imminent threat of serious harm to human life, health or safety.

“Environmental Laws” means any federal, State, local or administrative law, rule, regulation, order, or requirement relating to industrial hygiene, protection of human health and safety, environmental conditions or Hazardous Materials, whether now in effect or hereafter adopted or amended from time to time, including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Section 9601, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 1801, et seq.), the Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), the California Hazardous Waste Control Law (California Health and Safety Code Section 25100, et seq.), the Porter-Cologne Water Quality Control Act (California Water Code Section 13000, et seq.), and the Safe Drinking Water and Toxic Enforcement Act of 1986 (California Health and Safety Code Section 25249.5, et seq.); and applicable and controlling federal or state court decisions.

“Event of Default” means an event listed in Section 9.02.

“Excluded Taxes and Other Charges” means any (a) Gross Receipts Taxes; and (b) withholding tax or other employment-related taxes.

“FF&E” means all items of furniture, fixtures and equipment used or held for usage at the Hotel, together with all replacements therefor and additions thereto (including information technology systems and equipment), but shall not include operating supplies and equipment.

“*FF&E Reserve Fund*” means, so long as any Bonds remain outstanding, the FF&E Reserve Fund established by Section 5.02.

“*FF&E Set Aside Amount*” means the following:

Opening Date through

1 st Operating Year-	1% of Total Operating Revenues
2 nd Operating Year-	2% of Total Operating Revenues
3 rd Operating Year -	3% of Total Operating Revenues
Each Operating Year thereafter-	4% of Total Operating Revenues

The FF&E Set Aside Amount shall be classified as an Operating Expense or Capital Expense, in accordance with the Uniform System of Accounts and, to the extent not inconsistent therewith, Generally Accepted Accounting Principles.

“*Final Certificate of Occupancy*” means the certificate or certificates, as applicable, issued by BICE that permits full, complete, permanent, unconditional, legal and beneficial occupancy, operation and use for the entirety of the Hotel for each and all of its intended purposes as initially acquired by the Design-Builder with respect to the original construction of the Hotel and the Work pursuant to the Design-Build Agreement.

“*First-Class Hotel*” means a full-service, luxury hotel with at least a four (4)-diamond AAA Rating and, to the extent of any material change after the execution date of the Management Agreement in the standards for such a rating, consistent with the standards for such rating as of such execution date.

“*Fiscal Year*” means the fiscal year of the Commission, currently the twelve (12)-month period ending June 30.

“*Fund*” or “*Funds*” means any one or more, as the case may be, of the separate special funds established by this Trust Agreement or by any Supplemental Trust Agreement.

“*GAAP*” or “*Generally Accepted Accounting Principles*” means those conventions, rules, procedures and practices affecting all aspects of recording and reporting financial transactions by governmental entities which (i) are generally accepted by major independent accounting firms in the United States, and (ii) consistently applied in accordance with the City-wide accounting policies adopted from time to time by the Commission. If the Commission and Manager cannot agree on what constitutes Generally Accepted Accounting Principles, then the accounting firm then or most recently engaged to prepare the Certified Annual Financial Statements for the Hotel in accordance with Section 3.23(c) of the Management Agreement shall make the determination on the request of either Party, unless such accounting firm is also the auditing firm for Manager, in which case a different Independent Accountant shall make such determination.

“*Governmental Authority*” means any agency, authority, board, branch, division, department or similar unit of any federal, state, county, city, town, district, or other governmental

entity or unit having jurisdiction over or validly imposing requirements on the applicable Person or the Hotel, including its construction and operation.

“*Gross Operating Profit*” means for any period of time, the amount by which Total Operating Revenues for such period exceeds Operating Expenses for the same period.

“*Gross Receipts Taxes*” means applicable excise, sales, occupancy and use taxes, or similar taxes, duties, levies or charges imposed by Governmental Authorities collected directly from patrons or guests, or as a part of the sales price of any goods, services, or displays, such as gross receipts, admission, cabaret or similar or equivalent taxes, including any transaction tax, resale of electricity tax, soft drink tax, head tax, occupancy tax, amusement tax, beverage tax, public utility tax, and/or new service tax.

“*Hazardous Materials*” means (i) any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any Governmental Authority to pose a present or potential hazard to human health or safety or to the air, water, soil or environment; and (ii) any materials, substances, products, by products, waste, or other materials of any nature or kind whatsoever whose presence in and of itself or in combination with other materials, substances, products, by products, or waste may give rise to liability under any Environmental Laws or permits. “Hazardous Material” includes any material or substance identified, listed, or defined as a “hazardous waste,” hazardous substance,” or “pollutant” or “contaminant” or term of similar import, or is otherwise regulated pursuant to Environmental Laws; any asbestos and asbestos-containing materials; petroleum, including crude oil or any fraction thereof, natural gas or natural gas liquids.

“*Hotel*” means the hotel to be constructed on the Site as further described in Exhibit A to this Trust Agreement.

“*Hotel Account*” means the Hotel Account in the Construction Fund established by Section 5.02.

“*Hotel Consultant*” means an independent nationally recognized consulting firm with substantial and significant experience in the First-Class Hotel segment listed in an exhibit to the Management Agreement and which is appointed by agreement of the parties or, failing agreement, each party shall select one (1) such nationally recognized consulting firm and the two (2) respective firms so selected shall select another such nationally recognized consulting firm to be the Hotel Consultant. The Hotel Consultant may not be Manager’s or the Commission’s primary hotel consultant or auditor and shall provide a written statement to each of the Commission, the Trustee and Manager representing that it will make a fair and impartial judgment in any matter submitted to it pursuant to the provisions of the Management Agreement.

“*Hotel Environmental Requirements*” has the meaning set forth in Section 2.03 of the Management Agreement.

“*Hotel Personnel*” means all individuals performing services at the Hotel employed by Manager or an Affiliate of Manager.

"Hotel Personnel Costs" means all costs associated with the employment, management or termination of Hotel Personnel, including training expenses, recruitment expenses, the costs of moving Key Personnel, their families and their belongings to the area in which the Hotel is located at the commencement of their employment at the Hotel (subject to the limitations set forth in the Management Agreement), wages and salaries, compensation and benefits, employment taxes, training and severance payments, all in accordance with Applicable Law and Manager's policies for Substantially All Other Grand Hyatt Hotels.

"Hotel Requirements" means any and all requirements, rules, restrictions, terms, conditions, limitations, or obligations imposed upon the Site, the Building, the Improvements, the Hotel, or any other component or part thereof, the Work, the Commission, the Design-Builder, or any Subcontractor or Consultant by any one or more of the following: Applicable Law, the Development Agreements, this Trust Agreement, the Design-Build Standards, the Hotel Environmental Requirements, the Hyatt Requirements and the Design-Build Agreement.

"Hyatt" means Hyatt Corporation, a Delaware corporation, and its successors and assigns.

"Hyatt Requirements" has the meaning set forth in the Management Agreement, and the corresponding requirements of any successor Manager.

"Hyatt System" means, collectively, the elements uniformly designated from time to time to identify structures, facilities, appurtenances, furniture, fixtures, equipment that provide to the consuming public a similar, distinctive, high quality hotel service identified with the "Hyatt" brand name, in whole or in part; including licensed brands associated with the Hyatt name, Hyatt trademarks, logos, service marks and the like, access to a Hyatt reservation system, and Hyatt publicity and marketing, training, standards, specifications, policies, inspection programs and manuals containing standards and requirements for the operation of "Hyatt" branded hotels, and the corresponding elements for any successor Manager.

"Impositions" has the meaning given such term in Section 7.15.

"Improvements" means the Building and all other structures, buildings, pavement, fencing, landscaping, recreational facilities, plumbing, electrical and telephone lines and computer cables and man-made objects of every type, existing or to be placed on the Site.

"Indebtedness," as applied to any Person, means: (i) all indebtedness for borrowed money; (ii) that portion of obligations with respect to leases that is properly classified as a liability on a statement of net position in conformity with GAAP; (iii) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money; (iv) any obligation owed for all or any part of the deferred purchase price of property or services if the purchase price is due more than six (6) months from the date the obligation is incurred or is evidenced by a note or similar written instrument; and (v) all indebtedness secured by any lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby has been assumed by that Person or is nonrecourse to the credit of that Person.

“Independent Accountant” means a national firm of independent certified public accountants, mutually acceptable to the Commission and Manager.

“Insurance and Condemnation Proceeds Fund” means the Insurance and Condemnation Proceeds Fund established by Section 5.02.

“Insurance Consultant” means an independent insurance consultant, mutually acceptable to Manager and the Commission.

“Insurance Costs” means insurance premiums relating to liability and casualty coverage and Business Interruption Insurance policies and other insurance policies and coverages maintained with respect to the Hotel as required pursuant to the Management Agreement and this Trust Agreement, including Exhibit N to the Management Agreement.

“Interest Payment Date” means, with respect to the Series 201_ Bonds, [MONTH] 1 and [MONTH] 1 of each year, commencing [DATE], 20__, and with respect to any other Series of Bonds, the date on which interest on such Series of Bonds is due and payable.

“Investment Securities” means investments permitted by Applicable Law and the City’s investment policies.

“Key Personnel” means the following positions for Manager: the General Manager, the Director of Finance, the Director of Sales and Marketing, the Director of Food and Beverage and the Director of Engineering.

“Letter of Instructions” means a written directive and authorization executed by an Authorized Commission Representative.

“Lien” means, to the extent applicable, any lien against any portion of the Hotel, the Payment Bond, or any retainage for the benefit of the Architect, Consultants, Design-Builder, Subcontractors, laborers, mechanics, material suppliers, vendors and any other Persons providing, furnishing, performing or supplying any portion of the Work under a Subcontract.

“Lockbox Fund” means the Lockbox Fund required to be maintained pursuant to Section 5.06 of this Trust Agreement and established by Section 3 of the Cash Management Agreement.

“Management Agreement” means the Hotel Management Agreement, dated as of [DATE], 201_, between the Commission and Manager, or as the context requires, any other management agreement entered into by the Commission with respect to the operation and management of the Hotel, as originally executed and as it may from time to time be amended or supplemented in accordance with the terms hereof and thereof.

“Management Fee” means the Base Management Fee and the Subordinate Management Fee.

“Manager” means Hyatt and any other person who enters into a Management Agreement with the Commission to operate and manage the Hotel on behalf of the Commission.

“*Manager Event of Default*” has the meaning set forth in the Management Agreement.

“*Mandatory Sinking Fund Installment*” means with respect to any Series of Bonds, the amount required to be paid as the Redemption Price of Bonds subject to mandatory sinking fund redemption on any Principal Payment Date prior to maturity pursuant to this Trust Agreement or the Supplemental Trust Agreement for such Series, as such Mandatory Sinking Fund Installment has been previously reduced by the principal amount of any Bonds of such Series of the maturity in respect of which such Mandatory Sinking Fund Installment is payable that are purchased or redeemed by the Trustee in accordance with the provisions of Section 4.03 or of any Supplemental Trust Agreement, other than by the prior payment of a Mandatory Sinking Fund Installment.

“*Material Adverse Effect*” means (i) if the Commission or another Person is referenced, the impairment of the ability of the Commission or such other Person to perform its non-monetary obligations under any Bond Document, or (ii) if the Hotel is referenced, a material adverse effect upon the business, operations, assets or condition (financial or otherwise) of the Hotel, or upon the ability of the Hotel to be in compliance with the terms of the Principal Transaction Documents. In determining whether any individual event would result in a Material Adverse Effect, notwithstanding that such event does not of itself have such effect, a Material Adverse Effect shall be deemed to have occurred if the cumulative effect of such event and all other then-occurring events and existing conditions would result in a Material Adverse Effect.

“*Maximum Permitted Price*” means [AMOUNT (\$ _____)].

“*Moody’s*” means Moody’s Investors Service, Inc., its successors and assigns, and, if Moody’s Investors Service, Inc., shall for any reason no longer perform the functions of a securities rating agency, “*Moody’s*” shall be deemed to refer to any other nationally recognized securities rating agency designated by the Commission.

“*Net Debt Service*” means, for purposes of determining the Debt Service Coverage Ratios under Section 7.21, with respect to the Series 201_ Bonds, Debt Service on the Series 201_ Bonds less actual and anticipated investment earnings on amounts held in the Debt Service Reserve Fund.

“*Net Operating Income*” means, for any period, the amount by which the sum of (i) Gross Operating Profit for such period, plus (ii) interest earned on any of the Accounts or Funds (except for the Debt Service Reserve Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Working Capital Reserve Fund), exceeds the sum of: (x) Taxes, plus (y) Insurance Costs, plus (z) amounts added to the FF&E Reserve Fund in the same period.

“*Net Revenues*” means Net Operating Income, less Administrative Expenses, less additions to the Capital Reserve Fund, plus the earnings on amounts deposited into the Revenue Fund not otherwise included in the definition of Net Operating Income.

“*Opening Date*” means the first date on which the Hotel opens for business as mutually agreed upon by the Commission and Manager.

“*Operating Budget*” means an annual marketing and operating plan and budget for the Hotel prepared by Manager and approved by the Commission, all in accordance with Section 3.21 of the Management Agreement.

“*Operating Expenses*” means all those ordinary and necessary expenses, including Reimbursable Expenses and the Base Management Fee incurred in the operation of the Hotel in accordance with and to the extent provided in the Management Agreement, Hotel Personnel Costs, the cost of maintenance and utilities, Administrative Expenses, the costs of advertising, marketing, and business promotion, lease payments for equipment to be installed and utilized at the Hotel, and any amounts payable to Manager as its Base Management Fee as set forth in the Management Agreement, all as determined in accordance with Generally Accepted Accounting Principles. Notwithstanding the foregoing, unless expressly made an Operating Expense under a specific provision of the Management Agreement, the following shall not constitute Operating Expenses: (a) Taxes and Excluded Taxes and Other Charges (with the exception of payroll taxes included in Excluded Taxes and Other Charges); (b) Insurance Costs; (c) rentals of real property (unless approved in writing by the Commission); (d) depreciation and amortization of capitalized assets; (e) Administrative Expenses; (f) costs and professional fees, including the fees of attorneys, accountants, and appraisers, incurred directly or indirectly in connection with any category of expense that would not otherwise be an Operating Expense, unless otherwise expressly provided in the Management Agreement; (g) payments of principal and interest related to any financing of the Hotel; (h) costs covered by any of Manager’s indemnity, hold harmless and defense agreements contained in the Management Agreement, all of which shall be funded out of Manager’s own funds; (i) costs incurred by Manager to perform obligations, duties, covenants, agreements and responsibilities which, under the express terms of the Management Agreement, are to be funded from Manager’s own funds; (j) Capital Expenses, including construction costs of the Hotel; (k) commissions associated with group sales or conference sales which may become payable during the Pre-Opening Period, but which are attributable to events or bookings scheduled to occur on or after the Opening Date; (l) payments made and amounts required to be paid pursuant to the Design-Build Agreement; and (m) the Subordinate Management Fee.

“*Operating Standards*” means the standards of management of the Hotel described in Exhibit E to the Management Agreement.

“*Operating Year*” means (i) each full Fiscal Year occurring during the term of the Management Agreement, (ii) the partial Fiscal Year (if it is such) during which the Opening Date occurs, and (iii) the partial Fiscal Year (if it is such) in which the termination of the Management Agreement occurs. If the Opening Date occurs prior to January 1 of a Fiscal Year, then the period from such Opening Date until and including the following June 30 shall constitute the “first Operating Year.” If the Opening Date occurs on or after January 1 of a Fiscal Year, then the first full Fiscal Year beginning as of the July 1 following such Opening Date shall constitute the “first Operating Year.”

“*Opinion of Bond Counsel*” means a written opinion of Bond Counsel.

“*Other Grand Hyatt Hotels*” means the hotels and resorts in North America and the Caribbean that are owned or managed by Manager and/or its Affiliates under the name “GRAND HYATT,” or the comparable brand of any successor Manager.

“*Outstanding*” means, with respect to any Bonds as of any date, Bonds theretofore or thereupon being authenticated and delivered under this Trust Agreement except:

- (a) Bonds canceled or delivered for cancellation at or prior to such date;
- (b) Bonds in lieu of or in substitution for which other Bonds have been authenticated and delivered pursuant to this Trust Agreement; and
- (c) Bonds deemed to have been paid, redeemed, purchased or defeased as provided in this Trust Agreement, in any Supplemental Trust Agreement, as applicable, or as provided by law.

“*Participant*” means those broker-dealers, banks and other financial institutions from time to time for which DTC holds Bonds as securities depository.

“*Paying Agent*” means any national banking association, bank and trust company or trust company appointed as such by the Commission and accepting such appointment under this Trust Agreement. The initial Paying Agent shall be the Trustee.

“*Performance Termination Event*” has the meaning set forth in Section 5.05(a) of the Management Agreement.

“*Performance Test*” means each of the three (3) requirements set forth in Section 5.05(a) of the Management Agreement.

“*Permitted Encumbrances,*” with respect to the property of the Commission at the Hotel, means and includes:

- (a) Liens specifically permitted by, or created by, this Trust Agreement, the Hotel or any other Principal Transaction Document;
- (b) Liens for taxes, assessments, fees, levies or other similar charges which are either not yet due and payable or are being contested in good faith by appropriate proceedings conducted with due diligence, if adequate reserves therefor have been established and are being maintained;
- (c) materialmen’s, mechanics’, workmen’s, repairmen’s, employees’ or other like Liens arising in the course of construction of the Hotel or in the ordinary course of operations or maintenance of the Hotel, in each such case securing obligations which are not delinquent or are bonded in a manner satisfactory to the Commission acting reasonably and in good faith or are being contested in good faith by appropriate proceedings conducted with due diligence (unless by such contest there exists any risk (taking into account any applicable insurance, reserves or bonding covering such Lien) that any portion of the Site or the Hotel may become subject to loss or forfeiture or that such Lien or contest thereof might otherwise interfere with the use of the Site or the Hotel); and
- (d) purchase-money security interests and security interests placed upon personal property being acquired to secure a portion of the purchase price thereof, or

lessor's interests in leases required to be capitalized in accordance with Generally Accepted Accounting Principles; provided, that the aggregate principal amounts secured by any such interests shall not exceed at any time more than \$100,000.

"Person" means any individual, public or private corporation, partnership, limited liability company, county, district, authority, municipality, political subdivision or other entity of the State or the United States of America, and any partnership, association, firm, trust, estate or any other entity or organization whatsoever.

"Petty Cash Amount" means an amount reasonably estimated by Manager as the amount needed from time to time to be retained by Manager at the Hotel as petty cash, which amount shall be comparable to the amount kept by Manager as petty cash at other hotels of comparable size, services and quality operated by Manager.

"Plans" means the graphic and pictorial portions of the Design-Build Agreement prepared by the Design-Builder, or provided by the Commission, that show the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

"Pre-Existing Condition" means the condition the Hotel was in immediately prior to a Casualty in the case of any Casualty or to a condition, in the case of any Taking, which permits the Hotel's use in the manner contemplated by this Trust Agreement and for which the Hotel was originally constructed, in each case in compliance with all Hotel Requirements and Applicable Law.

"Preliminary Working Capital Account" means the Preliminary Working Capital Account established by Section 5.02.

"Pre-Opening Expenses" means the costs and expenses, including any Centralized Services Fees, Hotel Personnel Costs and Out-of-Pocket Expenses, incurred by Manager to perform the Pre-Opening Services pursuant to this Trust Agreement. Notwithstanding the foregoing, Pre-Opening Expenses shall not include: (i) commissions associated with group sales or conference sales which may become payable during the Pre-Opening Period, but which are attributable to bookings scheduled to occur on or after the Opening Date; or (ii) any costs or expenses which would otherwise be characterized as Operating Expenses but are incurred prior to the Opening Date, except as specifically permitted in this Trust Agreement, the Management Agreement or the Technical Services Agreement.

"Pre-Opening Budget" has the meaning set forth in the Pre-Opening Services Agreement.

"Pre-Opening Expenses Account" means the Pre-Opening Expenses Account in the Construction Fund established by Section 5.02(a).

"Pre-Opening Period" has the meaning set forth in the Management Agreement.

"Pre-Opening Requisition" has the meaning set forth in Section 5.05(a).

“Pre-Opening Services” has the meaning set forth in the Pre-Opening Services Agreement.

“Pre-Opening Services Agreement” means the Pre-Opening Services Agreement dated as of [DATE], 201_ between Hyatt and the Commission, as modified, amended or supplemented from time to time.

“Pre-Opening Services Manager” means Hyatt.

“Principal Office” or *“Principal Corporate Trust Office”* with respect to the Trustee means the principal corporate trust office of the Trustee located at the address set forth in Section 12.09, or at such other place as the Trustee shall designate by notice given under said Section 12.09, or such other office designated by the Trustee from time to time.

“Principal Payment” means with respect to any Principal Payment Date for any Series of Bonds, an amount equal to the sum of (a) the aggregate principal amount of Outstanding Bonds of such Series which mature on such Principal Payment Date, reduced by the aggregate principal amount of such Outstanding Bonds of such Series which are scheduled to be retired prior to such date as a result of Mandatory Sinking Fund Installments in accordance with this Trust Agreement or a Supplemental Trust Agreement; plus (b) the aggregate amount of any Mandatory Sinking Fund Installment payable on such Principal Payment Date for the retirement of any Outstanding Bonds of such Series.

“Principal Payment Date” means with respect to any Series of Bonds a date on which principal of or a Mandatory Sinking Fund Installment on such Series of Bonds is due and payable.

“Principal Transaction Documents” means the Management Agreement, the Development Agreements and the Bond Documents.

“Project Manager” means the Consultant hired by the Commission to provide project management support services and construction management for the design and construction of the Hotel.

“Project Management Agreement” means the contract dated as of [DATE], 201_ between the Commission and the Project Manager, for the project and construction management services during the design and construction of the Hotel, as supplemented and amended from time to time in accordance with its terms.

“Projected Additional Bonds Debt Service Coverage Ratio” means for any future period, a fraction calculated by dividing Projected Net Revenues for a particular future period of time by the Net Debt Service for the Outstanding Bonds for the same particular period of time.

“Projected Net Revenues” means the amount of Net Revenues for a particular period of time as projected by the Hotel Consultant.

“Property” means the Site and the Improvements.

“*Proposed Annual Plan*” means the proposed Capital Budget and Operating Budget for any Operating Year.

“*Punch List*” means the list setting forth the Punch List Work produced in accordance with the requirements of the Design-Build Agreement.

“*Punch List Work*” means Work which is of a minor nature, or otherwise permitted to be completed after the Date of Substantial Completion pursuant to the Design-Build Agreement, which may include the completion of up to five percent (5%) of the guest rooms of the Hotel, the non-completion of which shall not unreasonably interfere with (i) the training of Hotel Personnel or the pre-opening of the Hotel, (ii) the safe operation and use of the Hotel by Manager without material disruption by the Design-Builder’s subcontractors performing such minor Work, (iii) the use of Substantially All guest rooms for such training and pre-opening activities, or (iv) the issuance of the Certificate of Occupancy.

“*Qualified Management Agreement*” means a management or service contract that meets the requirements described in Revenue Procedure 97-13, 1997-1 C.B. 632, as amplified by Notice 2014-67, 2014-46 I.R.B. 822, such that the contract will not result in private business use under Section 141(b) of the Code.

“*Rating Agency*” means S&P and Moody’s any other nationally recognized securities rating agency designated by the Commission.

“*Rebate Analyst*” means a certified public accountant, financial analyst or bond counsel, or any firm of the foregoing, or financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Commission to make the computations required under this Trust Agreement or any Supplemental Trust Agreement.

“*Rebate Fund*” means the Rebate Fund established by Section 5.02, and includes any separate accounts or subaccounts established by the terms of any Supplemental Trust Agreements or any agreement pursuant thereto.

“*Record Date*” means the close of business on the fifteenth day of the calendar month (whether or not a Business Day) preceding such Interest Payment Date; provided, that the Record Date for any Series of Additional Bonds, if different, means the date designated in any Supplemental Trust Agreement as the record date for the payment of interest on such Series of Additional Bonds.

“*Redemption Account*” means the Redemption Account in the Debt Service Fund established by Section 5.02.

“*Redemption Date*” means the date fixed for redemption of any Bonds prior to their respective fixed maturities pursuant to the mandatory, extraordinary mandatory or optional redemption provision of this Trust Agreement or any Supplemental Trust Agreement.

“*Redemption Price*” means, with respect to any Bond, the amount, including any applicable premium, payable upon the mandatory, extraordinary mandatory or optional redemption thereof, as provided in this Trust Agreement or any Supplemental Trust Agreement.

“*Refunding Bonds*” means all Bonds, whether issued in one or more Series, issued for the purpose of refunding a like or different principal amount of Bonds, and hereafter authenticated and delivered pursuant to this Trust Agreement.

“*Register*” means the register maintained by the Registrar for each Series of Bonds which shows ownership of Bonds in accordance with Section 3.08.

“*Registrar*” means the Trustee, and the successor or successors appointed pursuant to and meeting the requirements of Article X.

“*Reimbursable Expenses*” means all costs and expenses reimbursable to Manager pursuant to Section 4.04 of the Management Agreement.

“*Remedial Action*” means actions required to (a) investigate, monitor, clean up, remove, treat, dispose of off-site or in any other way address or respond to the effects of Hazardous Materials in the indoor or outdoor environment so as to render the Hotel safe for its intended use; or (b) prevent the release or threat of release, or minimize the further release, of Hazardous Materials in the indoor or outdoor environment.

“*Required Opening Date*” has the meaning set forth in the Pre-Opening Services Agreement.

“*Requisition*” means a written request for payment including the Disbursement Package in the form required under Section 5.04.

“*Reservation Deposit Account*” means the Reservation Deposit Account in the Construction Fund established by Section 5.02.

“*Reservation Deposits*” means deposits from guests to reserve rooms or facilities at the Hotel.

“*Reserve Fund Requirement*” means with respect to the Series 201_ Bonds, \$ _____, and with respect to any Additional Bonds, an amount equal to the least of (i) ten percent (10%) of the stated principal amount of the Series 201_ Bonds and any Additional Bonds, (ii) the maximum annual Debt Service on the Series 201_ Bonds and any Additional Bonds, and (iii) 125% of the average annual Debt Service on the Series 201_ Bonds and any Additional Bonds.

“*Responsible Officer*” means, when used with respect to the Trustee, the chairman or vice chairman of the board of directors of the Trustee, the chairman or vice chairman of the executive committee of said board, the president or any vice president, the secretary or any assistant secretary, the treasurer or any assistant treasurer, the cashier or any assistant cashier, any trust officer or assistant trust officer, the controller or any assistant controller or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other

officer of the Trustee to whom such matter is referred because of that officer's knowledge of and familiarity with the particular subject.

"Retainage Account" means the Retainage Account in the Construction Fund established by Section 5.02.

"Retention" has the meaning assigned to such term in Section 6.22(J) of the San Francisco Administrative Code.

"Revenue Fund" means the Revenue Fund established by Section 5.02.

"Revenue Stabilization Fund" means the Revenue Stabilization Fund established by to Section 5.02.

"Revenues" means the Total Operating Revenues and all amounts received by the Commission or the Trustee pursuant to the Assigned Commission Documents, including insurance proceeds, condemnation proceeds, performance bonds and guaranties and all interest, profits or other income derived from the investment of amounts in any fund or account established pursuant to this Trust Agreement (except any subaccounts of the Construction Fund that are otherwise pledged and the Rebate Fund).

"S&P" means Standard & Poor's Ratings Services, a division of The McGraw-Hill Companies, Inc., its successors and assigns, and, if Standard & Poor's Ratings Services shall for any reason no longer perform the functions of a securities rating agency, "S&P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Commission.

"Series" means Bonds identified as a separate series which are authenticated and delivered on original issuance and any Bonds thereafter authenticated and delivered in lieu of or in substitution for such Bonds pursuant to this Trust Agreement, or any Supplemental Trust Agreement.

"Series 201_ Bonds" means the Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 201_, issued pursuant to this Trust Agreement in the original aggregate principal amount of \$[225,000,000].

"Shortfall" has the meaning set forth in Section 7.18(b).

"Site" means the real property in the County of San Mateo, California, legally described in Exhibit C to the Management Agreement.

"State" means the State of California.

"Subaccount" means any one or more of the subaccounts from time to time created in any of the Accounts established by Section 5.02 or by any Supplemental Trust Agreement.

"Subcontractor" means any subcontractor, laborer, supplier, distributor, vendor, manufacturer or materialman other than Consultants that enters into a contract with the Design-

Builder (or any subcontractor, sub-supplier or sub-consultant thereof at any tier) to provide any portion of the Work.

“*Subordinate Bonds*” means any bonds issued pursuant to Section 3.15, the payment of the principal of and interest on which is subordinate to the Bonds.

“*Subordinate Management Fee*” has the meaning set forth in Exhibit K of the Management Agreement.

“*Subordinate Management Fee Fund*” means the Subordinate Management Fee Fund established by Section 5.02.

“*Subordination*” means an agreement pursuant to which Indebtedness owed to a Person, and/or the Lien securing such Indebtedness, is made subject and subordinate, in payment priority and/or lien priority, to Indebtedness owed to another Person and/or the Lien securing the same.

“*Substantially All*” means ninety-five percent (95%) or more.

“*Sufficient Funds*” means the following to the extent made available to Manager for the purposes for which such funds are designated:

(a) with respect to the payment of Operating Expenses, there are sufficient amounts in the Lockbox Fund and the Working Capital Reserve Fund for the payment of such Operating Expenses;

(b) with respect to Gross Receipts Taxes, there are sufficient amounts in the Lockbox Fund to pay such taxes at least equal to the collections deposited by Manager into the Lockbox Fund that are attributable to such Gross Receipts Taxes;

(c) with respect to Taxes and Insurance Costs, there are sufficient amounts in the Taxes and Insurance Fund to pay for such costs;

(d) with respect to the payment of Capital Expenses in connection with budgeted Capital Improvements, there are sufficient funds in the Capital Reserve Fund to pay for such Capital Expenses; and

(e) with respect to the payment of Capital Expenses in connection with unbudgeted Capital Improvements or an Emergency, there are sufficient amounts in the Working Capital Reserve Fund, the Capital Reserve Fund, and the Revenue Stabilization Fund to pay for such Capital Expenses; and

(f) with respect to the payment of costs to repair and/or replace FF&E, there are sufficient funds in the FF&E Reserve Fund to pay for such costs.

“*Supplemental Trust Agreement*” means any Trust Agreement supplemental to or amendatory of this Trust Agreement, entered into by the Commission and the Trustee in accordance with Article XI.

“*Systems*” include all fixtures, equipment, pipes, lines, wires, ducts, vents, computer cables, security system cables, monitoring system cables, conduits, and other systems and facilities used in the production, heating, cooling and/or transmission of air, water, gas, electricity, communications, waste water, sewage, and audio and video signals, elevators and escalators.

“*Taking*” or “*Taken*” means (a) a taking as a result of compulsory purchase or acquisition of all or part of the Hotel, by any Governmental Authority (or any authority or entity acting on behalf of or purporting to act on behalf of any Governmental Authority) for any purpose whatsoever or a conveyance in lieu thereof or (b) any direction, ruling or order of any Governmental Authority requiring conversion of all or part of the Property to another purpose other than for the Hotel.

“*Tax Certificate*” means, for any Series of Tax-Exempt Bonds, the Tax Certificate dated the date of delivery of such Bonds and executed by the Commission.

“*Tax-Exempt Bonds*” means a Series of Bonds the interest on which is excluded from gross income for purposes of federal income taxation.

“*Taxes*” means all taxes, including ad valorem taxes on real property, lease-hold excise taxes, transfer taxes, personal property taxes and other assessments imposed by Governmental Authorities relating to or assessed in connection with the ownership or operation of the Hotel, except for Excluded Taxes and Other Charges.

“*Taxes and Insurance Fund*” means the Taxes and Insurance Fund established by Section 5.02.

“*Taxes and Insurance Set Aside Amount*” means, with regard to a particular month, an amount equal to one-twelfth of the amount budgeted for real property taxes, if any, assessments, and insurance for the Hotel by the then-current Operating Budget for the Operating Year in which the month falls; provided, that such amount may be adjusted to the extent determined to be necessary to cause the amount to be deposited therein to at least equal the payment for ad valorem property taxes, if any, assessments and insurance premiums when due.

“*Technical Services Agreement*” means the agreement by and between the the Commission and Manager dated as of [DATE], 201_, as supplemented and amended.

“*Temporary Certificate of Occupancy*” means the certificate or certificates, as applicable, issued by BICE, that permits legal and beneficial occupancy, operation and use of the Hotel, without interruption, for each of its intended purposes, which certificate or certificates may be issued with or without qualification so long as any qualifications shall not prohibit, restrict or impair such occupancy, operation or use, as initially acquired by the Design-Builder with respect to the original construction of the Hotel and the Work pursuant to the Design-Build Agreement.

“*Total Operating Revenues*” means all revenue and income of any kind derived directly or indirectly from operations at the Hotel, whether or not arranged by, for or on behalf of another Person or at another location, properly attributable to the period under consideration (including rentals or other payments from licensees or concessionaires of retail space in the Hotel, but not

gross receipts of such licensees or concessionaires), determined in accordance with the Uniform System of Accounts and, to the extent consistent therewith, Generally Accepted Accounting Principles; provided, that the following shall not be included in determining Total Operating Revenues:

- (a) Excluded Taxes and Other Charges;
- (b) receipts from the financing, sale or other disposition of capital assets and other items not in the ordinary course of the Hotel's operations and income derived from securities and other property acquired and held for investment;
- (c) receipts from awards or sales in connection with any Taking, from other transfers in lieu of and under the threat of any Taking, and other receipts in connection with any Taking, but only to the extent that such amounts are specifically identified as compensation for alterations or physical damage to the Hotel;
- (d) proceeds of any insurance or sureties, including the proceeds of any Business Interruption Insurance;
- (e) rebates, discounts, or credits of a similar nature (not including charge or credit card discounts, which shall not constitute a deduction from revenues in determining Total Operating Revenues, but shall constitute an Operating Expense);
- (f) consideration received at the Hotel for hotel accommodations, goods and services to be provided at other hotels although arranged by, for or on behalf of, Manager; provided, that such consideration is recognized by such other hotels;
- (g) consideration received at other hotels for hotel accommodations, goods and services to be provided at the Hotel arranged by, for or on behalf of, such other hotels; provided, that such consideration is recognized by such other hotels;
- (h) notwithstanding any contrary requirements of Generally Accepted Accounting Principles, all gratuities collected for the benefit of and paid directly to Hotel Personnel;
- (i) proceeds of any financing;
- (j) the initial operating funds and working capital loans and any other funds provided by the Commission to Manager whether for Operating Expenses or otherwise;
- (k) other income or proceeds that do not result from (i) the use or occupancy of the Hotel, or any part thereof, or (ii) the sale of goods, services or other items by or from the Hotel in the ordinary course of business;
- (l) interest earned on funds held in any Fund or Account;
- (m) the value of any complimentary rooms, goods or services;

(n) refunds to Hotel guests of any sums or credits to any Hotel customers for lost or damaged items; and

(o) refunds to parking customers of any sums or credits to any parking customers for lost or damaged items.

“*Trust Agreement*” means this Trust Agreement, dated as of [DATE], 201_ by and between the Commission and the Trustee, as originally executed and as it may from time to time be amended, modified and supplemented in accordance with the terms hereof.

“*Trustee*” means U.S. Bank National Association, as trustee under this Trust Agreement, as the initial Trustee under this Trust Agreement, together with any successors or assigns.

“*Unamortized Key Money*” has the meaning set forth in the Management Agreement.

“*Uniform System of Accounts*” means the latest edition of the Uniform System of Accounts for the Lodging Industry that is published by the Hotel Association of New York City, Inc. and approved by the American Hotel & Lodging Association (currently, the 11th Revised Edition, 2014).

“*United States Bankruptcy Code*” means the Bankruptcy Reform Act of 1978, as amended, (11 U.S.C. Section 101, et seq.).

“*Work*” means the performance by Design-Builder of all its responsibilities and obligations set forth in the Design-Build Agreement. Work shall include providing all materials, labor, services, and documentation required by the Design-Build Agreement to design and construct the Hotel in accordance with the Hyatt Requirements.

“*Working Capital Reserve Fund*” means the Working Capital Reserve Fund established by Section 5.02.

“*Working Capital Reserve Requirement*” means an amount equal to \$2,500,000.

“*Working Capital Set-Aside Amount*” means \$1,800,000, as such amount may be adjusted from time to time pursuant to the Management Agreement.

Section 1.02 Table of Contents, Titles and Headings. The table of contents, titles and headings of the articles and sections of this Trust Agreement have been inserted for convenience of reference only and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof and shall never be considered or given any effect in construing this Trust Agreement or any provision hereof or in ascertaining intent, if any question of intent should arise.

Section 1.03 Interpretation and Construction. For purposes of this Trust Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) All references in this Trust Agreement to designated “Exhibits,” “Articles,” “Sections,” “subsections,” “paragraphs,” “clauses” and other subdivisions are to the designated Exhibits, Articles, Sections, subsections, paragraphs, clauses and other subdivisions

of this Trust Agreement. The words "herein," "hereof," "hereto," "hereby," "hereunder" and other words of similar import refer to this Trust Agreement as a whole and not to any particular Article, Section or other subdivision.

(b) The terms defined in this Trust Agreement shall have the meanings assigned to them in Article I and shall include the plural as well as the singular.

(c) All accounting terms not otherwise defined in this Trust Agreement have the meanings assigned to them in accordance with Generally Accepted Accounting Principles as in effect from time to time.

(d) The term "money" includes any cash, check, deposit, Investment Security or other form in which any of the foregoing are held under this Trust Agreement.

(e) The terms "include," "includes" and "including" shall not be limiting and shall be deemed in all instances to be followed by the phrase "without limitation."

(f) Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms.

(g) Unless the context clearly requires otherwise, the word "or" is not exclusive.

(h) The phrase "and/or" means either or both of the items referenced thereby.

(i) References to "days" mean calendar days unless otherwise indicated.

(j) Every "request," "order," "demand," "application," "appointment," "notice," "statement," "certificate," "consent" or similar action under this Trust Agreement by the Commission, the Design-Builder, Manager, the Trustee or any Agent shall, unless otherwise specifically provided, be in writing signed by an officer or other agent of such party authorized to sign the same on behalf of the applicable entity (and not individually).

(k) In the computation of a period of time from a specified date to a later specified date, the word "from" means "from and including" and each of the words "to" and "until" means "to but excluding."

Section 1.04 Content of Certificates and Opinions. Every certificate or opinion (other than legal opinions) provided for in this Trust Agreement with respect to compliance with any provision hereof shall be made on behalf of the entity named therein and not made individually by the person signing such certificate and shall include (a) a statement that the person making or giving such certificate or opinion, on behalf of the entity named therein and not individually, has read such provision and the definitions in this Trust Agreement relating thereto; (b) a brief statement as to the nature and scope of the examination or investigation upon which the entity's certificate or opinion is based; (c) a statement that the entity has made or caused to be made such examination or investigation as is necessary to enable the entity to express an informed opinion with respect to the subject matter referred to in the certificate or opinion which such entity is delivering; and (d) a statement as to whether, in the opinion of such entity, such provision has been complied with. Any such certificate or opinion made or given by

an officer on behalf of the Commission (and in no event individually) may be based, insofar as it relates to legal or accounting matters, upon a certificate or opinion of or representation by counsel or an accountant, unless the Commission knows that the certificate, opinion or representation with respect to the matters upon which such certificate or statement may be based, as aforesaid, is erroneous. Any such certificate or opinion made or given by counsel or an accountant may be based, insofar as it relates to factual matters (with respect to which information is in the possession of the Commission) upon a certificate or opinion of or representation by an officer of the Commission on behalf of the Commission (and not individually), unless such counsel or accountant knows, or in the exercise of reasonable care should have known, that the certificate or opinion or representation with respect to the matters upon which such Person's certificate or opinion or representation may be based, as aforesaid, is erroneous. The same officer of the Commission, or the same counsel or accountant, as the case may be, need not certify to all of the matters required to be certified under any provision of this Trust Agreement, but different officers (on behalf of the Commission and not individually), counsel or accountants may certify to different matters, respectively.

ARTICLE II LIMITED OBLIGATIONS

Section 2.01 Limited Obligations of the Commission. Notwithstanding any other provision of this Trust Agreement to the contrary, Bonds issued under this Trust Agreement and any other obligations of the Commission under this Trust Agreement shall be limited obligations of the Commission payable in accordance with this Trust Agreement and any applicable Supplemental Trust Agreement. THE PAYMENT OBLIGATIONS OF THE COMMISSION UNDER THIS TRUST AGREEMENT AND WITH RESPECT TO THE BONDS ARE SPECIAL LIMITED OBLIGATIONS OF THE COMMISSION PAYABLE SOLELY FROM THE TOTAL OPERATING REVENUES OF THE HOTEL, AMOUNTS HELD BY THE TRUSTEE PURSUANT TO THIS TRUST AGREEMENT AND AVAILABLE PROCEEDS OF THE BONDS AS PROVIDED IN THIS TRUST AGREEMENT. THE BONDS SHALL NOT IN ANY MANNER OR TO ANY EXTENT CONSTITUTE GENERAL OBLIGATIONS OF THE COMMISSION OR THE CITY. THE BONDS ARE NOT A CHARGE UPON THE REVENUES OR GENERAL FUND OF THE COMMISSION OR THE CITY OR UPON ANY MONEYS OR OTHER PROPERTY OF THE COMMISSION OR THE CITY OTHER THAN THE TOTAL OPERATING REVENUES OF THE HOTEL, AMOUNTS HELD BY THE TRUSTEE PURSUANT TO THIS TRUST AGREEMENT AND AVAILABLE PROCEEDS OF THE BONDS. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY ARE PLEDGED TO THE PAYMENT OF THE BONDS. THE BONDS ARE NOT SECURED BY A LEGAL OR EQUITABLE PLEDGE OF, OR CHARGE, LIEN, OR ENCUMBRANCE UPON, ANY OF THE PROPERTY OF THE COMMISSION OR OF THE CITY OR ANY OF ITS OR THEIR INCOME, REVENUES OR RECEIPTS, EXCEPT TOTAL OPERATING REVENUES OF THE HOTEL.

ARTICLE III
AUTHORIZATION AND ISSUANCE OF BONDS,
GENERAL TERMS AND PROVISIONS OF THE BONDS

Section 3.01 Authorization of Bonds.

(a) The Commission hereby authorizes the issuance of Bonds, to be designated "Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel)." The aggregate principal amount of the Bonds which may be executed, authenticated and delivered under this Trust Agreement is not limited except as may be provided in this Trust Agreement or in any Supplemental Trust Agreement or as may be limited by law.

(b) The Bonds may, as provided in this Trust Agreement and in one or more Supplemental Trust Agreements, be issued in one or more Series, and the designation thereof, in addition to the name "Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel)," shall include such further appropriate particular designation added to or incorporated in such title for the Bonds of any particular Series, as the Commission may determine. Each Bond shall bear upon its face the designations so determined for the Series to which it belongs.

(c) The Bonds shall be issued in such form as may be provided in this Trust Agreement or by Supplemental Trust Agreement, and each Bond issued under this Trust Agreement shall contain on its face a statement to the effect set forth in Section 2.01.

(d) There are hereby authorized to be issued and shall be issued under and secured by this Trust Agreement a Series of Bonds designated as "Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 201_" in an aggregate principal amount of \$[PAR AMOUNT].

Section 3.02 Provisions for Issuance of Bonds.

(a) All (but not less than all) the Bonds of each Series shall be executed by the Commission for issuance under this Trust Agreement and delivered to the Trustee and thereupon shall be authenticated by the Trustee and by it delivered upon the Order of the Commission, but only upon the receipt by the Trustee of the following items (which upon receipt the Trustee may conclusively rely in determining whether the conditions precedent for the issuance and authentication of such Series of Bonds have been satisfied):

(i) With respect to the Series 201_ Bonds, an executed copy of this Trust Agreement, each Principal Transaction Document and the Performance and Payment Bonds as originally executed or adopted;

(ii) in the case of Additional Bonds, an opinion of Bond Counsel in customary form to the effect that, as of its date (A) this Trust Agreement and the Supplemental Trust Agreement authorizing such Additional Bonds, have been duly executed and delivered by, and constitute valid and binding obligations of, the Commission; (B) such Bonds constitute valid

and binding limited obligations of the Commission; and (C) if applicable, interest on such Bonds is excludible from gross income for federal income tax purposes;

(iii) in the case of Additional Bonds, an executed copy of the Supplemental Trust Agreement authorizing such Bonds which shall, among other provisions, specify:

- (A) the authorized principal amount and Series of such Bonds;
- (B) the dated date and the maturity date or dates of such Bonds;
- (C) the interest rate or rates, if any, or the manner of determining such interest rate or rates, on such Bonds and the Interest Payment Date or Dates thereof;
- (D) the denominations of and the manner of dating, numbering and lettering of such Bonds;
- (E) any capitalized interest requirements (or the method of determining the same) for such Bonds;
- (F) the Redemption Prices, if any, and the redemption or purchase terms, for such Bonds;
- (G) the amount and due date of each Mandatory Sinking Fund Installment, if any, for such Bonds of like maturity;
- (H) the form of such Bonds and whether or not such Bonds are subject to the book-entry system;
- (I) the purpose for which such Bonds are being issued, which shall be solely for the purpose of (I) providing additional improvements to the Hotel, (II) refunding one or more Series of Bonds or portion thereof, (III) payment of costs incidental to or connected with any Bond authorized in clauses (I) or (II) above, (IV) making deposits into the applicable reserve fund or funds, and/or (V) making any deposits into the funds and accounts required by the provision of the Supplemental Trust Agreement authorizing such Bonds;
- (J) the application of the proceeds of the sale of such Bonds including the amount, if any, to be deposited in the funds and accounts established under this Trust Agreement; and
- (K) any other provisions deemed advisable by the Commission and not in conflict with the provisions of this Trust Agreement;

(iv) a certificate of either (A) an Authorized Commission Representative dated as of the date of issuance of such Series of Additional Bonds stating that there exists no Event of Default under this Trust Agreement or event which would constitute an Event of Default upon notice and failure to cure pursuant to Section 9.03 or (B) the Registered

Owners of a majority in aggregate principal amount of the Bonds then Outstanding consenting to the issuance of the Series of Additional Bonds; and

(v) such further opinions and instruments as are required by or pursuant to the provisions of this Trust Agreement or any Supplemental Trust Agreement.

(b) One or more Series of Additional Bonds that are Refunding Bonds may be issued, authenticated and delivered to refund all Outstanding Bonds of one or more Series or all or any portion of the Outstanding Bond or Bonds of a maturity within one or more Series. Each Series of Refunding Bonds shall be issued in a principal amount sufficient, together with other moneys available therefor, to accomplish such refunding, including providing amounts for the costs incidental to or connected therewith, and the making of any deposits into a reserve fund and any of the funds and accounts required by the provisions of the Supplemental Trust Agreement authorizing such Series of Refunding Bonds. Refunding Bonds of each Series shall be executed by the Commission for issuance under this Trust Agreement and delivered to the Trustee and thereupon shall be authenticated by the Trustee upon the Order of the Commission, but only upon the receipt by the Trustee (in addition to the opinions and instruments required by subsection (a) of this Section) of the following items (upon which receipt the Trustee may conclusively rely in determining whether the conditions precedent for the issuance and authentication of such Series of Refunding Bonds have been satisfied):

(i) satisfaction of the provisions of Section 8.02 with respect to the Bonds to be refunded by the Refunding Bonds;

(ii) a Certificate of the Commission that no amendments or supplements will be made to this Trust Agreement in connection with the issuance of the Refunding Bonds that would otherwise require the prior written consent of any of the Registered Owners of any Bonds to remain Outstanding after the issuance of such Refunding Bonds, under Article XI or, if any such amendments or supplements requiring such consents are being made to this Trust Agreement, that such prior written consents have been obtained;

(iii) receipt by the Trustee of one of the following: (A) a Certificate of Reduction in Debt Service; or (B) an Accountant's Certificate that either (I) the Projected Additional Bonds Debt Service Coverage Ratio, taking into account the Refunding Bonds proposed to be issued and all Outstanding Bonds (other than the Bonds proposed to be refunded with proceeds of such Refunding Bonds), is not less than 1:50:1.00 for each Fiscal Year succeeding the date of issuance of such Refunding Bonds, or (II) proceeds of such Refunding Bonds, together with any other amounts available under this Trust Agreement for such purpose, are sufficient to redeem and defease all of the Bonds that were Outstanding immediately prior to the issuance of such Refunding Bonds; or (C) the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding consent in writing to the issuance of the Series of Additional Bonds; and

(iv) such further opinions and instruments as are required by the provisions of Articles XI or XII or by the provisions of any Supplemental Trust Agreement.

(c) One or more Series of Additional Bonds that are not Refunding Bonds may be issued, authenticated and delivered upon original issuance for the purpose of financing or

refinancing (excluding Refunding Bonds) the construction, installation and equipping of additions, renovation, betterments, extensions, expansions or improvements to the Hotel. Additional Bonds of a Series issued for such purposes shall be issued in a principal amount not to exceed, together with other moneys available therefor, the Commission's estimate of the reasonable Costs of the Hotel to be financed or refinanced with the proceeds of the sale of such Series of Additional Bonds, including providing amounts for the costs incidental to or connected with any such Bonds and the making of any deposits into the applicable reserve fund and any of the funds and accounts required by the provisions of this Trust Agreement and the Supplemental Trust Agreement authorizing such Series of Additional Bonds. Additional Bonds of each Series that do not otherwise constitute Refunding Bonds under subsection (b) of Section 3.02 shall be executed by the Commission for issuance under this Trust Agreement and delivered to the Trustee and thereupon shall be authenticated by the Trustee upon the Order of the Commission, but only upon the receipt by the Trustee (in addition to the opinions and instruments required by subsection (a) of this Section 3.02) of the following items (upon which receipt the Trustee may conclusively rely in determining whether the conditions precedent for the issuance and authentication of such Series of Additional Bonds have been satisfied):

(i) (A) an Accountant's Certificate that the Projected Additional Bonds Debt Service Coverage Ratio, taking into account the Additional Bonds proposed to be issued and all Outstanding Bonds, is not less than 1.25:1.00, respectively, for each Fiscal Year succeeding the date of issuance of such Additional Bonds; or (B) the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding consent in writing to the issuance of the Series of Additional Bonds; or

(ii) such further opinions and instruments as are required by the provisions of Article XI or XII or by the provisions of any Supplemental Trust Agreement.

(d) The Commission may issue Additional Bonds in the principal amount not to exceed ten percent (10%) of the aggregate principal amount of the Series 201_ Bonds, the proceeds of which are required to complete the Hotel in the manner originally contemplated as of the Closing Date or to pay amounts reasonably determined by the Commission to be required to be made to protect life, health or property from imminent danger or to comply with Applicable Laws so long as there is delivered to the Trustee (in addition to the opinions and instruments required by subsection (a) of Section 3.02) (i) an Accountant's Certificate to the effect that the Projected Additional Bonds Debt Service Coverage Ratio, taking into account the debt service requirements of such Additional Bonds, is not less than 1.00:1.00 for each of the Fiscal Years succeeding the date of issuance of such Series of Additional Bonds through the final maturity date for such Series of Additional Bonds, or (ii) the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding consent in writing to the issuance of the Series of Additional Bonds.

Section 3.03 Application of Bond Proceeds and Other Funds.

(a) The Trustee shall apply the net proceeds from the sale of the Series 201_ Bonds in the amount of \$[] (consisting of the aggregate principal amount of the Series 201_ Bonds of \$[PAR AMOUNT], less [REDUCTION FOR XX] of \$[]) as follows:

(i) \$[], representing the Reserve Fund Requirement, shall be deposited into the Debt Service Reserve Fund;

(ii) \$[] shall be deposited into the Series 201_ Capitalized Interest Account of the Construction Fund and, except as otherwise provided in Section 5.05(e), applied to the payment of interest accruing on the Series 201_ Bonds to and including [DATE, 20];

(iii) \$[] shall be deposited into the Costs of Issuance Account of the Construction Fund and applied to the payment of Costs of Issuance;

(iv) \$[] shall be deposited into the Pre-Opening Expenses Account of the Construction Fund and applied to the payment of Pre-Opening Expenses [and the fee due under the Technical Services Agreement];

(v) \$[] shall be deposited into the Preliminary Working Capital Account of the Construction Fund;

(vi) \$[] shall be paid to or upon the order of the Commission to repay the interim financing undertaken by the Commission with respect to the Costs of the Hotel; and

(vii) the remainder shall be deposited into the Hotel Account of the Construction Fund and shall be used to pay Costs of the Hotel.

(b) The proceeds, including accrued interest, if any, of Additional Bonds together with any other moneys provided by the Commission, shall be applied by the Trustee simultaneously with the delivery of such Bonds in the manner provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

Section 3.04 Medium of Payment; Form and Date; Letter and Numbers.

(a) The Bonds shall be payable, as to principal and interest in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts. Interest on the Series 201_ Bonds shall be computed on the basis of a 360-day year consisting of twelve (12) thirty (30)-day months. Interest on any Series of Additional Bonds shall be computed as provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

(b) Each Series 201_ Bond shall be issued only as a fully registered Bond. Each Series 201_ Bond shall be substantially in the form of Exhibit B to this Trust Agreement, with such changes therein that are not inconsistent with this Trust Agreement, as are approved by

the Authorized Commission Representative executing the Series 201_ Bonds (whose manual or facsimile signature thereon shall constitute conclusive evidence of his or her approval of any such changes appearing thereon). Additional Bonds may be issued in such form or forms as shall be provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

(c) The Series 201_ Bonds shall be numbered consecutively from R-1 upward, or in such other manner as the Commission, with the concurrence of the Trustee, shall determine. The Trustee shall insert the date of authentication of each Bond in the place provided for such purpose in the form of certificate of authentication of the Trustee to be printed on each Bond. If interest on the Bonds shall be in default, Bonds issued in exchange for Bonds surrendered for transfer or exchange shall be dated as of the date to which interest has been paid in full on the Bonds surrendered. Each Additional Bond shall be lettered and numbered as provided in this Trust Agreement or the Supplemental Trust Agreement authorizing the Series of which such Additional Bond is a part and so as to be distinguished from every other Bond.

(d) The Series 201_ Bonds shall be dated the Closing Date, shall be issued in Authorized Denominations, shall mature on [MONTH/DAY] of the years and in the amounts set forth below, and shall bear interest, payable semiannually on each [MONTH/DAY] and [MONTH/DAY], beginning [MONTH/DAY, 20__], at the rate per annum as set forth below for each such maturity:

Maturity Date (Month/Day)	Principal Amount	Interest Rate	Maturity Date (Month/Day)	Principal Amount	Interest Rate
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* Term Bond

Additional Bonds of each Series shall be dated as of, and bear interest from, such date or dates as shall be provided in the Supplemental Trust Agreement authorizing such Series of Additional Bonds.

(e) The following provisions apply to the Series 201_ Bonds except as otherwise provided in any arrangements with DTC as set forth in Section 3.13 with respect to the all Additional Bonds, unless with respect to any Additional Bonds the Supplemental Trust Agreement authorizing such Additional Bonds provides otherwise:

(i) interest on Bonds other than interest payable at maturity or on a Redemption Date shall be paid to the Person in whose name such Bond is registered on the Register at the close of business on the Record Date for such Interest Payment Date; payment of

interest on Bonds other than interest payable at maturity or on a Redemption Date shall be made by check of the Trustee mailed to the Registered Owners thereof at their addresses set forth in the Register as of the Record Date, or by wire transfer to Registered Owners of \$1,000,000 or more in aggregate principal amount of Bonds at such wire transfer address in the United States as such Registered Owner shall specify in writing requesting payment by wire transfer delivered to the Trustee prior to the Record Date;

(ii) payment of interest on Bonds at maturity or on a Redemption Date shall be paid upon presentation and surrender of such Bonds at the Trustee's Principal Office; and

(iii) principal of the Bonds shall be payable by check in lawful money of the United States of America at the Trustee's Principal Office in accordance with the notice provisions of this Trust Agreement; no payment of principal shall be made on any Bond unless and until such Bond is tendered to the Trustee for cancellation; provided, that the Trustee may agree with any Registered Owner that such Registered Owner may, in lieu of surrendering the same for a new Bond, endorse on such Bond a record of partial payment of the principal of such Bond. The Trustee shall maintain a record of each such partial payment made in accordance with the foregoing agreement and such record shall be conclusive. Such partial payment shall be valid upon payment of the amount thereof to the Registered Owner of such Bond, and the Commission and the Trustee shall be fully released and discharged from all liability to the extent of such payment irrespective of whether such endorsement shall or shall not have been made upon such Bond by the Registered Owner thereof and irrespective of any error or omission in such endorsement.

Section 3.05 Legends. The Bonds of each Series may contain or have endorsed thereon such provisions, specifications and descriptive words not inconsistent with the provisions of this Trust Agreement as may be necessary or desirable to comply with custom, the rules of any securities exchange or commission, brokerage board, municipal securities rulemaking board or otherwise.

Section 3.06 Execution and Authentication.

(a) The Bonds shall be signed in the name of the Commission by the President or by such other officer of the Commission authorized to do so by resolution of the Board by his or her manual or facsimile signature, and attested by the Secretary or Assistant Secretary of the Commission. In case any such officer of the Commission shall have signed any of the Bonds shall cease to hold such office before the Bonds so signed shall have been authenticated and delivered by the Trustee, such Bonds may, nevertheless, be authenticated and delivered as provided in this Trust Agreement, and may be issued as if the persons who signed such Bonds had not ceased to hold such offices. Any Bond of a Series may be signed on behalf of the Commission by such persons who at the time of the execution of such Bonds shall be duly authorized or hold the designated office of the Commission, although at the date borne by or of delivery of the Bond or Bonds of such Series such persons may not have been so authorized or have held such office.

(b) Only such Bonds as shall have endorsed thereon a certificate of authentication, substantially in the form set forth in Exhibit B to this Trust Agreement with

respect to the Series 201_ Bonds, and in the form set forth in the Supplemental Trust Agreement authorizing Additional Bonds with respect to such Additional Bonds, dated as of the date of authentication and duly authenticated by the Trustee shall be entitled to any right, security or benefit under this Trust Agreement. No Bond shall be valid or obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such executed certificate upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Trust Agreement and that the Registered Owner thereof is entitled to the benefits of the trust hereby created. The Trustee's certificate of authentication on any Bond shall be deemed to have been duly executed by it if (i) signed by an authorized officer or signatory of the Trustee, but it shall not be necessary that the same officer or signatory sign the certificate of authentication on all of the Bonds or on all of the Bonds of any Series issued under this Trust Agreement and (ii) the date of authentication of the Bond is inserted in the place provided therefor on the certificate of authentication.

Section 3.07 Exchange of Bonds. Unless otherwise provided in any Supplemental Trust Agreement, Bonds, upon surrender thereof at the designated office of the Registrar, when surrendered with a written request satisfactory to the Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized attorney, may, at the option of the Registered Owner thereof, and upon payment by such Registered Owner of any charges which the Registrar or the Commission may make as provided in Section 3.09, be exchanged for an equal aggregate principal amount of Bonds of the same Series, lien priority, interest rate and maturity and in any Authorized Denomination.

Section 3.08 Negotiability, Transfer and Registry.

(a) Unless otherwise provided in any Supplemental Trust Agreement, Bonds shall be transferable only upon the Register, which shall be kept for that purpose at the designated office of the Registrar for such Series of Bonds, by the Registered Owner thereof, in person or by the Registered Owner's attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Owner or the Registered Owner's duly authorized attorney.

(b) The Registrar shall keep, or cause to be kept, on behalf of the Commission at the designated office of the Registrar or such other location or locations as shall be provided in any Supplemental Trust Agreement, the Register, in which, subject to such reasonable regulations as the Commission, the Trustee, and the Registrar may prescribe, the Registrar shall cause Bonds to be registered and shall transfer Bonds as in this Article provided. The Register shall contain the name and address of the Registered Owner of each Bond. Upon the transfer of any such Bond and payment of any required fees, the Registrar shall issue in the name of the transferee a new fully registered Bond or Bonds of the same aggregate principal amount, Series, lien priority, interest rate and maturity as the surrendered Bond.

(c) The Commission, the Trustee and any Agent may deem and treat the person in whose name any Bond shall be registered in the Register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price of and interest on such Bond and for all other purposes, and all such payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond

to the extent of the sum or sums so paid, and the Commission, the Trustee, and any other Agent shall not be affected by any notice to the contrary.

Section 3.09 Exchanges and Transfers. Except as otherwise provided in any Supplemental Trust Agreement, in all cases in which the privilege of exchanging or transferring Bonds is exercised, the Commission shall execute and the Trustee shall authenticate and deliver Bonds in accordance with the provisions of this Trust Agreement. All registered Bonds surrendered in any exchange or transfer shall forthwith be canceled by the Trustee. For every such transfer of Bonds pursuant to Section 3.08, whether temporary or definitive, the Commission, the Trustee or the Registrar may make a charge sufficient to reimburse it or them for any expense, tax, fee or other governmental charge required to be paid with respect to such transfer. In addition, for every exchange of Bonds (other than the exchange of temporary Bonds for definitive Bonds), the Commission, the Trustee or the Registrar may make reasonable charges to cover the costs of printing Bonds including any Trustee's or Registrar's charges in connection therewith. The payment of the sum or sums provided in this Section shall be made by the Registered Owner requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. Except as may be otherwise provided in a Supplemental Trust Agreement, the Registrar shall not be required to transfer or exchange Bonds for a period from the 15th day of the month next preceding any Interest Payment Date or Principal Payment Date of such Bond through such Interest Payment Date or Principal Payment Date nor to transfer or exchange any Bond after notice calling such Bond or portion thereof for redemption has been given as provided in this Trust Agreement nor during the period of fifteen (15) days next preceding the giving of such notice.

Section 3.10 Bonds Mutilated, Destroyed, Stolen or Lost. In case any Bonds shall become mutilated or be destroyed, stolen or lost, the Commission shall execute, and thereupon the Trustee shall authenticate and deliver, a new Bond of like Series, lien priority, maturity date, principal amount and interest rate as the Bond so mutilated, lost, stolen or destroyed; provided, that (a) in the case of any mutilated Bond, such Bond is first surrendered to the Trustee, (b) in the case of any lost, stolen or destroyed Bond, there is first furnished evidence of such loss, theft or destruction satisfactory to the Trustee together with indemnity satisfactory to the Trustee, (c) all other reasonable requirements of the Commission and the Trustee are complied with, and (d) expenses in connection with such transaction are paid by the Registered Owner. Except as provided in Section 3.09, all Bonds so surrendered to the Trustee shall be canceled by it. Any such new Bonds issued pursuant to this Section in substitution for Bonds alleged to be destroyed, stolen or lost shall constitute original additional contractual obligations on the part of the Commission, whether or not the Bonds alleged to be destroyed, stolen or lost be at any time enforceable by anyone, and shall be equally secured by and entitled to equal and proportionate benefits in the Revenues and other assets pledged under this Trust Agreement with all other Bonds issued under this Trust Agreement, to the same extent provided in this Trust Agreement and subject to the terms and priority set forth in this Trust Agreement. If, after the delivery of such new Bond, a bona fide purchaser of the original Bond in lieu of which such new Bond was issued presents for payment or registration such original Bond, the Trustee shall be entitled to recover such new Bond from the Person to whom it was delivered or any person taking therefrom, except a bona fide purchaser, and shall be entitled to recover upon the security or indemnity provided therefor to the extent of any loss, damage, cost or expense incurred by the Commission or the Trustee in connection therewith.

Section 3.11 Temporary Bonds. Until the definitive Bonds of any Series are prepared, the Commission may execute, in the same manner as is provided in Section 3.06, and, upon the Request of the Commission or the Trustee shall authenticate and deliver, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds except as to denomination, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in Authorized Denominations as provided in this Trust Agreement or in a Supplemental Trust Agreement, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Commission at its own expense shall prepare and execute and, upon the surrender of such temporary Bonds, the Trustee shall authenticate and, without charge to the Registered Owner thereof, deliver in exchange therefor, definitive Bonds of the same aggregate principal amount and Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds authenticated and issued pursuant to this Trust Agreement. If the Commission shall authorize the issuance of temporary Bonds in more than one denomination, the Registered Owner of any temporary Bond or Bonds may, at said Registered Owner's option, surrender the same to the Trustee in exchange for another temporary Bond or Bonds of like aggregate principal amount, Series, lien priority and maturity of any other Authorized Denomination or Denominations, and thereupon the Commission shall execute and the Trustee shall authenticate and, in exchange for the temporary Bond or Bonds so surrendered and upon payment of the taxes, fees and charges as provided for in Section 3.09, shall deliver a temporary Bond or Bonds of like aggregate principal amount, Series and maturity in such other Authorized Denomination or Denominations as shall be requested by such Registered Owner.

All temporary Bonds surrendered in exchange either for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Trustee.

Section 3.12 Cancellation and Destruction of Bonds. Except as otherwise provided in this Trust Agreement or any Supplemental Trust Agreement, all Bonds paid in full, either at or before maturity, or purchased pursuant to Section 5.10, shall be delivered to the Trustee when such payment or purchase is made, and such Bonds shall thereupon be promptly canceled. Bonds so canceled shall thereafter be treated in accordance with the Trustee's document retention policies.

Section 3.13 Depository for Bonds. As provided in Section 3.14 hereof, this Section 3.13 will not apply to the Series 201_ Bonds on their original issuance. Except as otherwise provided in this Trust Agreement or any Supplemental Trust Agreement, the provisions of this Section 3.13 shall apply to Bonds that are subject to the book-entry system.

(a) Bonds that are subject to the book-entry system shall be executed and delivered in the form of a separate, single, authenticated, fully registered bond for each separate stated maturity of the Bonds of any Series, each such bond to be in the full principal amount of the Bonds with such stated maturity of such Series. Upon initial execution, authentication and delivery, the ownership of such Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC, the Depository for the Bonds. The Trustee and the Commission may treat DTC (or its nominee) as the sole and exclusive Registered Owner of the Bonds registered in its name for the purposes of payment of the principal of and interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or

required to be given to Registered Owners of Bonds under this Trust Agreement, registering the transfer of Bonds, obtaining any consent or other action to be taken by the Registered Owner of Bonds and for all other purposes whatsoever, and neither the Trustee nor the Commission shall be affected by any notice to the contrary. Neither the Trustee nor the Commission shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other Person, with respect to the accuracy of any records maintained by DTC or any Participant; the payment by DTC or any Participant of any amount in respect of the principal of or interest on the Bonds; any notice that is permitted or required to be given to the Registered Owners of the Bonds under this Trust Agreement; the selection by DTC or any Participant of any Person to receive payment in the event of a partial redemption of the Bonds; or any consent given or other action taken by DTC (or its nominee) as the Registered Owner of the Bonds. So long as DTC (or its nominee) is the Registered Owner of all Bonds, the Trustee shall pay all principal and of, and interest on, the Bonds only to DTC, and all such payments shall be valid and effective to fully satisfy and discharge the Commission's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. Except under the conditions specified in subsection (b) of this Section, no Person other than DTC or its nominee shall receive authenticated Bonds. Upon delivery by DTC to the Trustee of written notice to such effect, DTC may substitute a new nominee in place of Cede & Co., or any successor nominee, and subject to the provisions in this Trust Agreement with respect to record dates, the term "Cede & Co." in this Trust Agreement shall refer to such new nominee of DTC.

(b) If (i) DTC or any successor as Depository for the Bonds determines not to continue to act as Depository for the Bonds or (ii) the Commission determines that the incumbent Depository for the Bonds shall no longer so act, and the Commission delivers a written certificate of an Authorized Commission Representative to the Trustee to that effect, then the Commission shall discontinue the book-entry system with the incumbent Depository for the Bonds. If the Commission determines to replace the incumbent Depository for the Bonds with another Depository, the Commission shall prepare or direct the preparation of a new single, separate fully registered Bond for the aggregate outstanding principal amount of Bonds of each maturity of any Series to be registered in the name of such successor Depository, or its nominee, or make such other arrangements acceptable to the Commission, the Trustee and the successor Depository for the Bonds as are not inconsistent with the provisions of this Trust Agreement. If the Commission fails to identify a successor Depository for the Bonds to replace the incumbent Depository, then the Bonds shall no longer be restricted to being registered in the bond register in the name of the incumbent Depository or its nominee, but shall be registered in whatever name or names the incumbent Depository for the Bonds, or its nominee, shall designate in accordance with the provisions of subsection (a) of this Section. In such event the Commission shall, at its expense, prepare, execute and deliver a sufficient quantity of Bonds to the Trustee for authentication and delivery at the Commission's written direction to carry out the transfers and exchanges provided in this Section and Section 3.09. All such Bonds shall be in fully registered form in Authorized Denominations.

(c) Notwithstanding anything to the contrary in this Trust Agreement, so long as any Bond is registered in the name of DTC, or its nominee, all payments with respect to principal and Redemption Price of and interest on, such Bond, and all notices with respect to

such Bond, shall be made and given, respectively, as appropriate or necessary with respect to the arrangements made with DTC relating to the Bonds.

(d) In connection with any notice or other communication to be provided to Registered Owners of the Bonds pursuant to this Trust Agreement by the Commission or the Trustee with respect to any consent or other action to be taken by Registered Owners of the Bonds, the Commission or the Trustee, as the case may be, shall establish a record date for such consent or other action and give DTC notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent practicable.

Section 3.14 No Depository; Physical Delivery of Series 201_ Bonds. The Series 201_ Bonds shall be physically delivered to the Registered Owners thereof and shall not be subject to the book-entry system.

Section 3.15 Subordinate Bonds. Nothing in this Trust Agreement shall prevent the Commission from issuing at any time, while any of the Bonds issued hereunder are Outstanding, Subordinate Bonds with a pledge of, lien on and security interest in Total Operating Revenues which are junior and subordinate to those of the Bonds. The principal and redemption price of and interest on such Subordinate Bonds shall be payable from time to time out of Total Operating Revenues in the order or priority set forth in Section 5.07 only if all amounts then required to have been paid or deposited hereunder from Total Operating Revenues with respect to the principal and redemption price of and interest on the Bonds then Outstanding shall have been paid or deposited as required in this Trust Agreement and any Supplemental Trust Agreement. Any such Subordinate Bonds may be issued only upon satisfaction of the conditions set forth in Section 3.02 by treating such Subordinate Bonds as if they constitute Additional Bonds. The Subordinate Bonds shall be issued pursuant to a subordinate trust agreement with covenants, terms and conditions substantially the same as this Trust Agreement except for the subordinated status of such Subordinate Bonds.

ARTICLE IV REDEMPTION OF BONDS

Section 4.01 Privilege of Redemption and Redemption Price. Bonds subject to redemption prior to maturity shall be redeemable, upon notice as provided in this Article unless a different notice provision is provided for in a Supplemental Trust Agreement, at such Redemption Dates, at such Redemption Prices and upon such terms in addition to the terms contained in this Article, as may be specified in this Trust Agreement with respect to the Series 201_ Bonds or in the Supplemental Trust Agreement authorizing Additional Bonds with respect to such Additional Bonds.

Section 4.02 Redemption at the Option of the Commission.

(a) The Series 201_ Bonds shall be subject to redemption at the option of the Commission, in whole or in part on any date on or after [MONTH/DAY, 20__], from any legally available funds, at a Redemption Price equal to the principal amount of Series 201_ Bonds called for redemption, without premium, plus accrued interest with respect thereto to the date fixed for redemption.

(b) In the case of any redemption of Bonds at the option of the Commission, an Authorized Commission Representative shall give written notice to the Trustee of its election and Direction so to redeem, of the Redemption Date, of the Series, and of the principal amounts of the Bonds of each maturity of such Series to be redeemed (which Series, maturities, and principal amounts thereof to be redeemed shall be determined by the Commission in its sole discretion, subject to any limitations with respect thereto as are contained in Section 4.04). Such notice shall be given at least ten (10) days prior to the date on which notice of redemption is required to be given to the Registered Owners of the Bonds to be redeemed or within such shorter period as shall be provided by Supplemental Trust Agreement or as may be agreed to by the Trustee. Prior to any notice of redemption being given as provided in Section 4.05, there shall be paid to the Trustee for deposit into the appropriate Redemption Account an amount which, in addition to other moneys, if any, available therefor held by the Trustee, will be sufficient to redeem on the Redemption Date at the Redemption Price, plus interest accrued and unpaid to the Redemption Date, all of the Bonds called for redemption.

Section 4.03 Redemption Otherwise Than at the Option of the Commission.

(a) The Series 201_ Bonds maturing on [MONTH/DAY, 20__] are subject to mandatory redemption, at a Redemption Price equal to the principal amount of the Series 201_ Bonds being redeemed, together with accrued interest thereon to the Redemption Date, pursuant to Mandatory Sinking Fund Installments on [MONTH/DAY] in each of the years and principal amounts set forth in the table below; provided, that the Mandatory Sinking Fund Installments of Series 201_ Bonds maturing on [MONTH/DAY, 20__] shall be reduced in chronological order by the principal amount of any Series 201_ Bonds maturing on [MONTH/DAY, 20__] redeemed pursuant to any other optional or mandatory redemption provision on or before the date on which any such Mandatory Sinking Fund Installment is due:

<u>Year</u>	<u>Mandatory Sinking Fund Installment</u>
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* Final Maturity

(b) The Bonds shall be subject to extraordinary mandatory redemption at the Direction of the Commission pursuant to Section 7.18 and Section 5.19(b), in whole or in part on the earliest date following the date for which notice of redemption can be given as provided in this Trust Agreement, at a Redemption Price equal to the principal amount of Bonds to be redeemed plus interest accrued thereon to the date fixed for redemption, without premium, from proceeds of insurance, payment received under the Performance and Payment Bonds, or condemnation awards permitted or required to be applied to such redemption under Section 7.18 and Section 5.19(b).

(c) Whenever by the terms of this Trust Agreement or any Supplemental Trust Agreement the Trustee is required or authorized to redeem Bonds other than at the option of the Commission, the Trustee shall select the Bonds to be redeemed, give the notice of redemption and pay, out of moneys available therefor, the Redemption Price thereof, plus interest accrued and unpaid to the Redemption Date, to the Registered Owners of Bonds to be

redeemed in accordance with the terms of this Trust Agreement and any Supplemental Trust Agreement.

(d) In lieu of depositing cash with the Trustee as a Mandatory Sinking Fund Installment with respect to Bonds of a Series and maturity, the Commission shall have the option to tender to the Trustee for cancellation at least sixty (60) days prior to a mandatory sinking fund redemption date any amount of Bonds of such Series and maturity purchased by the Commission, which Bonds may be purchased by or upon the Direction of the Commission at public or private sale as, when and at such prices not in excess of the principal amount thereof plus accrued interest thereon as the Commission may in its discretion determine from moneys held by the Trustee under this Trust Agreement that are available for such purpose. The principal amount of any Bonds of a maturity so purchased by or upon the Direction of the Commission and tendered to the Trustee in any 12-month period ending on [MONTH/DAY] in any calendar year shall be credited towards and shall reduce the next Mandatory Sinking Fund Installment required to be made with respect to Bonds of such Series and maturity in the order in which they are required to be made pursuant to this Trust Agreement.

(e) Upon any optional or extraordinary mandatory redemption of any Bonds subject to Mandatory Sinking Fund Installments, the Trustee shall credit the principal amount of such Bonds so redeemed toward the next Mandatory Sinking Fund Installment or Installments for such Bonds.

Section 4.04 Selection of Bonds to be Redeemed. Bonds subject to optional or extraordinary mandatory redemption shall be selected in such order of maturity and from such Series of Bonds as the Commission may direct. If less than all of the Bonds of a single maturity within the same Series are to be redeemed, the Bonds of such Series to be redeemed will be selected by lot or other random method by the Trustee in such a manner as the Trustee may determine unless otherwise provided by the Supplemental Trust Agreement authorizing that Series of Additional Bonds; provided, that the portion of any Bonds of a Series of a denomination greater than the minimum Authorized Denomination for the Bonds of such Series to be redeemed shall be redeemed in part only in an Authorized Denomination and that, in selecting portions of Bonds of a Series for redemption, the Trustee shall treat each Bond of such Series as representing that number of Bonds of the minimum Authorized Denomination for such Series which is obtained by dividing the principal amount of such Bond to be redeemed in part by the minimum Authorized Denomination for such Series. In case of any partial redemption during the continuance of an Event of Default, such redemption shall be applied on a *pro rata* basis to all Outstanding Bonds of the Series called for redemption, without differentiation by maturity or within a maturity.

Section 4.05 Notice of Redemption.

(a) Notice of mandatory, extraordinary mandatory and optional redemption of Bonds shall be given in accordance with this Section and (with respect to mandatory redemption) Section 5.10(b). When the Trustee shall have received an amount sufficient, in addition to other moneys, if any, available therefor held by the Trustee to effect such redemption and the Trustee shall receive notice from the Commission of its election and Direction to redeem Bonds pursuant to Section 4.02, and when redemption of Bonds is authorized or required pursuant to Section 4.03(b), the Trustee shall give notice, in the name of the Commission, of the redemption

of such Bonds, which notice shall specify the Series and maturities of the Bonds to be redeemed, the Redemption Date and the place or places where amounts due upon such Redemption Date will be payable and, if less than all of the Bonds of any like Series and maturity are to be redeemed, the letters and numbers or other distinguishing marks of such Bonds so to be redeemed, and, in the case of Bonds to be redeemed in part only, such notices shall also specify the respective portions of the principal amounts thereof to be redeemed. Such notice shall further state that on such Redemption Date there shall become due and payable upon each Bond to be redeemed the Redemption Price thereof, or the Redemption Price of the specified portions of the principal thereof, in the case of Bonds to be redeemed in part only, together with interest accrued to the Redemption Date, and that from and after such date interest thereon shall cease to accrue and be payable. The Trustee shall mail a copy of such notice, first class mail postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the Redemption Date (or such shorter period as shall be provided by Supplemental Trust Agreement), to the Registered Owners of any registered Bonds, or portions of registered Bonds that are to be redeemed, at their last addresses, if any, appearing upon the Register. The Trustee shall give notice required by this Section for an optional redemption of Bonds pursuant to Section 4.02 only upon the prior payment to the Trustee of funds sufficient to pay the Redemption Price on the Bonds to which such notice relates together with interest thereon to the Redemption Date.

(b) Failure to give the notices described in this Section, or any defects therein, shall not in any manner affect the validity of any proceedings for redemption of any other Bonds for which such notice has been duly given. Neither the Commission nor the Trustee shall have any responsibility for any defect in the CUSIP number that appears on any Bonds or in any redemption notice with respect thereto, and any such redemption notice may contain a statement to the effect that CUSIP numbers have been assigned by an independent service for convenience of reference and that neither the Commission nor the Trustee shall be liable for any inaccuracy in such numbers.

Section 4.06 Payment of Redeemed Bonds. Notice having been given in the manner provided in Section 4.05, the Bonds or portions thereof so called for redemption shall become due and payable on the Redemption Date so designated at the Redemption Price, plus interest accrued and unpaid to the Redemption Date, and upon presentation and surrender thereof at the office specified in such notice. If there shall be called for redemption less than all of the principal of any Bond, the Commission shall execute and the Trustee shall authenticate, upon the surrender of such Bond, without charge to the Registered Owner thereof, for the unredeemed balance of the principal amount of the Bond so surrendered, Bonds of like Series and maturity in any Authorized Denomination. If, on the Redemption Date, moneys for the redemption of all the Bonds or portions thereof of any like Series and maturity to be redeemed, together with interest to the Redemption Date, shall be held by the Trustee so as to be available therefor on said date and if notice of redemption shall have been given as aforesaid, then, from and after the Redemption Date interest on the Bonds or portions thereof of such Series and maturity so called for redemption shall cease to accrue and become payable. If such moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne interest at had they not been called for redemption.

Section 4.07 Modification by Supplemental Trust Agreement. The provisions of this Article may be modified by any Supplemental Trust Agreement in respect of any Series of Additional Bonds authorized thereby, and in the event of any conflict with the provisions hereof the provisions of such Supplemental Trust Agreement shall control in respect of any Series of Additional Bonds authorized thereby.

**ARTICLE V
PLEDGE AND ASSIGNMENT; ESTABLISHMENT OF
FUNDS AND APPLICATION THEREOF**

Section 5.01 Security for Bonds; Deposits of Total Operating Revenues, Available Revenue and Other Amounts.

(a) Subject only to the provisions of this Trust Agreement, the Management Agreement and the Cash Management Agreement permitting the application thereof for the purposes and on the terms and conditions set forth in this Trust Agreement and therein, there are hereby pledged to secure the payment of the principal of, Redemption Price, if any, and interest on the Bonds in accordance with their terms and the provisions of this Trust Agreement, all of the Revenues and any other amounts (including proceeds of the sale of Bonds), held in any Fund or Account established pursuant to this Trust Agreement (other than the separate subaccounts within the Construction Fund otherwise pledged pursuant to Section 5.03(b) and the Rebate Fund). Said pledge shall constitute a lien on and security interest in such assets and shall attach, be perfected and be valid and binding from and after delivery by the Trustee of the Bonds, without any physical delivery thereof or further act.

(b) The Commission hereby transfers in trust, grants a lien on and security interest in and assigns to the Trustee, for the benefit of the Holders from time to time of the Bonds, all of the Revenues and other assets pledged in subsection (a) of this Section and all of the right, title and interest of the Commission in the Assigned Commission Documents and pursuant to the Assignment and Subordination of Management Agreement, the Management Agreement and the Pre-Opening Services Agreement. The Trustee shall be entitled to and shall collect and receive all of the Revenues, and any Revenues collected or received by the Commission shall be deemed to be held, and to have been collected or received, by the Commission as the agent of the Trustee and shall forthwith be paid by the Commission to the Trustee. The Trustee also shall be entitled to and subject to the provisions of this Trust Agreement, shall take all steps, actions and proceedings to enforce, either jointly with the Commission or separately, all of the rights and all of the obligations of the Commission under the Assigned Commission Documents.

(c) The Commission shall deposit or cause to be deposited, as long as any of the Bonds remain Outstanding, all of the Total Operating Revenues as calculated on a cash basis (less the Petty Cash Amount, which shall be retained by Manager for use solely for Hotel purposes), as soon as practicable upon receipt (but in no event less often than once each Business Day), in the Lockbox Fund.

(d) From and after the Opening Date, on or before 10:00 a.m. Pacific time, on the first Business Day of each month, after payment or provision for payment of the Base Management Fee then due and owing, the Trustee shall be entitled to and shall collect and

receive all of the Available Revenue as calculated on a cash basis from the Lockbox Fund for deposit into the Revenue Fund, and any such amounts collected or received by or on behalf of the Commission shall be deemed to be held, and to have been collected or received, by the Commission as the agent of the Trustee and shall forthwith be paid or caused to be paid by the Commission to the Trustee for deposit in the Revenue Fund. All such Available Revenues deposited with the Trustee in the Revenue Fund shall be held, disbursed, allocated and applied by the Trustee only as provided in this Trust Agreement and the Cash Management Agreement.

(e) As set forth in the Management Agreement and the Cash Management Agreement, all Excluded Taxes and Other Charges and any other amounts received by Manager that are not included in Total Operating Revenues or Available Revenues shall be applied in the manner as set forth in this Trust Agreement or, if not set forth in this Trust Agreement, shall either be (i) retained by Manager and paid by Manager promptly, but in any event prior to the time such payment becomes delinquent, directly to the appropriate Person entitled thereto as determined by Manager in its reasonable discretion, or (ii) deposited with the Trustee in the Revenue Fund if Manager determines in its reasonable discretion that such amounts are not otherwise designated for payment to a particular Person.

(f) Subject to the rights of Manager under the Cash Management Agreement, the Trustee also may (upon the occurrence and during the continuance of an Event of Default under this Trust Agreement), subject to the provisions of this Trust Agreement, take all steps, actions and proceedings to enforce (i) either jointly with the Commission or separately, all of the rights and all of the obligations of the Commission under this Trust Agreement and the Cash Management Agreement, (ii) all rights of the Commission under the Performance and Payment Bonds, and (iii) either jointly with the Design-Builder or separately, all rights of the Design-Builder its contracts with respect to the Hotel executed under the Design-Build Agreement.

Section 5.02 Establishment of Funds and Accounts. The Commission hereby establishes the following Funds and Accounts, all of which shall be held by the Trustee:

(a) "Construction Fund," and within such Fund the "Hotel Account," the "Pre-Opening Expenses Account," the "Preliminary Working Capital Account," the "Series 201 Capitalized Interest Account," the "Reservation Deposit Account," the "Retainage Account," and the "Costs of Issuance Account" (which Construction Fund may include such additional special Accounts and Subaccounts therein to be held by the Trustee or any other designated Agent pursuant to Section 5.03);

(b) "Revenue Fund";

(c) "Taxes and Insurance Fund";

(d) "Administrative Costs Fund";

(e) "Debt Service Fund," and within such Fund a "Debt Service Account" and a "Redemption Account";

(f) "Debt Service Reserve Fund," and within such fund separate accounts as may be established in connection with Additional Bonds;

- (g) "Rebate Fund";
- (h) "Subordinate Management Fee Fund";
- (i) "Working Capital Reserve Fund";
- (j) "FF&E Reserve Fund";
- (k) "Capital Reserve Fund";
- (l) "Revenue Stabilization Fund"; and
- (m) "Insurance and Condemnation Proceeds Fund."

The Trustee may create any other Funds or Accounts under this Trust Agreement, to be held in trust for the benefit of the Registered Owners of the Bonds, as the Trustee deems necessary to carry out the purposes of this Trust Agreement; provided, that the creation of any such Funds or Accounts shall not affect the rights and obligations of the Trustee, without the prior written consent of the Trustee, or Manager under the Cash Management Agreement, without the prior written consent of Manager, and shall require an opinion of Bond Counsel to the effect that the creation of such Fund or Account will not, in and of itself, cause the interest on any of the Tax-Exempt Bonds to become includable in gross income for federal income tax purposes. Not later than the 10th calendar day of each month, the Trustee shall provide the Commission and Manager with a monthly statement of (i) the amounts on deposit in the Funds and Accounts as of the last calendar day of the prior month and, (ii) if applicable, the amounts of any deficiencies in such Funds and Accounts that are known to the Trustee.

Section 5.03 Construction Fund.

(a) The Trustee shall pay into the Construction Fund the amounts required to be so paid by the provisions of this Trust Agreement and any Supplemental Trust Agreement. The Trustee shall also pay into the Construction Fund until the Date of Final Completion any moneys received by the Trustee from any source with the express written direction to deposit such moneys in an Account of the Construction Fund unless otherwise required to be applied by this Trust Agreement or any Supplemental Trust Agreement.

(b) In addition to the Accounts established by Section 5.02(a) other separate, segregated Accounts and subaccounts may be created by the Commission within the Construction Fund and held by the Trustee in the manner provided in this Trust Agreement or in any Supplemental Trust Agreement. The Trustee shall hold money in such Accounts and subaccounts separately from other moneys in the Construction Fund and shall dispose of such money only in the manner provided in this Trust Agreement or in the Supplemental Trust Agreement pursuant to which such Accounts and subaccounts are created. Without limiting the generality of the foregoing, such separate, segregated Accounts and subaccounts, and all funds, investments thereof and investment income earned thereon may be exclusively pledged (and a lien and security interest therein may be exclusively granted) to secure for any period of time the payment of principal and Redemption Price of the Series of Bonds from which such funds are derived, and interest thereon to any date, all as may be more fully provided in a Supplemental

Trust Agreement, in which case such pledge, lien and security interest will be prior and superior to the pledge of, lien on and security interest in the Construction Fund granted by this Trust Agreement securing the Bonds generally.

Section 5.04 Hotel Account.

(a) Except as otherwise provided in this Trust Agreement, the Commission and the Trustee shall cause the moneys to be disbursed from the Hotel Account solely for payment of the Costs of the Hotel. Prior to disbursement by the Trustee pursuant to a Requisition from the Commission the following conditions shall have been satisfied by the Commission:

(i) *Requisition.* The Commission shall have delivered or caused to be delivered to the Trustee a requisition in the form of Exhibit C (the "Requisition"). The Requisition shall be completed by the Commission, the Design-Builder, the Architect (as to those matters required by the Requisition) and the Project Manager. Notwithstanding the foregoing sentence, Requisitions for Costs of the Hotel of the type described in paragraph (h) of the definition thereof and for fees of the Project Manager (in an amount not to exceed \$[AMOUNT]), may be executed and certified by an Authorized Commission Representative, without any other signatures, consents, approvals or certifications. The Requisition shall specifically identify the nature of each expense by reference to items in the Annual Plan. With respect to Requisitions submitted by Design-Builder under the Design-Build Agreement, the costs, fees and expenses requested therein may be based on a percentage of completion of the Hotel, as approved by the Commission.

(ii) *Approval of Requisition.* The Commission shall cause the Project Manager to have reviewed and approved the Requisition and accompanying invoices and documents, and the Commission shall cause the Project Manager to send written confirmation to the Commission confirming its approval, including: (i) that the requisition for funds represents the amount due for the percentage of work actually completed and materials actually incorporated into the Hotel, all in accordance with the Approved Plans (less the Retention) and due for Costs of the Hotel, and (ii) that the cost of the work to be completed does not exceed the amount of the undisbursed portion of the Costs of the Hotel allocated to pay the costs of such work. The Commission and the Design-Builder shall establish an expeditious procedure for processing approved Requisitions and payment of undisputed amounts with the Trustee.

(iii) *Inspection.* The Commission shall have received a certificate of the Project Manager certifying that the Project Manager has inspected the Hotel (which the parties agree shall be in addition to and not in lieu of any formal inspection by any Governmental Authority as part of the permitting process) and reviewed the expenses incurred and determined that the work has been performed in a good and workman-like manner in accordance with the Approved Plans, that construction is progressing within the Design-Build Schedule, and that the expenses are reasonable and in accordance with the Annual Plan.

(iv) *No Damage.* The Commission shall certify to the Trustee in the Requisition that no part of the Hotel shall have been materially injured or damaged by Casualty or if such event has taken place, the Commission shall cooperate with the insurers of such loss to cause the Trustee to receive Casualty Proceeds sufficient in the judgment of the Project Manager

to effect the satisfactory restoration thereof and to permit completion of the Hotel on or prior to the Date of Substantial Completion.

(v) *Lien Waivers.* The Commission shall obtain or cause to be obtained appropriate unconditional or conditional (conditioned solely upon payment) waivers of mechanics' and materialmen's lien rights and stop notice rights executed by all contractors and other persons rendering services or delivering materials covered by the requests made in the Requisition and complying with the requirements of Applicable Law.

(vi) *Payment and Performance Bonds.* The Commission shall cause the Design-Builder to deliver to the Commission a performance bond and a payment bond naming the Trustee as co-obligee, and each in a penal sum equal to the Maximum Permitted Price under the Design-Build Agreement. All bonds required hereby shall be issued by a surety company duly licensed and authorized to do business in the State. The bonding requirements set forth in this Trust Agreement shall in no way affect or alter any of the other liabilities and responsibilities of the Design-Builder, including the duty to provide a lien-free Hotel.

(vii) *Compliance.* The Commission shall provide or cause to be provided to the Project Manager evidence satisfactory to it of compliance with all Hotel Requirements and evidence that the Hotel is being constructed in compliance with the Hotel Requirements.

(viii) *Building Permits.* The Commission shall provide or cause to be provided a valid building permit and any other required permit(s) for the construction of the Hotel.

(b) The Trustee shall advance to the Commission []% of each amount requested in the Requisition to be advanced on account of Hotel Costs, and retain an amount (the "Retention") equal to []% of such costs, which the Trustee shall transfer to the Retainage Account. The Retention shall be released to or for the account of the Commission with final payment upon satisfaction of the conditions set forth in Section 5.04(e) or (f).

(c) The aggregate amount of each disbursement shall be based on a percentage of completion of the Hotel against a draw schedule set forth in the Design-Build Agreement.

(d) Except as otherwise provided in this Trust Agreement or as mutually agreed upon between the Trustee and the Commission, disbursements shall be made by wire transfer to or upon Direction of the Commission. The Commission shall apply or cause to be applied such moneys received to the payment of Hotel Costs identified in such Requisition.

(e) Except as otherwise provided in subsection (f) of this Section, prior to the final disbursement of the Retention, the Commission shall provide a Certificate to the Trustee to the effect that all conditions for release of Retention required by the Design-Build Agreement have been fully satisfied.

(f) The portion of the Retention applicable to a particular subcontractor or supplier shall be disbursed when, with respect to such subcontractor or supplier, the Commission shall have provided or caused to be provided to the Trustee each of the following:

(i) *Certificates of Completion.* A certificate from the Commission, Manager and the Design-Builder and the Project Manager that the applicable work has been completed or the supplies have been incorporated into the Hotel in accordance with the Approved Plans.

(ii) *Lien/Release Waiver.* A final conditional lien waiver or release complying with the requirements of Applicable Law.

(g) Promptly following the Date of Final Completion, the Commission shall, by Request, direct the Trustee to transfer the balance in the Hotel Account, if any, first, to satisfy any remaining amounts owed to the Design-Builder under the Design-Build Agreement for Costs of the Hotel, and second to the Debt Service Reserve Fund.

Section 5.05 Other Accounts in the Construction Fund.

(a) The Trustee shall disburse amounts in the Pre-Opening Expenses Account to or to the order of the Pre-Opening Services Manager upon receipt by the Trustee of a Requisition executed by the Pre-Opening Services Manager in the form attached to this Trust Agreement as Exhibit D ("Pre-Opening Requisition") to pay the Pre-Opening Expenses for the Hotel in accordance with the Pre-Opening Services Agreement. No later than six months after the Opening Date, the Pre-Opening Services Manager is required under the terms of the Pre-Opening Services Agreement to notify the Commission and the Trustee of the amount of Pre-Opening Expenses that remain unpaid. All amounts in the Pre-Opening Expenses Account in excess of such amount shall be transferred by the Trustee to the [Debt Service Reserve Fund]. Upon the earlier to occur of (i) no moneys remaining on deposit in the Pre-Opening Expenses Account, and (ii) two hundred seventy (270) after the Opening Date, the Trustee shall close the Pre-Opening Expenses Account, and shall transfer all amounts, if any, remaining therein to the Debt Service Reserve Fund.

(b) Except as otherwise provided by Supplemental Trust Agreement or in Section 9.04, prior to the Opening Date, the Trustee shall transfer amounts in the Hotel Account and the Pre-Opening Expenses Account of the Construction Fund at the Direction of the Commission to the Debt Service Account and apply such amounts to the payment of principal of and interest on the Bonds when due, as required by Section 5.07(a); provided, that with respect to the Maximum Permitted Price, the Project Manager and the Design-Builder and, with respect to the Pre-Opening Expenses only, the Pre-Opening Services Manager, each shall first certify to the Trustee that the amounts remaining in the Hotel Account and in the Pre-Opening Expenses Account, as the case may be, after such transfer are sufficient to pay all of the remaining Maximum Permitted Price and Pre-Opening Expenses, respectively.

(c) Amounts in the Preliminary Working Capital Account shall be used to pay the initial Operating Expenses of the Hotel, including any prepayment of Operating Expenses requested in writing by Manager in its reasonable discretion. The Commission shall provide written notice to the Trustee of the Opening Date of the Hotel not less than seven (7) days prior

thereto. Upon receipt of such notice, the Trustee shall transfer an amount equal to the Petty Cash Amount to Manager from the amounts on deposit in the Preliminary Working Capital Account and shall transfer the remaining amounts in the Preliminary Working Capital Account to the Lockbox Fund, which amount shall be at least equal to the Working Capital Set Aside Amount. The Trustee shall close the Preliminary Working Capital Account immediately after such transfer.

(d) Pursuant to the Pre-Opening Services Agreement, the Pre-Opening Services Manager shall transfer Reservation Deposits received prior to the seventh day prior to the Opening Date by the Pre-Opening Services Manager, less any refunds thereof, to the Trustee not less frequently than monthly for deposit by the Trustee into the Reservation Deposit Account of the Construction Fund. Prior to the seventh day before the Opening Date, the Trustee shall remit to the Pre-Opening Services Manager upon receipt of a Request therefor from the Pre-Opening Services Manager amounts on deposit in the Reservation Deposit Account due to refunds of Reservation Deposits or to pay for Operating Expenses incurred with respect to any event for which a Reservation Deposit has been received. The Trustee shall transfer all amounts on deposit in the Reservation Deposit Account to the Lockbox Fund upon receipt of written notice from Manager that the Opening Date of the Hotel is scheduled to occur within seven (7) days. If Manager fails to provide such notice, the Trustee shall make such transfer on the Opening Date of the Hotel. The Reservation Deposit Account shall be closed by the Trustee immediately after such transfer.

(e) On the 15th Business Day prior to each Interest Payment Date, to the extent of any remaining balance in the Series 201_ Capitalized Interest Account, the Trustee shall transfer amounts in the Series 201_ Capitalized Interest Account equal to the interest due on the Series 201_ Bonds on such Interest Payment Date to the Debt Service Account. Moneys in the Series 201_ Capitalized Interest Account shall not be available for payment in respect of any Bonds other than the Series 201_ Bonds. The Trustee shall close the Series 201_ Capitalized Interest Account once there are no funds remaining on deposit therein.

(f) The Trustee shall distribute amounts in the Costs of Issuance Account to, or to the order of, the Commission pursuant to and in accordance with a Request of an Authorized Commission Representative to pay the Costs of Issuance for the Series 201_ Bonds. Upon the earlier to occur of (i) the delivery to the Trustee of a written Certificate from an Authorized Commission Representative stating that all Costs of Issuance for the Series 201_ Bonds have been paid or duly provided for or (ii) [MONTH/DAY, 20__], the Trustee shall close the Costs of Issuance Account and shall transfer all amounts remaining therein to the Hotel Account.

Section 5.06 Lockbox Fund; Revenue Fund.

(a) Commencing on a date at least seven (7) days prior to the Opening Date, the Trustee shall at all times cause to be maintained a Lockbox Fund pursuant to the provisions of the Cash Management Agreement or, if the initial Manager is replaced by a successor Manager, a Cash Management Agreement with terms substantially similar to those contained in the initial Cash Management Agreement. Amounts in the Lockbox Fund shall be applied as provided in this Trust Agreement, the Cash Management Agreement and the Management Agreement to pay or reimburse Manager for the payment of Operating Expenses.

(b) Unless a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Management Agreement has been terminated, in each case of which the Trustee has notice, the Trustee shall instruct the Depository Bank to periodically disburse amounts deposited in the Lockbox Fund to Manager as periodically requested by Manager, pursuant to either check or draft drawn by Manager directly against such Lockbox Fund or by written instructions provided by Manager to the Trustee specifying the amount to be transferred by the Trustee to Manager for the payment of Operating Expenses and the Base Management Fee then due and owing. The Base Management Fee then due and owing shall be paid out on the first Business Day of each month immediately prior to any other disbursements, including the disbursements to the Revenue Fund as provided in this Section. All amounts on deposit in the Lockbox Fund that represent proceeds of Bonds shall be deemed to be paid out prior to any amounts on deposit therein that represent Total Operating Revenues.

(c) If a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement of which the Trustee has notice, and the Trustee has not received notice of the termination of the Management Agreement, the Trustee shall instruct the Depository Bank to periodically distribute amounts deposited in the Lockbox Fund to Manager as periodically requested by Manager pursuant to either check or draft drawn by Manager directly against such Lockbox Fund or by written instructions provided by Manager to the Trustee specifying the amount to be transferred by the Trustee to Manager for the payment of (i) Operating Expenses included in the Annual Plan, (ii) the Base Management Fee then due and owing, (iii) with the prior written consent of the Asset Manager and the Authorized Commission Representative, Operating Expenses not included in the Annual Plan and amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws; provided, that Manager shall provide a weekly report summarizing all Operating Expenses paid during each week to the Commission and the Trustee.

(d) On the first Business Day of each month following the Opening Date, the Trustee shall deposit in the Revenue Fund from the Lockbox Fund the amount as specified in Section 5.01(d). All amounts in the Revenue Fund shall be used for the purposes and in the order of priority set forth in Section 5.07. The Commission agrees to pay as an Operating Expense the fees of the Depository Bank in accordance with the customary fees charged by the Depository Bank for the services described in this Trust Agreement and in the Cash Management Agreement, as such fees are established from time to time. The Trustee or the Commission may replace the Depository Bank with a new Depository Bank reasonably acceptable to Manager upon five (5) Business Days' prior notice to the parties to the Cash Management Agreement.

Section 5.07 Flow of Funds.

(a) Except as otherwise provided in subsections (b) and (c) of this Section or in Section 9.04, on the first Business Day of each month, after making the deposit required in Sections 5.01(d) and 5.06 to the Revenue Fund, the Trustee shall make the deposits, transfers or payments indicated below from amounts then on deposit in the Revenue Fund in the priority listed below (including curing any existing deficiency in deposits, transfers or payments required in prior months), the requirements of each Fund, deposit, transfer or payment of each priority to

be fully satisfied, leaving no deficiencies, prior to any deposit, transfer or payment later in priority, unless as otherwise expressly provided below:

First, to the Taxes and Insurance Fund, an amount which together with moneys on deposit in such Fund will equal the Taxes and Insurance Set Aside Amount, as set forth in the Annual Plan, accrued but not paid through the preceding month;

Second, to the Administrative Costs Fund, an amount which together with moneys on deposit in such Fund will equal the amount necessary to pay the Administrative Expenses, as set forth in the Annual Plan, then due and owing for such month, together with any accruals from prior periods;

Third, to the FF&E Reserve Fund, an amount which together with moneys on deposit in such Fund will equal the FF&E Set Aside Amount, as set forth in the Annual Plan, accrued but not paid through the preceding month;

Fourth, unless provision for such payments from the Construction Fund or otherwise has been made as contemplated by Section 5.03 or otherwise, to the Debt Service Account of the Debt Service Fund, an amount which together with moneys on deposit in such Account will equal:

(A) one-sixth of any interest to become due and payable on each Series of Outstanding Bonds on the next Interest Payment Date for such Series, plus an amount equal to any shortfall from prior periods to the extent not made up from another source; plus

(B) commencing with the month occurring twelve months prior to the first Principal Payment Date for each Series of Outstanding Bonds, one-twelfth of the next Principal Payment to become due and payable within the next twelve months on each Series of Outstanding Bonds, plus an amount equal to any shortfall from prior periods to the extent not made up from another source;

Fifth, to the Debt Service Reserve Fund or any account with such Fund, an amount which together with moneys on deposit in such Fund or account will equal the Reserve Fund Requirement;

Sixth, to the Rebate Fund, an amount which together with moneys on deposit in such Fund, will equal the aggregate amount required to be on deposit therein pursuant to the Tax Certificate delivered in connection with the issuance of each Series of Tax-Exempt Bonds;

Seventh, to the Subordinate Management Fee Fund, the amount of the Subordinate Management Fee for such month, together with any accruals from prior periods;

Eighth, to the Working Capital Reserve Fund, an amount which together with moneys on deposit in such Fund will equal the Working Capital Reserve Requirement;

Ninth, to the Capital Reserve Fund, an amount which together with moneys on deposit in such Fund will equal the Capital Reserve Set Aside Amount, as set forth in the Annual Plan;

Tenth, to pay principal of, interest on and any debt service reserve requirements with respect to any Subordinate Bonds; and

Eleventh, to the Revenue Stabilization Fund, the balance, if any, of moneys remaining in the Revenue Fund.

(b) Notwithstanding the provisions of subsection (a) of this Section, if on the 25th day immediately preceding each Interest Payment Date and Principal Payment Date, there are not on deposit in the Debt Service Account amounts sufficient to pay the interest and Principal Payments to become due on the Bonds on such Interest Payment Date and Principal Payment Date, and sufficient amounts are not on deposit in the Funds referenced in Section 5.11 (with respect to insufficiency of amounts on deposit in the Debt Service Account) to make up any such deficiency, then the Trustee shall promptly notify the Depository Bank and the Commission on the immediately succeeding Business Day of such shortfall and, unless funds to cover such deficiency are transferred to the Trustee for deposit to the Revenue Fund within ten (10) days after receipt of such notice, the Commission shall cause the Depository Bank to transfer the Lockbox Fund to the name and credit of the Trustee, as assignee of the Commission. The Lockbox Fund shall remain in the name and to the credit of the Trustee until the amounts on deposit in the Lockbox Fund are sufficient to pay in full (or have been used to pay in full) all amounts in default and until all other Events of Default known to the Trustee shall have been made good or cured to the satisfaction of the Trustee or provision deemed by the Trustee to be adequate shall have been made therefor, whereupon the Lockbox Fund (except for the Available Revenues held in the Lockbox Fund that are required to make such payments or cure such defaults) shall be returned to the name and credit of the Commission.

(c) During any period that the Lockbox Fund is held in the name and to the credit of the Trustee, the Trustee shall use and withdraw from time to time amounts in the Lockbox Fund to make payments of Debt Service on the Bonds and to deposit the FF&E Set-Aside amounts in the FF&E Reserve Fund. During any period that the Lockbox Fund is held in the name and to the credit of the Trustee, the Commission shall not be entitled to use or withdraw any of the Total Operating Revenues therefrom unless (and then only to the extent that) the Trustee so directs for the payment of current or past due Operating Expenses; provided, that the Commission shall be entitled to withdraw any amounts in the Lockbox Fund that do not constitute Total Operating Revenues and apply such amounts in the manner set forth in this Trust Agreement.

(d) Notwithstanding the foregoing, (i) unless the Management Agreement has been terminated or a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Cash Management Agreement, Manager shall be entitled to continue to receive the funds it would have otherwise been entitled to pursuant to this Trust Agreement, the Management Agreement and the Cash Management Agreement as if no Event of Default under this Trust Agreement had occurred, and (ii) if a Manager Event of Default (as defined in the Management Agreement) of which the Trustee has notice has occurred and is continuing under the Management Agreement but the

Trustee has not received notice that the Management Agreement has been terminated, the Trustee shall pay Manager (x) Operating Expenses included in the Annual Plan, including the Base Management Fee then due and owing, items within the Capital Budget, and amounts needed to pay Insurance Costs with respect to the Hotel, and (y) with the prior written consent of the Asset Manager and the Authorized Commission Representative, expenses not included in the Annual Plan and amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws. Manager shall supply a weekly accounting of such expenditures paid during such week to the Trustee and the Commission.

(e) Notwithstanding anything contained in Section 5.07(a) to the contrary, to the extent any amounts are paid by any Person other than the Commission to the Trustee, any moneys received by the Trustee from any source that are identified as payment to the Trustee relating to items paid from amounts received by the Trustee from such other Person, as aforesaid, shall be paid by the Trustee to such other Person.

Section 5.08 Taxes and Insurance Fund. Unless the Management Agreement has been terminated, pursuant to the Cash Management Agreement, moneys in the Taxes and Insurance Fund shall be paid out from time to time by to pay all Taxes and insurance premiums that become due and payable with respect to the ownership and operation of the Hotel, pursuant to and in accordance with a Request of Manager or the Commission, as appropriate, in substantially the form attached to this Trust Agreement as Exhibit E.

Section 5.09 Administrative Costs Fund. The Trustee shall deposit in the Administrative Costs Fund the amounts required to pay the Administrative Expenses related to the administration of the Bonds and the Hotel, including fees and expenses of any Consultant after the Opening Date and the expenses of the Commission. Upon the Requisition of an Authorized Commission Representative, the Trustee shall apply amounts in the Administrative Costs Fund for payment of Administrative Expenses then due and owing or to reimburse the Commission for the payment of any Administrative Expenses previously paid by the Commission.

Section 5.10 Debt Service Fund.

(a) The Trustee shall pay out of the Debt Service Account of the Debt Service Fund on or before each Interest Payment Date for any of the Bonds the amount required for the interest payment on such Interest Payment Date, and shall pay out of the Debt Service Account of the Debt Service Fund on or before each Principal Payment Date, the amount required for the Principal Payment due on such due date; provided, that if any special fund, account or subaccount has been created for the payment of capitalized interest on the Bonds or any Series thereof, the Trustee shall apply any amounts transferred to the Debt Service Fund from such special fund, account or subaccount to pay such interest prior to the use of any amounts in the Debt Service Fund for such purpose. On or before any Redemption Date for Bonds to be redeemed, the Trustee shall pay out of the Debt Service Account of the Debt Service Fund, from available amounts deposited therein from time to time, the Redemption Price of and interest on the Bonds then to be redeemed.

(b) The Trustee shall apply amounts in the appropriate Account of the Debt Service Fund with respect to any Mandatory Sinking Fund Installment (together with amounts in the Debt Service Account of the Debt Service Fund with respect to interest on the Bonds for which such Mandatory Sinking Fund Installment was established) to the redemption of Bonds of the Series and maturity for which such Mandatory Sinking Fund Installment was established in an amount not exceeding that necessary to complete the retirement of such Mandatory Sinking Fund Installment as hereinafter provided.

(c) Except as otherwise provided in Section 5.11, the Trustee shall apply amounts in the Debt Service Account of the Debt Service Fund only to the payment of Debt Service on the Bonds.

Section 5.11 Other Transfers to Debt Service Fund. Notwithstanding anything to the contrary in this Trust Agreement, if on the 10th Business Day immediately preceding each Interest Payment Date and Principal Payment Date there are not on deposit in the Debt Service Account on such date amounts sufficient to pay the interest and Principal Payments to become due on the Bonds on such Interest Payment Date or Principal Payment Date (other than the Bonds for which moneys have been already set aside and dedicated to the payment of such Bonds as permitted in this Trust Agreement), the Trustee shall transfer moneys to the Debt Service Account from the following sources in an aggregate amount which, together with the amount then on deposit in the Debt Service Account, will result in the Debt Service Account having the balance required to be on deposit therein in order to pay interest and Principal Payments to become due and payable on such Interest Payment Date or Principal Payment Date:

First, from the Capitalized Interest Account created for such Series of Bonds;

Second, from the Revenue Stabilization Fund;

Third, from the Subordinate Management Fee Fund;

Fourth, from the Capital Reserve Fund;

Fifth, subject to Section 5.03, from the Hotel Account and/or Pre-Opening Expenses Account in the Construction Fund;

Sixth, from the Debt Service Reserve Fund (but only at the end of the Business Day immediately preceding the Interest Payment Date or Principal Payment Date) in accordance with the provisions of Section 5.12; and

Seventh, from the FF&E Reserve Fund (but only in an amount equal to any amounts deposited into the FF&E Reserve Fund during the then-current Operating Year).

Section 5.12 Debt Service Reserve Fund.

(a) On the Closing Date, the Reserve Fund Requirement shall be satisfied by a deposit of \$[] into the Debt Service Reserve Fund pursuant to Section 3.03. The Trustee shall apply amounts from the Debt Service Reserve Fund to the extent necessary to

cure any deficiency in the Debt Service Account pursuant to Section 5.07(a) by using cash or investments on deposit in the Debt Service Reserve Fund.

(b) Except as provided in subsection (e) of this Section, and subject to the provisions of Section 6.03 relating to the application of interest earnings, if on the last Business Day of any month the amount on deposit in the Debt Service Reserve Fund shall exceed the Reserve Fund Requirement, the Trustee shall deposit any excess moneys in the Hotel Account of the Construction Fund until the Date of Substantial Completion, and thereafter the Trustee shall deposit such amounts in the Debt Service Account to the payment of the principal of the Bonds.

(c) When the amount in the Debt Service Reserve Fund, together with the amounts in the Debt Service Account, amounts in the Working Capital Reserve Fund in excess of Working Capital Reserve Requirement and amounts in the Revenue Stabilization Fund, is sufficient to fully pay all Outstanding Bonds in accordance with their terms (including principal or Redemption Price and interest), the Trustee shall apply the amount on deposit in the Debt Service Reserve Fund, together with the amount on deposit in the Debt Service Account, amounts in the Working Capital Reserve Fund in excess of Working Capital Reserve Fund Requirement and all amounts in the Revenue Stabilization Fund, at the Direction of the Commission, to pay the principal or Redemption Price of and interest on all Outstanding Bonds.

(d) In the event of the refunding of one or more Series of Bonds (or portions thereof), the Trustee shall, upon the Direction of the Commission, withdraw from the Debt Service Reserve Fund any or all of the amounts on deposit therein with respect to the Bonds being refunded and apply such amounts to the payment of the principal of and interest on the Bonds (or portions thereof) being refunded; provided, that such withdrawal shall not be made unless:

(i) immediately thereafter the Bonds (or portions thereof) being refunded shall be deemed to have been paid pursuant to Section 8.02, and

(ii) the amount remaining in the Debt Service Reserve Fund after such withdrawal, taking into account any deposits to be made in the Debt Service Reserve Fund in connection with such refunding, shall not be less than the Reserve Fund Requirement.

(e) If the Trustee shall withdraw any amount from the Debt Service Reserve Fund pursuant to subsection (a) of this Section for deposit in the Debt Service Account, the Trustee shall give written notice thereof within ten (10) Business Days to the Commission.

(f) Except as provided in this Section, if any amount transferred into the Debt Service Reserve Fund pursuant to Section 5.05(a) causes the balance in the Debt Service Reserve Fund to exceed the Reserve Fund Requirement, then the Trustee shall transfer such excess to the Working Capital Reserve Fund.

Section 5.13 Rebate Fund. The Trustee shall deposit amounts into the Rebate Fund pursuant to Section 5.07 as directed in writing by the Commission in the amount required pursuant to the Tax Certificate delivered in connection with the issuance of the Series 201_ Bonds and pursuant to any similar instrument or certificate delivered by the Commission in connection with the issuance of any Additional Bonds (each, a "Tax Certificate," and

collectively, the "Tax Certificates"). Notwithstanding anything to the contrary in this Trust Agreement, moneys on deposit in the Rebate Fund shall not be part of the Revenues or other assets pledged under this Trust Agreement and, except as otherwise provided in this Section, moneys on deposit in the Rebate Fund shall be used solely for the purpose of paying amounts due to the United States of America with respect to the Bonds pursuant to Section 148(f) of the Code. Moneys on deposit in the Rebate Fund shall be remitted to the United States Treasury by the Trustee at the times and in the amounts set forth in the Tax Certificates. If the moneys on deposit in the Rebate Fund are insufficient for the purpose thereof, the Commission shall direct the Trustee to transfer moneys in the amount of the insufficiency to the Rebate Fund from any amounts in any of the Funds and Accounts in excess of the amount necessary to be on deposit therein and otherwise from amounts then on deposit in the Funds and Accounts described in clauses *Ninth* through *Eleventh* of Section 5.07(a) in such order of priority; provided, that such transfer shall not be made from amounts on deposit in the Taxes and Insurance Fund, the FF&E Reserve Fund or the Working Capital Reserve Fund (but only if such transfer would result in the remaining balance in the Working Capital Reserve Fund being less than the Working Capital Reserve Requirement) without the prior written consent of Manager, or the Debt Service Account if such transfer would result in a shortfall in the amount on deposit therein to pay Debt Service on any Bonds then due. Upon receipt by the Commission of a Certificate of a Rebate Analyst to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess shall be transferred to the Revenue Fund.

Section 5.14 Subordinate Management Fee Fund. The Trustee shall apply amounts on deposit in the Subordinate Management Fee Fund to pay to Manager the Subordinate Management Fee then due and payable, including any accrued but unpaid Subordinate Management Fees. The Trustee shall apply amounts from the Subordinate Management Fee Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.11.

Section 5.15 Working Capital Reserve Fund.

(a) If the amount on deposit in the Working Capital Reserve Fund exceeds the Working Capital Reserve Requirement, amounts in excess of the Working Capital Reserve Requirement shall be deposited into the Revenue Fund.

(b) Unless the Management Agreement has been terminated, pursuant to the Cash Management Agreement, the Trustee shall make disbursements of moneys in the Working Capital Reserve Fund in accordance with a Request of Manager in substantially the form of Exhibit F to this Trust Agreement for the purposes of paying Operating Expenses, Capital Expenses, other expenses and items expressly provided for in the Management Agreement and/or any other expenses which, if not included in the Annual Plan, shall be subject to the prior written consent of the Commission and the Asset Manager, at any time during which such expenses exceed Total Operating Revenue for such month plus the amount otherwise available to pay such expenses in the Lockbox Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Revenue Stabilization Fund (to the extent amounts in such Funds are authorized to be used for such purposes); provided, that if payment of such Operating Expenses, Capital Expenses or other expenses would require the consent of the Authorized Commission Representative under the Management Agreement or the Cash Management Agreement, such Request shall be subject

to the prior written consent of the Authorized Commission Representative and the Asset Manager.

(c) Unless the Management Agreement has been terminated, the Trustee shall also apply amounts in the Working Capital Reserve Fund, upon a written request of Manager: (i) for repair or replacement of the Hotel in the event of any Casualty, or (ii) for the payment of amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws, at any time during which such expenses exceed Total Operating Revenues for such month plus the amount otherwise available in the Lockbox Fund, the FF&E Reserve Fund, the Capital Reserve Fund and the Revenue Stabilization to pay such expenses (to the extent amounts in such Funds are authorized to be used for such purposes).

(d) Notwithstanding anything to the contrary in this Trust Agreement or any other Principal Transaction Document, if any amount transferred into the Working Capital Reserve Fund pursuant to Section 5.07 causes the balance in the Working Capital Reserve Fund to exceed the Working Capital Reserve Requirement, then the Trustee shall transfer such excess to the Lockbox Fund.

Section 5.16 FF&E Reserve Fund.

(a) The Trustee shall apply amounts from the FF&E Reserve Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.11.

(b) Unless a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Management Agreement has been terminated, pursuant to the Cash Management Agreement, the Trustee shall make disbursements of moneys in the FF&E Reserve Fund pursuant to and in accordance with a Request of Manager in substantially the form attached to this Trust Agreement as Exhibit G for the purposes of paying (i) for FF&E and Capital Expenses included in the Capital Budget or otherwise expressly authorized by the Management Agreement, (ii) if funds in the Revenue Stabilization Fund are insufficient to make such payment, amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws, and (iii) FF&E and Capital Expenses not included in the Capital Budget with the prior written consent of the Asset Manager and the Authorized Commission Representative. If a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement, the Trustee shall make disbursements pursuant to and in accordance with a Request of Manager (with the prior written consent of the Authorized Commission Representative and the Asset Manager) in substantially the form attached to this Trust Agreement as Exhibit G for the purposes and in the manner described in the immediately preceding sentence; provided, that Manager shall provide a weekly report summarizing all amounts paid out of the FF&E Reserve Fund during each week to the Trustee and the Commission.**Capital Reserve Fund.**

(a) The Trustee shall apply amounts from the Capital Reserve Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.11.

(b) Unless a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement or the Management Agreement has been terminated, pursuant to the Cash Management Agreement, the Trustee shall make disbursements of moneys in the Capital Reserve Fund pursuant to and in accordance with a Request of Manager in substantially the form attached to this Trust Agreement as Exhibit H for the purposes of paying (i) for FF&E and Capital Expenses included in the Capital Budget or otherwise expressly authorized by the Management Agreement, (ii) if funds in the Revenue Stabilization Fund are insufficient to make such payment, amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws, and (iii) FF&E and Capital Expenses not included in the Capital Budget with the prior written consent of the Asset Manager and the Authorized Commission Representative. If a Manager Event of Default (as defined in the Management Agreement) has occurred and is continuing under the Management Agreement, the Trustee shall make disbursements pursuant to and in accordance with a Request of Manager (with the prior written consent of the Authorized Commission Representative and the Asset Manager) in substantially the form attached to this Trust Agreement as Exhibit H for the purposes and in the manner described in the immediately preceding sentence; provided, that Manager shall provide a weekly report summarizing all amounts paid out of the Capital Reserve Fund during each week to the Trustee and the Authorized Commission Representative.

Section 5.18 Revenue Stabilization Fund.

(a) The Trustee shall apply amounts from the Revenue Stabilization Fund to the extent necessary to cure any deficiency in the Debt Service Account pursuant to Section 5.11.

(b) Unless an Event of Default under this Trust Agreement has occurred and is continuing, and provided that the amounts on deposit in the Funds and Accounts set forth in clauses *First* through *Ninth* of Section 5.07(a) are then equal to the amounts required to be on deposit therein, upon receipt of a Request of the Commission in substantially the form attached to this Trust Agreement as Exhibit I, the Trustee shall apply amounts in the Revenue Stabilization Fund to pay any unpaid expenses or obligations incurred with respect to the Hotel or any unpaid expenses or obligations owed by the Commission to third parties that are not otherwise payable as Administrative Expenses, including any amounts the Commission is obligated to pay under the Management Agreement, including any Unamortized Key Money due to Hyatt upon a termination of the Management Agreement, or any expenses or obligations which the Management Agreement provides will be paid out of the Revenue Stabilization Fund.

(c) Unless the Management Agreement has been terminated, pursuant to the Management Agreement and the Cash Management Agreement, the Trustee shall apply moneys on deposit in the Revenue Stabilization Fund pursuant to and in accordance with a Request of Manager in substantially the form attached to this Trust Agreement as Exhibit I (i) to pay amounts reasonably determined by Manager to be required to protect life, health or property from imminent danger or to comply with Applicable Laws, and (ii) not less than three (3) Business Days after such Request, to pay Operating Expenses, Capital Expenses within the Capital Budget, Taxes and Insurance Costs, or any other expenses upon prior written notice to the Commission and the Asset Manager, at any time during which such Operating Expenses, Capital Expenses and other expenses exceed Total Operating Revenues for such month plus the amount otherwise available in the Lockbox Fund and the FF&E Reserve Fund (to the extent

amounts in such Funds are authorized to be used for such purposes); provided, that if the payment of such Operating Expenses, Capital Expenses or other expenses is not authorized under the Management Agreement or requires the consent or approval of the Authorized Commission Representative under the Management Agreement or the Cash Management Agreement, such Request shall be conditioned upon the prior written approval by the Commission and the Asset Manager.

(d) Unless an Event of Default under this Trust Agreement has occurred and is continuing, and provided that the amounts on deposit in the Funds and Accounts set forth in clauses *First* through *Ninth* of Section 5.07(a) are then equal to the amounts required to be on deposit therein, upon receipt of a Request of the Commission in substantially the form attached to this Trust Agreement as Exhibit I, the Trustee shall apply amounts in the Revenue Stabilization Fund to pay any unpaid expenses or obligations incurred with respect to the Hotel or any unpaid expenses or obligations owed by the Commission to third parties that are not otherwise payable as Administrative Expenses that the Commission is obligated to pay under the Pre-Opening Services Agreement or the Design-Build Agreement.

(e) The Trustee shall apply all amounts in the Revenue Stabilization Fund, together with amounts available for such purpose in the Funds and Accounts under the circumstances and as set forth in Section 5.12(c), at the Direction of the Commission, to pay the principal and Redemption Price of and interest on all Outstanding Bonds in the manner as set forth in Section 5.12(c).

(f) Amounts on deposit in the Revenue Stabilization Fund shall be transferred by the Trustee to the Commission for use by the Commission for any purpose whatsoever in the Commission's sole and absolute discretion, including the redemption of the Bonds pursuant to this Trust Agreement.

Section 5.19 Insurance and Condemnation Proceeds Fund.

(a) The Trustee shall deposit the proceeds of insurance with respect to the Hotel maintained or caused to be maintained by the Commission against loss or damage by fire, lightning, and all other risks covered by the extended coverage insurance endorsement, as required pursuant to Section 7.16, the proceeds of the Performance and Payment Bond or any other performance and payment bond or guaranty with respect to the Hotel, and the proceeds of any Taking with respect to the Hotel, immediately upon receipt by the Trustee, as assignee of the Commission, in the Insurance and Condemnation Proceeds Fund; provided, that if such amount is less than \$50,000, then, subject to Section 7.18, such amount shall be distributed immediately to or at the Direction of the Commission and shall be applied to the cost of the repair or replacement of the property damaged, destroyed or taken. After deducting therefrom the reasonable charges and expenses of the Trustee in connection with the collection of such moneys, moneys in the Insurance and Condemnation Proceeds Fund shall be disbursed or applied by the Trustee in accordance with and subject to Section 7.18 and in compliance with the procedures for Disbursements from the Hotel Account to the extent such procedures are applicable.

(b) If pursuant to Section 7.18, Available Amounts (as such term is defined in Section 7.18(a)) are not to be applied to repair or replace the property damaged, destroyed or

taken, the Trustee, upon a Request of the Commission, shall transfer amounts in the Insurance and Condemnation Proceeds Fund on account of such damage, destruction or condemnation to the Debt Service Account in order to redeem the Bonds in accordance with Section 4.03(b).

(c) After completion of the repairs or replacement of the property damaged, destroyed or taken, and after all costs associated therewith have been paid, the Trustee shall deposit any amounts remaining in the Insurance and Condemnation Proceeds Fund into the Revenue Fund to be applied on the first Business Day of the next succeeding month in the manner set forth in Section 5.07.

(d) The proceeds of business interruption insurance maintained pursuant to Section 7.16 shall be deposited by the Trustee when and as received in a segregated account (the "Business Interruption Account") within the Insurance and Condemnation Proceeds Fund, which Account shall be established by the Trustee upon receipt of notice that the carrier of such insurance will be paying claims thereon to the Trustee. The Trustee shall hold the Business Interruption Account in trust under this Trust Agreement separate and apart from any other Funds and Accounts. Amounts deposited in the Business Interruption Account shall be immediately transferred and applied in the following order of priority:

(i) to the Debt Service Account, an amount for payment of debt service on the Bonds when due;

(ii) to the Lockbox Fund, an amount for payment of Operating Expenses (including the Base Management Fee to the extent covered by such business interruption insurance) when due;

(iii) to the Taxes and Insurance Fund, an amount for payment of Taxes or insurance premiums when due with respect to the ownership and operation of the Hotel;

(iv) to the Administrative Fee Fund, an amount for payment of Administrative Expenses when due; and

(v) to the Lockbox Fund, the balance, if any, for application by the Trustee as provided in this Article.

Notwithstanding the foregoing, amounts required to be transferred pursuant to any given order of priority in this subsection shall be reduced to the extent the insurance carrier has directly paid business interruption insurance proceeds to parties other than the Trustee for such purposes. The Trustee shall be entitled to rely on a Certificate of the Commission in making the transfers set forth in this subsection.

(e) Notwithstanding anything to the contrary in this Trust Agreement, if proceeds of insurance relate to any loss or damage to any property not constituting the Hotel, such proceeds shall be disbursed directly to the Persons legally entitled to such insurance proceeds.

Section 5.20 Right of Access to Funds by Manager and the Commission.

(a) Notwithstanding anything to the contrary in this Trust Agreement, so long as the Management Agreement has not expired or terminated, Manager is entitled to submit Requests and receive funds as described elsewhere in this Article for the purposes and in the manner described therein, notwithstanding any Event of Default (as defined in this Trust Agreement), the breach of any provision of this Trust Agreement, or the occurrence of any event or condition which with the giving of notice, the passage of time or both would constitute an Event of Default (as defined in this Trust Agreement).

(b) If the Management Agreement has expired or terminated and a new Management Agreement has not been entered into, until a replacement Manager has entered into a Management Agreement with the Commission, the Commission shall be entitled to submit Requests and receive funds as described elsewhere in this Article as if the Commission were Manager.

**ARTICLE VI
MONEYS HELD IN TRUST, SECURITY FOR DEPOSITS,
AND INVESTMENT OF FUNDS**

Section 6.01 Moneys Held in Trust. All moneys held by the Trustee under the provisions of this Trust Agreement shall be deposited with the Trustee, and held in the name of the Trustee, in such capacity under this Trust Agreement. All moneys deposited under the provisions of this Trust Agreement with the Trustee shall be held in trust and applied only in accordance with the provisions of this Trust Agreement and the Cash Management Agreement, and each of the Funds and Accounts established by this Trust Agreement shall be a trust fund for the purpose of this Trust Agreement subject to application thereof as set forth in this Trust Agreement and in the Cash Management Agreement.

Section 6.02 Deposits and Transfers.

(a) All moneys held by the Trustee under this Trust Agreement may be placed on demand or time deposit, if and as directed by the Commission; provided, that such deposits shall permit the moneys so held to be available for use at the time when needed.

(b) All moneys held under this Trust Agreement by the Trustee (other than moneys held in the Rebate Fund) shall be held in trust for the benefit of the Commission and the Registered Owners of the Bonds and, to the extent available to Manager under this Trust Agreement and the Cash Management Agreement, Manager.

(c) All moneys deposited with the Trustee shall be credited to the particular Fund or Account as provided in this Trust Agreement.

(d) Except as otherwise provided by Supplemental Trust Agreement, any transfer required to be made from one Fund or Account to another Fund or Account held by the same Person may be made by book transfer of any moneys or investments or portions of investments without liquidating any investments in order to make such transfer unless the funds

required to be transferred are needed to make payments out of the Fund or Account to which such funds were transferred at the time of transfer.

Section 6.03 Investment of Funds.

(a) Investments shall be made in accordance with Applicable Law. Moneys held in any Fund or Account shall be invested and reinvested by the Trustee as promptly as practicable, in accordance with a Letter of Instructions of the Commission, in Investment Securities; provided, however, that the weighted average maturity of investments in the Debt Service Reserve Fund at any time may not exceed ten (10) years. If the Trustee fails to receive such directions at least one (1) Business Day before the day on which any amounts are required to be invested, the Trustee shall hold such amounts uninvested. Notwithstanding anything to the contrary in this Trust Agreement, Investment Securities in all Funds and Accounts shall mature, or the principal of and accrued interest on such Investment Securities shall be available for withdrawal without penalty, not later than such times as shall be necessary to provide moneys when needed for payment to be made from such Funds and Accounts. The Trustee shall not be responsible for determining whether or not any Investment Securities constitute Investment Securities or are legal investments under the laws of the State. The Trustee shall not be responsible for any loss in any investment in any Fund or Account.

(b) Except as otherwise provided in this subsection or by Supplemental Trust Agreement, interest earned or profits realized from investing any moneys deposited in the Funds and Accounts or any subaccount thereof shall be transferred to the Revenue Fund and applied pursuant to Section 5.07(a). Notwithstanding the foregoing:

(i) interest and profits from the Rebate Fund shall be retained in such Fund;

(ii) interest and profits from the Hotel Account of the Construction Fund shall be deposited in the Hotel Account of the Construction Fund if received prior to the Opening Date;

(iii) interest and profits from the Series 201_ Capitalized Interest Account of the Construction Fund shall be deposited into the Series 201_ Capitalized Interest Account; and

(iv) interest and profits from the Debt Service Reserve Fund shall be deposited into the Series 201_ Capitalized Interest Account until [DATE, 20__], and thereafter into the Debt Service Account to pay interest on Bonds.

Section 6.04 Valuation and Sale of Investments.

(a) Investment Securities acquired as an investment of moneys in any Fund or Account shall be at all times a part of such Fund or Account, and any profit or loss realized from the liquidation of such investment shall be applied as provided in Section 6.03(b).

(b) For the purpose of determining the amount in any Fund, all Investment Securities credited to such Fund shall be valued at fair market value. The Trustee shall

determine the fair market value based on accepted industry standards and from accepted industry providers. Certificates of deposit and bankers' acceptances shall be valued at the face amount thereof, plus accrued interest thereon. Any other investment shall be valued at the value thereof established by prior agreement among the Commission and the Trustee.

(c) Except as otherwise provided in this Trust Agreement, the Trustee shall sell, or present for redemption, any Investment Security purchased as an investment whenever requested in writing by an Authorized Commission Representative or whenever it shall be necessary in order to provide moneys to meet any payment or transfer from any Fund or Account. The Trustee shall not be liable or responsible for any loss resulting from any such sale.

(d) The Trustee is required to determine the value of the Debt Service Reserve Fund no less frequently than semi-annually on each [January 1 and [July 1] (and monthly from the date of any deficiency until such deficiency is cured).

(e) The Commission acknowledges tht to the extent regulations of the United States Comptroller of the Currency or other applicable federal regulatory entity grant the Commission the right to receive brokerage commission confirmations of security transactions made by the Trustee as they occur, the Commission waives the receipt of such confirmations to the extent permitted by law. The Trustee shall provide the Commission with periodic account statements which shall include details for all investment transactions made by the Trustee under this Trust Agreement.

ARTICLE VII PARTICULAR COVENANTS OF THE COMMISSION

Section 7.01 Payment of Bonds. The Commission shall duly and punctually pay or cause to be paid, but solely from the Revenues and other assets pledged therefor by this Trust Agreement, the principal of, Redemption Price, if any, and interest on the Bonds, at the times and in the amounts and in the manner set forth in this Trust Agreement and in the Bonds, according to the true intent and meaning thereof.

Section 7.02 Preserve Revenues. The Commission shall at all times, to the extent permitted by law, defend, preserve and protect its title to the Revenues and other assets pledged under this Trust Agreement and all the rights of the Registered Owners under this Trust Agreement against all claims and demands of all persons whomsoever.

Section 7.03 Compliance With Principal Transaction Documents.

(a) The Commission shall duly and punctually perform, observe and comply, or cause the due and punctual performance, observance and compliance, in all material respects with all of the terms, provisions, conditions, covenants and agreements on its part to be performed, observed and complied with under this Trust Agreement and under the other Principal Transaction Documents and all other agreements entered into or assumed by the Commission in connection with the Site or the Hotel or any part thereof, and will not suffer or permit any default or event of default (giving effect to any applicable notice requirements and cure periods) to exist under any of the foregoing.

(b) The Commission shall diligently enforce its rights under each Principal Transaction Document and ensure due performance by each other party thereto of its obligations thereunder if the failure to perform by such party is reasonably likely to have a Material Adverse Effect.

Section 7.04 Installation and Construction of the Hotel. The Commission shall proceed with due diligence with the installation and construction of the Hotel. The Commission hereby grants to the Trustee all rights of access necessary for the Trustee to carry out its obligations and to enforce its rights under this Trust Agreement. It is expressly understood and agreed that the Trustee shall be under no liability of any kind or character whatsoever for the payment of any Costs of the Hotel and that all such costs shall be paid by the Commission from proceeds of the Bonds, from other amounts held pursuant to this Trust Agreement for such purpose, and from other funds, if any, received by the Commission. The acquisition, installation and construction of the Hotel shall be in accordance with all Applicable Laws and all applicable zoning, planning and building regulations, and the Commission shall obtain or cause to be obtained and shall comply with and cause compliance with all Approvals necessary to be obtained for the acquisition, installation, construction and operation of the Hotel.

Section 7.05 Money for Bond Payments to Be Held in Trust. The Trustee shall serve as Paying Agent for the Bonds. As Paying Agent, the Trustee agrees that it will (i) hold all sums held by it for the payment of principal or Redemption Price of or interest on Bonds in trust for the benefit of the Registered Owners entitled thereto, until such sums shall be paid to such Registered Owners or otherwise disposed of as provided in this Trust Agreement; and (ii) give the Commission written notice of any default in the making of any such payment of principal, Redemption Price or interest.

Section 7.06 Limitation on Encumbrances. The Commission covenants and agrees that it will not directly or indirectly create, assume or suffer to exist any mortgage, deed of trust, pledge, security interest, encumbrance, lien or charge of any kind upon the Hotel or the Total Operating Revenues, whether such property is now owned or hereafter acquired, other than (a) Permitted Encumbrances, or (b) to further secure Bonds.

Section 7.07 Limitation on Indebtedness. The Commission shall not create, issue, incur, execute, assume or suffer to exist any bonds, notes, loans, installment purchase agreements, lease purchase agreements, certificates of participation, obligations for borrowed money, or other Indebtedness that is secured by the Revenues and other assets pledged under this Trust Agreement except as provided in this Trust Agreement.

Section 7.08 Limitation on Disposition of Assets. With the exception of (a) security interests permitted under Section 7.06, (b) Hotel assets sold, leased or disposed of in the ordinary course of business not to exceed \$1,000,000 in any Operating Year, (c) the disposal of FF&E that is damaged, dilapidated or obsolete and replacement thereof with FF&E determined by Manager to be of comparable quality, utility and value, or (d) a disposition of the Hotel that contemporaneously permits the defeasance of all of the Bonds, the Commission shall not cause or suffer to occur any sale, lease, transfer or other disposition of the Commission's right, title and interest in and to the Hotel or any part thereof, including the Property. The Commission also covenants and agrees that it will not sell, pledge, factor or otherwise dispose of any accounts receivable relating to Total Operating Revenues under any circumstances.

Section 7.09 Design-Build Agreement. The Commission shall diligently enforce its rights under the Design-Build Agreement and ensure due performance by the Design-Builder of its obligations thereunder. [If the Hotel is not substantially complete by the latest permitted date of substantial completion or finally complete by the latest permitted date of final completion, the Commission shall proceed to collect from the Design-Builder, damages to the fullest extent permitted under the Design-Build Agreement. The Commission shall enforce the payment of such damages for the benefit of the Commission and the Trustee. All such damages received by the Commission shall be paid to the Trustee for deposit in the Debt Service Account and the Taxes and Insurance Fund, as appropriate.] The Trustee shall have the power to enforce any right or remedy granted to the Commission or to the Trustee and any obligation imposed on any other party as provided in the Design-Build Agreement.

Section 7.10 Tax Covenant. The Commission shall at all times do and perform all acts and things permitted by law and this Trust Agreement which are necessary or desirable in order to assure that interest paid on the Tax-Exempt Bonds (or any of them) will be excluded from gross income for federal income tax purposes and shall take no action that would result in such interest not being excluded from gross income for federal income tax purposes. Without limiting the generality of the foregoing, the Commission shall comply with the provisions of the Tax Certificates. This covenant shall survive payment in full or defeasance of the Bonds.

Section 7.11 Books of Account. The Commission shall maintain or cause to be maintained with respect to the Hotel systems of accounting established and administered in accordance with sound business practices and the laws of the State and sufficient in all respects to permit preparation of financial statements in accordance with Generally Accepted Accounting Principles and the Uniform System of Accounts. All financial statements with respect to the Hotel shall be prepared in accordance with Generally Accepted Accounting Principles and the Uniform System of Accounts, consistently applied.

Section 7.12 Maintenance of the Hotel. The Commission shall maintain or cause to be maintained the Hotel in good and substantial repair, working order and condition; provided, that if all or any of the Hotel shall be destroyed or damaged by Casualty, the Casualty Proceeds shall be applied in accordance with the terms of Section 7.18 and Section 5.19. Without limiting the generality of the foregoing, the Commission shall maintain, use and operate or cause the maintenance, use and operation of the Hotel and all engines, boilers, pumps, machinery, apparatus, furniture, fixtures, fittings and equipment, including FF&E, of any kind in or that shall be placed in any building or structure now or hereafter at any time constituting part of the Hotel, in good repair, working order and condition, and the Commission shall from time to time make or cause to be made all needful and proper replacements, repairs, renewals and improvements, in each case to the extent necessary so that the value of the Hotel shall not be impaired in any manner that could result in a Material Adverse Effect on the Commission or the Hotel.

Section 7.13 Compliance With Law; Maintenance of Approvals.

(a) The Commission shall comply with all Applicable Laws in connection with the Hotel, except those that shall be contested in good faith and by appropriate proceedings diligently conducted by the Commission. Without limiting the generality of the foregoing, the Commission shall operate, use and maintain, or shall cause the operation, use and maintenance of, the Hotel in accordance with all Applicable Laws (except for such instances of inadvertent or

unintentional noncompliance that would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect on the use, operation or maintenance of the Hotel) and the applicable Annual Plan and shall not alter or change or permit the change or alteration of the Hotel from its intended use as the Hotel.

(b) The Commission will (i) maintain or cause to be maintained in full force and effect all Approvals now held or hereafter acquired with respect to the Commission or the Hotel, the loss, suspension, or revocation of which, or failure to renew, could have a Material Adverse Effect on the Commission or the Hotel and (ii) perform, observe, fulfill and comply (or cause the performance, observance, fulfillment and compliance of and with) all of its obligations, covenants and conditions contained in such Approvals.

Section 7.14 Environmental Laws.

(a) The Commission shall at all times comply or cause compliance at the Hotel and Site in all material respects with all applicable Environmental Laws. The Commission shall not, and shall not suffer, consent or permit any other Person to: (i) violate any applicable Environmental Law in any material respect at the Hotel; or (ii) generate, use, treat, recycle, reclaim, transport, handle, store, release or dispose of any Hazardous Materials in or into, on, under or onto, or from any real property owned, leased or operated by the Commission (except for such generation, use, transport, handling, or storage of those Hazardous Materials in such quantities and under such circumstance as are reasonably necessary for the construction, use, maintenance and operation of the Hotel; provided, that the Commission complies (and causes other Persons to comply with) applicable Environmental Laws and except for such air emissions and wastewater discharges to sewer systems made in strict compliance with all Applicable Environmental Laws and permits); or (iii) permit any Lien imposed pursuant to any Environmental Law to be imposed or to remain on the Site or the Hotel or any other real property owned, leased or operated by the Commission.

(b) The Commission shall promptly take and diligently prosecute or cause to be prosecuted any and all necessary Remedial Actions upon obtaining knowledge of the presence, storage, use, disposal, transportation, active or passive migration, release or discharge of any Hazardous Materials on, from, in, under or about the Site or the Hotel. Upon obtaining knowledge of any condition of or affecting the Site or the Hotel, that is in violation of any applicable Environmental Law, the Commission shall promptly correct such condition or cause it to be corrected. In the event the Commission undertakes or causes to be undertaken any Remedial Action with respect to any Hazardous Material on, from, in, under or about the Site, the Hotel, the Commission shall conduct and complete such Remedial Action in compliance with all applicable Environmental Laws and in accordance with the applicable policies, orders and directives of all Governmental Authorities.

Section 7.15 Taxes, Assessments, Governmental Charges and Adverse Judgments.

The Commission shall pay and discharge or cause to be paid and discharged (but solely from Total Operating Revenues and amounts on deposit in the Taxes and Insurance Fund) all taxes, assessments, governmental charges of any kind whatsoever, adverse judgments, utility rates, meter charges and other utility charges (collectively, "Impositions") that may be or have been assessed or rendered or that have or may become liens upon the Hotel, the Total Operating Revenues, or any portion of the Revenues or other assets pledged under this Trust Agreement or

the interests therein of the Trustee or of the Registered Owners of the Bonds and will make such payments or cause such payments to be made, respectively, in due time to prevent any delinquency thereon or any forfeiture or sale of the Hotel, the Revenues or other assets pledged under this Trust Agreement or any part thereof, and, upon request, shall furnish to the Trustee receipts for all such payments, or other evidences satisfactory to the Trustee; provided, that the Commission shall not be required to pay any Imposition as long as it shall in good faith contest the validity thereof, if (a) the Commission shall have deposited with the Trustee adequate reserves in the Taxes and Insurance Fund (or such other special fund or account as shall be established to set aside amounts necessary to pay any adverse judgments) in an amount equal to at least one hundred twenty-five percent (125%) (or such higher amount as may be required by Applicable Law) of the total of (i) the balance of such Imposition then remaining unpaid, and (ii) all interest, penalties, costs and charges accrued or accumulated thereon; (b) no risk of sale, forfeiture or loss of any interest in the Hotel, the Revenues or other assets pledged under this Trust Agreement or any part thereof arises, in the Trustee's reasonable judgment, during the pendency of such contest; (c) such contest does not, in the Trustee's reasonable judgment, have a Material Adverse Effect; and (d) such contest is based on bona fide, material, and reasonable claims or defenses. Any such contest shall be prosecuted with due diligence, and the Commission shall promptly pay or cause to be paid the amount of such Imposition as finally determined, together with all interest and penalties payable in connection therewith. The Trustee shall have full power and the Commission, but no obligation, to apply any amount deposited with the Trustee under this Section to the payment of any unpaid Imposition to prevent the sale, forfeiture or loss of the Hotel, the Revenues or other assets pledged under this Trust Agreement or any interest therein or part thereof for non-payment of such Imposition, if the Trustee reasonably believes that such sale, forfeiture or loss is threatened. Any surplus retained by the Trustee after payment of the Imposition for which a deposit was made shall be transferred to the Revenue Fund for disposition in accordance with Section 5.07(a). Notwithstanding any provision of this Section to the contrary, the Commission shall pay any Imposition that it might otherwise be entitled to contest if an Event of Default shall occur or if the Hotel, the Revenues or other assets pledged under this Trust Agreement or any interest therein or any part thereof is in jeopardy or in danger of being sold, forfeited, foreclosed or otherwise lost. If the Commission fails to pay any such Imposition, the Trustee may (but shall not be obligated to) make such payment and the Commission shall reimburse the Trustee on demand for all such advances.

Section 7.16 Insurance.

(a) Required Insurance. The Commission shall maintain or cause to be maintained the insurance set forth in Exhibit K to this Trust Agreement. The Commission shall deliver or cause to be delivered to the Trustee prior to commencement of construction, installation and equipping of the Hotel, evidence of insurance in the form of Accord Certificate No. 25-S and a statement of the insurance maintained pursuant to this Section.

(b) Changes in Insurance Industry. If changes in the insurance industry shall make any description of the required insurance coverages inaccurate or otherwise inappropriate, then the Commission shall have the right, by notice to the Trustee, to revise such requirement to accurately describe, in accordance with then current industry practice, the type of insurance which would be comparable to the required insurance coverage described in this Trust Agreement.

(c) Insurance Consultant. The Commission shall employ or cause to be employed for the benefit of the Trustee and the Commission an Insurance Consultant to review the insurance requirements relating to the Hotel from time to time (but not less frequently than once every twenty-four (24) months). As of the Closing Date and thereafter not less than annually, the Commission shall cause the Insurance Consultant to provide a certificate to the Trustee certifying that the requirements of Section 7.16 are satisfied. The cost of such Insurance Consultant will be paid as an Operating Expense by Manager from amounts on deposit in the Lockbox Fund. If the Insurance Consultant recommends increases in any of the coverages or modifications in any of the terms of such insurance requirements and the Commission approves such increases or modifications, the Commission shall obtain or cause to be obtained the approved increases or modifications, to the extent such insurance is available at and on commercially reasonable rates and terms. Notwithstanding anything to the contrary in this Section, if the Insurance Consultant recommends any reduction in the insurance coverage required pursuant to Exhibit K and the Commission approves such reduction, the Commission shall maintain or cause to be maintained insurance at such reduced coverage; provided, that the Insurance Consultant shall have provided a statement to the Commission and the Trustee to the effect that such reduced coverage provides the greatest amount of coverage available, in the judgment of the Insurance Consultant, at and on commercially reasonable rates and terms. A copy of any such statement shall be furnished to the Trustee.

Section 7.17 Insurers; Policy Forms and Loss Payees. All insurance policies provided for in this Article shall be from financially responsible insurers rated no less than "A-/XII" by A.M. Best and shall be in such form and contain such provisions as are generally considered standard for the type of insurance involved except to the extent otherwise required by this Trust Agreement. Without in any way limiting the foregoing, the insurance shall conform to all subsections of this Section.

(a) Named Insureds. The insurance policies required by this Article, if obtained by Manager, shall name Manager as the named insured and the Commission and the Trustee (for the benefit of the Registered Owners of the Bonds) as their interests may appear as additional insureds or, if such policies are obtained by Owner, shall name the Commission as named insured and Manager and the Trustee (for the benefit of the Registered Owners of the Bonds) as their interests may appear as additional insureds.

(b) Amounts of Coverage. When maintained by Owner, amounts and types of coverages and amounts of deductibles shall be subject to the reasonable approval of Manager; provided, however, if the coverages and amounts conform to the requirements of this Trust Agreement, including Exhibit K, then the coverages and amounts shall be deemed approved by Manager.

(c) Waiver of Subrogation Requirements. Where appropriate and obtainable (including the insurance provided for in Exhibit K), all policies shall waive subrogation rights against Manager, Owner, the Trustee and the Registered Owners of the Bonds.

(d) Term; Notice of Termination. Each insurance policy shall be for a term of not less than one (1) year; provided, that policies may be obtained for a lesser period to the extent necessary for the term thereof to end concurrently with other related coverages. Each insurance policy shall include a requirement that the insurer provide at least thirty (30) days'

written notice of cancellation or material change in the terms and provisions of the policy to Manager, the Commission and the Trustee.

(e) Severability of Interests. Each insurance policy where obtainable shall include a severability of interest clause.

(f) Insurance Primary. All insurance policies obtained by Manager shall be primary and without a right of contribution of any other insurance carried by or on behalf of the Commission or the Trustee with respect to their respective interests in the Total Operating Revenues and the Hotel. All insurance policies obtained by the Commission shall be primary and without a right of contribution of any other insurance carried by or on behalf of Manager or the Trustee with respect to their respective interests in the Total Operating Revenues and the Hotel.

(g) Occurrence Policies. Each insurance policy shall be written on occurrence, rather than claims made, basis; provided, that boiler and machinery coverage may be on an accident basis and employment practices and directors and officers insurance may be on a claims made basis.

(h) Agreed Value. All property insurance policies shall contain an agreed value clause updated by the Insurance Consultant as provided in Exhibit K.

Section 7.18 Disposition of Insurance and Condemnation Proceeds.

(a) The Commission shall provide the Trustee with immediate written notice of (i) any material loss or damage to the Hotel or any part thereof (each, a "Casualty"), or (ii) any actual or threatened action or proceeding relating to any condemnation or other taking, direct or indirect, or sale or transfer in lieu of a condemnation or taking (each, a "Taking") of the Hotel or any part thereof. To the extent of Casualty or Taking only, the Commission hereby irrevocably authorizes and empowers the Trustee as the Commission's attorney-in-fact to make the proof of loss, adjust and compromise any claim under insurance policies and to appear in and prosecute or defend any action arising from such insurance policies or any Taking. The Trustee shall be entitled to collect, and the Commission hereby assigns to the Trustee for deposit into the Insurance and Condemnation Proceeds Fund, all Casualty Proceeds or the proceeds of any award, payment or claim for damages, direct or consequential, in connection with any Taking of the Hotel and is further entitled to deduct therefrom the Trustee's reasonable out-of-pocket expenses incurred in the collection of such proceeds (such proceeds after such deductions, the "Available Amount").

(b) The Trustee, upon the Request of the Commission, shall cause the Available Amount, together with all other amounts deposited with the Trustee as a result of a Shortfall (as defined below), to be applied to the cost of restoration and reconstruction of the Hotel so long as the Commission has certified that the following conditions have been met: (i) no Event of Default then exists, (ii) the Available Amount together with all investment income earned or expected to be earned thereon and other proceeds deposited with the Trustee will be sufficient to restore the Hotel to its Pre-Existing Condition (as defined below), or if such proceeds are not sufficient (a "Shortfall"), the Commission shall have deposited or caused to be deposited, into the Insurance and Condemnation Proceeds Fund the full amount of such Shortfall

within thirty (30) days after the Trustee's written notice of such Shortfall, (iii) the Hotel can be restored and repaired as nearly as is reasonably practicable to the condition it was in immediately prior to a Casualty in the case of any Casualty or to a condition, in the case of any Taking, that permits the Hotel's use in the manner contemplated by this Trust Agreement and for which the Hotel was originally constructed, in each case in compliance with all Hotel Requirements (the "Pre-Existing Condition"), (iv) the Commission shall have received and approved, in its reasonable judgment, plans and detailed specifications of the contemplated repair or restoration of the Hotel, together with a statement of an architect that the Hotel can be restored to its Pre-Existing Condition in the time and for the cost specified in such plans and specifications, and (v) if more than 15% of the Hotel is damaged, destroyed or taken, the Commission shall have furnished to the Trustee a guaranteed maximum or fixed price contract for the restoration or repair of the Hotel to the Pre-Existing Condition for an amount not in excess of the Available Amount together with all investment income earned or expected to be earned thereon and all other amounts deposited with the Trustee as a result of a Shortfall. If the foregoing conditions are not satisfied, then the Trustee shall apply the Available Amount in accordance with Section 5.19(b).

(c) Following a Casualty or Taking affecting the Hotel, if the Available Amount together with all investment income earned or expected to be earned thereon and all other amounts deposited with the Trustee as a result of a Shortfall is made available for repair or restoration and is sufficient for such purpose, the Commission shall cause the restoration of the Hotel to substantially its Pre-Existing Condition, and the Commission shall cause the commencement of such restoration or repair as soon as practicable after the Casualty or Taking and at all times thereafter the diligent prosecution thereof to completion. Subject to satisfaction of conditions set forth in Section 7.18(b) and provided that no Event of Default has occurred and is continuing, the Trustee will disburse any Casualty Proceeds or condemnation awards collected by it in accordance with the applicable procedures and upon satisfaction of the terms and conditions specified in Section 5.04.

(d) Any amount of insurance proceeds remaining in the Trustee's possession after full and final payment and discharge of all Bonds shall be refunded to the Commission or otherwise paid in accordance with Applicable Law.

(e) Notwithstanding the provisions of Section 7.18(b), all condemnation proceeds resulting from a temporary Taking that are not attributable to compensation for alterations or physical damage to the real or personal property used in the operation of the Hotel, as reasonably determined by the Commission, shall be deemed Total Operating Revenues and shall be deposited by the Trustee upon the Direction of the Commission in the Lockbox Fund.

(f) Subsections (a) through (e) of this Section shall apply only after the Date of Final Completion. Prior to the Date of Final Completion, in the event of any Casualty or Taking affecting the Hotel, the Commission shall cause the Hotel to be restored or rebuilt in accordance with the Design-Build Agreement.

Section 7.19 Manager. The Commission hereby covenants and agrees that it will at all times cause to be delegated the duties and responsibilities of operating the Hotel, pursuant to an operating agreement consistent with the terms of the Management Agreement, to a nationally recognized hotel management company (or a regional or national hotel management company so

long as the Hotel is under franchise by a national hotel franchisor of First-Class Hotels) having the experience and qualifications to operate and manage a first-class hotel of the size and character of the Hotel; provided, that if the Commission is unable to retain such a management company on terms substantially consistent with the terms of the Management Agreement, then the Commission shall have the right to operate and manage the Hotel. The Commission covenants to use commercially reasonable efforts to enforce or cause to be enforced all of its rights and remedies under the Management Agreement (except as limited by this Trust Agreement), and, if the Commission fails to do so, the Trustee shall have the right to do so. To the extent permitted under the Management Agreement, the Commission shall have the right to cure Manager's defaults thereunder. The Commission shall provide written notice to the Trustee at least sixty (60) days prior to the proposed early termination of the Management Agreement describing the reasons for such early termination. In addition, the Commission shall provide written notice to the Trustee of any Manager Events of Default (as defined in the Management Agreement) that have occurred and are continuing under the Management Agreement and the proposed remedy to be pursued with respect to such Manager Event of Default. Nothing in this Trust Agreement shall restrict Manager's ability to assign the Management Agreement as provided therein.

Section 7.20 Operation of the Hotel.

(a) Management of the Hotel. The Commission shall cause the Hotel to be managed and operated as a First-Class Hotel affiliated with either (i) a national hotel chain with experience in managing First-Class Hotels or (ii) a hotel operator with a national chain affiliation through a franchise agreement with national hotel franchisor of First-Class Hotels. The Commission shall cause to be in full force and effect at all times a Management Agreement with respect to the Hotel with terms and conditions substantially the same as those of the initial Management Agreement (except any changes required by Bond Counsel in order for Bond Counsel to deliver its opinion required by subsection (g) of this Section, or any changes that are based upon the advice of a Hotel Consultant), and which requires Manager to maximize over the term of such Management Agreement the financial return to the Commission from the operation of the Hotel as a full-service, first-class, luxury hotel. The Commission may amend, modify, waive or otherwise alter the Management Agreement in compliance with the terms of such Management Agreement and this Trust Agreement. Each Management Agreement for the Hotel or any part thereof shall expressly permit the assignment thereof to the Trustee for the benefit of Registered Owners and entitle the Trustee to the benefits thereof upon the occurrence of an Event of Default.

(b) Maintain License. The Commission shall at all times, where required by the laws of the jurisdiction, maintain or cause to be maintained in full force and effect the applicable Approvals necessary to operate the Hotel as a First-Class Hotel and Hotel in accordance with the Operating Standards. Without limiting the generality of the foregoing, the Commission shall obtain or cause to be obtained, and maintain or cause to be maintained, in good standing, all liquor licenses, food service licenses and other permits or licenses necessary for the lawful operation of bars, restaurants and other facilities offering food or beverages, alcoholic or otherwise, at the Hotel.

(c) Equip the Hotel. The Commission shall, pursuant to applicable licensing regulations (including requirements imposed by the Agreed Scope of the Hotel) from time to

time in effect, suitably equip the Hotel to permit its overall operation in a manner reasonably expected for the Hotel to constitute a First-Class Hotel (including the operations of all restaurants, bars, lounges, food service facilities and other guest service facilities), but solely from moneys on deposit in the Construction Fund and Total Operating Revenues other moneys available for such purpose pursuant to this Trust Agreement.

(d) Acquisition of Services, Supplies and Materials. The Commission shall make no payment from the Construction Fund for services, supplies or materials without complying with the requirements for disbursements from the Construction Fund pursuant to this Trust Agreement.

(e) Asset Manager. The Commission shall hire or cause to be hired not later than the first anniversary date of the Closing Date an Asset Manager to assist the Commission in overseeing the operations of the Hotel for the benefit of and on behalf of the Commission and the Trustee. If the Person then serving as Asset Manager is terminated or resigns, the Commission shall hire or cause to be hired a replacement within sixty (60) days after such termination or resignation. The Asset Manager shall signify acceptance of such position by executing a certificate at or prior to employment that he, she or it agrees to perform the duties of Asset Manager as described in the Principal Transaction Documents and which include: (i) reviewing and recommending to the Trustee approval or disapproval of the proposed Capital Budget and Operating Budget for the upcoming Operating Year (collectively, the "Proposed Annual Plan"), (ii) reviewing all reports required to be delivered by Manager pursuant to the Management Agreement, (iii) providing reports to the Commission on a quarterly basis summarizing the Asset Manager's findings for the preceding quarter regarding Manager's compliance with the Management Agreement, (iv) approving the list of potential replacement Hotel Consultants supplied by Manager, and (v) commenting on the recommendations submitted by any Hotel Consultant. Notwithstanding anything to the contrary in this Trust Agreement or in the Management Agreement, the Asset Manager shall not have any additional or different rights with respect to Manager, the Hotel or any part thereof than those of the Commission.

(f) Each Management Agreement entered into by the Commission shall first require the written opinion of Bond Counsel that such Management Agreement will not, in and of itself, result in the inclusion of interest on the Tax-Exempt Bonds in the exclusion from gross income for federal income tax purposes. Any amendment or extension of the Management Agreement or change in the identity of Manager shall require the written opinion of Bond Counsel that such amendment or extension of the Management Agreement will not, in and of itself, cause the interest on any of the Tax-Exempt Bonds to become includible in gross income for federal income tax purposes.

Section 7.21 Annual Plans.

(a) Review and Adjustment of Annual Plans. On or before May 1 of each Operating Year and on or before sixty (60) days prior to the Opening Date, the Commission shall cause Manager to prepare and deliver to the Commission and its designees and consultants (including the Trustee) for the Commission's review, a preliminary Proposed Annual Plan for the next Operating Year or, in connection with the opening of the Hotel, for the period of time from the Opening Date to the following June 30. The Commission shall cause Manager to deliver its final Proposed Annual Plan for the next Operating Year or, in connection with the opening of the

Hotel, for the period of time from the Opening Date to the following June 30, by May 15 of the applicable prior Operating Year or forty-five (45) days prior to the Required Opening Date, as applicable.

(b) Approval of Annual Plans. The Commission and Manager shall meet within fifteen (15) days after the Commission's receipt of the final Proposed Annual Plan for any Operating Year. The Commission shall cause Manager to provide to the Commission at such time its final Proposed Annual Plan for the applicable Operating Year. The Commission shall not disapprove expenditures set forth in the Proposed Annual Plan that are reasonably necessary in order for the Hotel to comply with the Operating Standards, provided, that there are Sufficient Funds therefor, except as provided in subsection (e) below. If the Commission and Manager are unable to agree upon the final Proposed Annual Plan within fifteen (15) days after such initial (fifteen) (15)-day period, then within ten (10) days after the expiration of such second (fifteen) (15)-day period, the Commission shall deliver to Manager its written objections to the Proposed Annual Plan, subject, however, to the provisions of Section 7.21(h). The Commission's objections to a Proposed Annual Plan shall include the specific items disapproved. During the (fifteen) (15)-day period following Manager's receipt of the Commission's objections, the Commission and Manager shall meet and confer regarding the disapproved items. Within five (5) days after the expiration of such third (fifteen) (15)-day period, Manager shall submit to the Commission a revised Proposed Annual Plan incorporating such revisions as the Commission and Manager agreed upon during such third (fifteen) (15)-day period. Commission shall provide a copy of each Annual Plan to the Trustee promptly following the approval thereof together with any subsequent amendments thereto.

(c) Referral to Hotel Consultant. If the parties do not agree on the Commission's revisions, then either Party may submit the matter for resolution by the Hotel Consultant.

(d) Interim Annual Plan. Until such time as the parties have agreed on all line items of the Proposed Annual Plan, Manager shall have the right to operate the Hotel in accordance with: (i) any line items in the Proposed Annual Plan that do not require Commission approval under the Management Agreement, and (ii) those line items in the Proposed Annual Plan that have been agreed upon by the Commission and Manager, and (iii) with respect to those line items in the Proposed Annual Plan not yet approved by the Commission and until resolution by a Hotel Consultant, the corresponding line items in the Annual Plan in effect during the preceding Operating Year (but without duplication of any individual Capital Expenditures, expenditures for FF&E or other "one-time" expenditures), in each case as adjusted for the change in the immediately preceding calendar year in the Bay Area CPI.

(e) Commission Approval Rights. Without limiting the Commission's approval rights, the Commission shall have the right to object to any aspect of any Proposed Annual Plan if (among other reasons):

(i) the objection and proposed change would not materially (A) impair Manager's ability to achieve a performance test, (B) interfere with Manager's operation of the Hotel in a manner consistent and in compliance with the Operating Standards, or (C) interfere with Manager's performance and satisfaction of its duties and obligations under the Management Agreement;

(ii) as to a proposed Capital Budget, there are not Sufficient Funds available to make the proposed Capital Improvement set forth therein;

(iii) as to a proposed Operating Budget, there are not Sufficient Funds available therefor;

(iv) as to a proposed Operating Budget, it shall result in a Debt Service Coverage Ratio of less than the Debt Service Coverage Requirement;

(v) as to a proposed Capital Budget, all or some of the proposed Capital Improvements represent material upgrades to the quality or facilities of the Hotel (as distinct from repairs, maintenance or replacements required to prevent any diminution in quality) that are not, in the Commission's reasonable opinion, required to satisfy the Operating Standards; or

(vi) as to a proposed Capital Budget, any proposed upgrade to the quality or the facilities of the Hotel would (A) require material alterations to the Building as a result of any modifications in Manager's brand standards made by Manager after the effective date of the Management Agreement, except as necessary to correct an Emergency or to comply with Applicable Law; (B) require purchase of new or replacement FF&E as a result of any modifications in Manager's brand standards made by Manager after the effective date of the Management Agreement, prior to the earlier of five (5) years from the date of purchase of such FF&E or the end of the useful life of such FF&E; (C) be imprudent based upon a reasonable weighing of the costs and benefits to the Hotel of the upgrades (taking into account the cost and impact on Hotel revenue and expense of the upgrades, the useful life of the upgrades, and the remaining term of the Management Agreement); or (D) render funds in the Capital Reserve Fund, the FF&E Reserve Fund, the Working Capital Reserve Fund, or the Revenue Stabilization Fund inadequate for other necessary Capital Expenses or funding of other amounts as contemplated by the Management Agreement or an existing approved Capital Budget. The foregoing shall not in any way limit the Commission's right to approve a proposed Capital Budget as to reasonableness of specifications and cost of implementing any upgrade set forth therein.

(f) Referral to Hotel Consultant. If the parties do not agree upon the Commission's revisions, then the Management Agreement shall provide that either party may submit the matter for resolution by a Hotel Consultant pursuant to the provisions of subsection (h) below.

(g) Debt Service Coverage. In addition, the Management Agreement shall provide that under each of the following circumstances, the Commission may require the appointment of a Hotel Consultant (within thirty (30) days after the receipt of the following information) to make written recommendations as to the operations, management, marketing, improvement, condition or use of the Hotel or any part thereof:

(i) if the Commission determines that a proposed Operating Budget will not result in the Debt Service Coverage Requirement being met;

(ii) if the Commission determines that the actual Debt Service Coverage Ratio for any four consecutive quarters is less than the Debt Service Coverage Requirement; and

(iii) if the Certified Annual Financial Statements delivered to the Commission pursuant to the Management Agreement reflects that the Debt Service Coverage Requirement was not achieved.

(h) Hotel Consultant. The Management Agreement shall provide that the following provisions shall apply to a matter to be referred to a Hotel Consultant for resolution:

(i) The use of the Hotel Consultant shall be the exclusive means of resolution by the parties of the matter referred, and the decision of the Hotel Consultant shall be final and binding on the parties.

(ii) Manager and the Commission shall agree to reasonably cooperate with the Hotel Consultant in order to permit the Hotel Consultant to effectively perform its duties and responsibilities in connection with such engagement.

(iii) Each party shall be entitled to make written submissions to the Hotel Consultant, and if a party makes any submission it shall also provide a copy to the other party and the other party shall have the right to comment on such submission.

(iv) The parties shall make available to the Hotel Consultant all books and records reasonably related to the matter in dispute and shall render to the Hotel Consultant any assistance reasonably requested of the parties.

(v) Each party shall deliver to the other at no additional charge copies of any information, correspondence or documents delivered to the Hotel Consultant contemporaneously with delivering such information, correspondence or documents to the Hotel Consultant.

(vi) Each party shall also, upon the request of the other party or the Trustee, meet with the Hotel Consultant to discuss the Hotel Consultant's reports, findings and written recommendations.

(vii) The Hotel Consultant shall make its recommendation with respect to the matter referred for determination by taking into consideration the Commission's obligations with respect to the Bonds, then-existing market and economic conditions, and operation of the Hotel in a manner that is consistent with the Operating Standards.

(viii) Each party shall consider in good faith the recommendations of the Hotel Consultant and shall implement those recommendations to the extent: (A) such recommendations do not cause the Hotel to fail to meet the Operating Standards, including Manager's brand standards, (B) there are Sufficient Funds available therefor, (C) such recommendations do not cause Manager to fail to meet any performance tests, (D) such recommendations will not cause a Manager Event of Default under the Management Agreement,

and (E) such recommendations do not, in the opinion of Bond Counsel, adversely affect the tax-exempt status of the interest on the Tax-Exempt Bonds.

(ix) The terms of engagement of the Hotel Consultant shall include an obligation on the part of the Hotel Consultant to: (1) notify the parties in writing of its findings and recommendation(s) within thirty (30) days from the date on which the Hotel Consultant has been selected (or such other period as the parties may agree); and (2) establish a timetable for the making of submissions and replies.

(x) The fees and expenses of the Hotel Consultant shall be paid as an Operating Expense from amounts on deposit in the Lockbox Fund.

The Management Agreement with Hyatt shall be deemed to comply with the requirements in this Section.

Section 7.22 Deposit of Total Operating Revenues; Cash Management Agreement.

The Commission covenants and agrees that it shall deposit or cause to be deposited all Total Operating Revenues calculated on a cash basis (less the Petty Cash Amount) in the Lockbox Fund pursuant to the terms of the Cash Management Agreement. The Commission shall cause Manager to be a party to the Cash Management Agreement. The Commission covenants and agrees to maintain or cause to be maintained the Lockbox Fund during the period of time from at least seven (7) days prior to the Opening Date until no Bonds are Outstanding pursuant to an agreement substantially in the form of the Cash Management Agreement. The Commission covenants and agrees to execute a substitute or replacement Cash Management Agreement with any successor Depository Bank provided, that unless consented to in writing by Manager, which consent shall not be unreasonably withheld, conditioned or delayed, such Cash Management Agreement shall not materially or substantively modify Manager's rights, duties or obligations under the Cash Management Agreement or this Trust Agreement or have a material adverse effect on the rights or obligations of Manager.

(a) The Commission shall include in each Management Agreement a covenant requiring Manager to deliver to the Commission and the Trustee within ninety (90) days after the end of each Operating Year Certified Annual Financial Statements prepared by an Independent Accountant for the preceding Operating Year (including a calculation of the Debt Service Coverage Ratio).

(b) Nothing in this Section shall be construed as in any way limiting or conditioning any other obligation of the Commission under this Trust Agreement.

Section 7.23 Subordination to the Commission Agreements With the United States.

This Trust Agreement is subject and subordinate to the terms, reservations, restrictions and conditions of any existing or future agreements between the Commission and the United States, the execution of which has been or may be required as a condition precedent to the transfer of federal rights or property to the Commission for airport purposes, and the expenditure of federal funds for the operation, extension, expansion or development of the Airport.

Section 7.24 Further Assurances. At any and all times the Commission shall, so far as it may be authorized by law, make, do, execute, acknowledge and deliver all and every such

further acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, granting, pledging, assigning and confirming the Revenues and other assets pledged under this Trust Agreement, the cash and Investment Securities held in any Fund or Account under this Trust Agreement, and the Trustee's right, title and interest in and to the foregoing, and all other moneys, securities and funds hereby pledged or assigned, or which the Commission may become bound to pledge or assign.

ARTICLE VIII DISCHARGE AND DEFEASANCE

Section 8.01 Discharge of Trust Agreement. If the Commission shall well and truly pay, or cause to be paid, all of the principal and Redemption Price of and interest on the Bonds, at the times and in the manner provided in this Trust Agreement and in the Bonds according to the true intent and meaning hereof and thereof, and shall cause the payments to be made into the Funds and Accounts established under this Trust Agreement and in the amounts required hereby, or shall provide, as permitted hereby, for the payment thereof by depositing with or for the account of the Trustee an amount sufficient to provide for payment of the entire amount due or to become due thereon (including any amount due or to become due with respect to the Bonds under Section 148 of the Code), and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Trust Agreement to be kept, performed and observed by it on or prior to the date such payments are made, and shall pay or cause to be paid to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then, upon such payment and performance, this Trust Agreement and the rights, pledges and liens hereby granted shall cease, determine and be void; provided, that the Commission's obligations under Section 7.10, the Trustee's obligation under Sections 3.04 and 4.03 and the Trustee's rights and protections under this Trust Agreement shall survive such discharge; otherwise, this Trust Agreement is to be and shall remain in full force and effect. In the event that this Trust Agreement is discharged as provided in this Trust Agreement, the Trustee shall cause an accounting for such period or periods as shall be requested by the Commission to be prepared and filed with the Commission and, upon the Request of the Commission, shall execute and deliver to the Commission all such instruments as may be desirable to evidence such discharge and satisfaction, and the Agents shall pay over or deliver to the Commission all moneys or securities held by them pursuant to this Trust Agreement which are not required for the payment of principal or Redemption Price of and interest on the Bonds.

Section 8.02 Defeasance. Any Outstanding Bonds shall, prior to the maturity or Redemption Date thereof, be deemed to have been paid within the meaning and with the effect expressed in Section 8.01 if (a) in case any of such Bonds are to be redeemed on any date prior to their maturity, the Commission shall have given to the Trustee in form satisfactory to it a Letter of Instructions containing irrevocable instructions to give notice of redemption of such Bonds as provided in Article IV, (b) there shall have been deposited with the Trustee, in trust, either money in an amount which shall be sufficient, or Defeasance Securities that are not callable or prepayable prior to maturity the principal of and interest on which without any reinvestment thereof when due will provide money which, together with the money, if any, deposited with the Trustee at the same time for such purposes, shall be sufficient, as verified by an Accountant, to pay when due the principal or Redemption Price of and interest due and to become due on such Bonds on or prior to the Redemption Date or maturity date thereof, as the

case may be, (c) in the event such Bonds are not to be redeemed within the next succeeding sixty (60) days, the Commission shall have given the Trustee in form satisfactory to it a Letter of Instructions containing irrevocable instructions to mail, as soon as practicable, notice to the Registered Owners of all such Bonds that the deposit required by clause (b) above has been made with the Trustee and that such Bonds are deemed to have been paid in accordance with this Section and stating such maturity or Redemption Date upon which money is to be made available for the payment of the principal or Redemption Price of and interest on such Bonds, and (d) there shall be delivered to the Trustee a written opinion of Bond Counsel to the effect that (i) the provisions of this Section have been complied with so that such Bonds are no longer entitled to the benefits of this Trust Agreement and (ii) such defeasance will not, in and of itself, result in the inclusion of interest on any Tax-Exempt Bonds in gross income for federal income tax purposes. Neither Defeasance Securities nor money deposited with the Trustee pursuant to this Section nor principal or interest payments on any such Defeasance Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the principal or Redemption Price of and interest on such Bonds; provided, that any cash received from such principal or interest payment on such Defeasance Securities, (i) to the extent such cash will not be required at any time for such purpose, shall be paid over to the Commission as received, free and clear of any trust, lien, security interest, pledge or assignment securing such Bonds or otherwise existing under this Trust Agreement, if all Bonds have been redeemed or discharged, otherwise such cash shall be deposited as Available Revenues, and (ii) to the extent such cash will be required for such purpose at a later date, shall, to the extent practicable, be reinvested in the Defeasance Securities maturing at times and in amounts sufficient to pay when due the principal or Redemption Price of and interest to become due on such Bonds, on or prior to such Redemption Date or maturity date thereof, as the case may be, and interest earned from such reinvestment shall be paid over to the Commission, as received, free and clear of any trust, lien or pledge, if all Bonds have been redeemed or discharged, otherwise such cash shall be deposited as Available Revenues. Bonds defeased under this Trust Agreement shall no longer be subject to redemption at the option of the Commission, except to the extent that such Bonds are called for redemption at the time provision is made for the defeasance thereof, as provided in this Section.

ARTICLE IX DEFAULT AND REMEDIES

Section 9.01 Rights and Remedies, Generally. Subject to the provisions of this Trust Agreement, the Registered Owners of the Bonds and the Trustee acting for all of the Registered Owners of the Bonds shall be entitled to all of the rights and remedies provided or permitted in this Trust Agreement or at law or in equity.

Section 9.02 Events of Default. Each of the following events is hereby declared an "Event of Default" under this Trust Agreement:

(a) failure to make due and punctual payment of the principal or Redemption Price of any Bond when and as the same shall become due and payable, whether at maturity or by call for redemption, or otherwise;

(b) failure to make due and punctual payment of any installment of interest on any Bond or the unsatisfied balance of any Mandatory Sinking Fund Installment therefor (except

when such Mandatory Sinking Fund Installment is due on the maturity date of such Bond), when and as such interest installment or Mandatory Sinking Fund Installment shall become due and payable;

(c) failure by the Commission in the performance or observance of any other of the covenants, agreements or conditions on its part contained in this Trust Agreement or any Supplemental Trust Agreement or in the Bonds, and such failure shall continue for a period of sixty (60) days after written notice thereof to the Commission by the Trustee or to the Commission and to the Trustee by the Registered Owners of at least twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding; provided, that if the failure stated in the notice was due to the failure of another Person in its performance or observance of one or more of its covenants, agreements or conditions on its part contained in another Principal Transaction Document, then instead of such sixty(60)-day grace period, no Event of Default shall have occurred so long as corrective action is instituted by the Commission after any applicable grace period permitted under such Principal Transaction Document for such Person and diligently pursued until corrected for a maximum time period of thirty (30) days following the applicable grace period for such Person;

(d) the entry of a decree or order by a court having jurisdiction in the premises for relief in respect of the Commission, or adjudging the Commission a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, adjustment or composition of or in respect of the Commission under the United States Bankruptcy Code or any other applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar the Trustee official) of or for the Commission or any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of sixty (60) consecutive days;

(e) the commencement by the Commission of a voluntary case under the United States Bankruptcy Code, or the filing by it of a petition or answer or consent seeking reorganization, arrangement or relief under the United States Bankruptcy Code or any other applicable federal or state law, or the consent or acquiescence by it to the filing of any such petition or the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator (or other similar official) of the Commission or any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability or its failure to pay its debts generally as they become due, or the taking of corporate action by the Commission in furtherance of any such action;

(f) any representation made by the Commission in this Trust Agreement or in any document, instrument or certificate furnished to the Trustee in connection with the issuance of any Bonds shall at any time prove to have been incorrect in any material respect as of the time made; provided, that if it can be corrected by the Commission and such default was unintentional, the Commission shall have a sixty (60)-day period to make such correction prior to an Event of Default occurring;

(g) the Management Agreement has terminated and a new Management Agreement has not been delivered to the Trustee within sixty (60) days after the effective date of such termination; provided, that, if the Commission is unable to locate a new Manager in accordance with Section 7.20 within such sixty (60) day period, such failure shall not become an

Event of Default so long as the Commission is diligently proceeding to locate such a Manager, the Debt Service Coverage Requirement is being met and the Commission has retained a Hotel Consultant to provide advice to the Commission in operating the Hotel;

(h) if the City formally commences condemnation proceedings against all or any part of the Hotel (other than fines or penalties assessed against the Hotel for non-compliance with an Applicable Law);

(i) any Principal Transaction Document for any reason ceases to be in full force and effect or is declared to be null and void and the same has a Material Adverse Effect on the Hotel; or

(j) failure of the Commission to maintain or cause Manager to maintain the insurance required by Section 7.16, and continuance of such failure for a period of five (5) Business Days after there has been given to the Commission and Manager by the Trustee written notice of such failure.

Upon the occurrence of an Event of Default, the Trustee shall promptly provide written notice by first class mail to the Registered Owners of the Bonds then Outstanding of (i) such Event of Default and (ii) the action or remedy, if any, then proposed to be taken by the Trustee.

Section 9.03 Notice of Default; Cure. Upon obtaining knowledge of the existence of any Event of Default, the Trustee shall notify the Commission and Manager in writing as soon as practicable; provided, that the Trustee need not provide notice of any Event of Default if the Commission has expressly acknowledged the existence of such Event of Default in a writing delivered to the Trustee. The Trustee shall recognize any cure of a Manager Event of Default.

Section 9.04 Specific Remedies.

(a) If an Event of Default occurs and is continuing, then, subject to subsection (b) of this Section, the Trustee shall, upon the Request of the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding, and may, having been indemnified to its satisfaction (except with respect to the exercise of the remedy specified in clause (i) of this subsection (a) for which the Trustee shall not be entitled to require indemnification as a precondition to the exercise of such remedy) take any or all or any combination of the following actions:

(i) unless such Event of Default is an Event of Default under Section 9.02(c) or (i) that does not have a Material Adverse Effect on the Hotel or any part thereof, declare the principal of the Bonds to be immediately due and payable, whereupon that portion of the principal of the Bonds thereby coming due and the interest thereon accrued to the date of payment shall, without further action, become and be immediately due and payable, notwithstanding anything to the contrary in this Trust Agreement or in the Bonds;

(ii) by mandamus or other suit, action or proceeding at law or in equity require the Commission to perform its covenants, representations and duties with respect to the Bonds under this Trust Agreement;

(iii) by action or suit in equity require the Commission to account as if it were the trustee of an express trust for the Registered Owners of the Bonds;

(iv) by action or suit in equity enjoin any acts or things that may be unlawful or in violation of the rights of the Registered Owners of the Bonds;

(v) prohibit the Commission from withdrawing moneys from any Funds or Accounts (except the Rebate Fund, the Taxes and Insurance Fund, the Working Capital Reserve Fund and the FF&E Reserve Fund);

(vi) request that a court of competent jurisdiction appoint, to the extent permitted by law, a receiver or receivers of the Revenues and other assets pledged under this Trust Agreement, and the income, revenues, profits and use thereof, it being the intent hereof that, to the extent permitted by law, the Trustee shall be entitled to appointment of such a receiver as a matter of right;

(vii) upon the occurrence of an Event of Default described in Section 9.02(a) or (b), transfer moneys from any Funds or Accounts (other than amounts necessary to pay Operating Expenses and amounts on deposit in the Taxes and Insurance Fund and the Rebate Fund) to the Debt Service Account of the Debt Service Fund;

(viii) enter into such agreements or other arrangements as the Trustee may determine, in its discretion, to be necessary or appropriate either to retain Manager under the existing Management Agreement or make modifications to the Management Agreement; provided, that there shall first be delivered an opinion of Bond Counsel to the effect that such agreements, arrangements or modifications will not, in and of themselves, cause the interest on any of the Tax-Exempt Bonds to be includible in gross income for federal income tax purposes;

(ix) enforce all rights of the Commission under the Management Agreement, including the right to terminate and replace such parties under a new Qualified Management Agreement that is reasonable under the circumstances and necessary and appropriate to (A) maximize the current and long term value of the Hotel, and (B) maximize Net Revenues;

(x) take such actions, including the filing and prosecution of lawsuits as may be required to enforce for the benefit of the Registered Owners of the Bonds the terms of any agreements or instruments relating to the Hotel, or any part thereof, which the Trustee may be entitled to enforce, including (A) the Design-Build Agreement and the Management Agreement, (B) any construction contracts, design contracts or consulting contracts or operating agreements, (C) any insurance policies, completion guaranties or the Payment Bond and Performance Bond and (D) any other agreements or instruments that the Trustee may be entitled to enforce;

(xi) exercise any right of the Commission to give any consent or notice, to take any act or refrain from taking any act, and otherwise act in the full place and stead of the Commission in any Principal Transaction Document, either in its name or in the name of the Trustee or the Commission; provided, that if the Event of Default is an Event of Default as set forth in Section 9.02(c) or (i), then such right to exercise the remedy set forth in this clause (xi)

shall be restricted solely to curing such Event of Default unless such Event of Default results in a Material Adverse Effect with respect to the Hotel or any part thereof; or

(xii) take such other steps to protect and enforce its rights and the rights of the Registered Owners of the Bonds, whether by action, suit or proceeding in aid of the execution of any power granted in this Trust Agreement or for the enforcement of any other appropriate legal or equitable remedy, including proceeding by suit or suits, at law or in equity or by any other appropriate legal or equitable remedy, to enforce payment of the principal and Redemption Price of and interest then due on the Bonds.

(b) Any declaration of acceleration pursuant to clause (a)(i) of this Section 9.04 is subject to the condition that if, at any time after such declaration and before any judgment or decree for the payment of the moneys due shall have been obtained or entered, the Commission shall deposit with the Trustee a sum sufficient to pay all the principal or Redemption Price of and installments of interest on the Bonds, payment of which is overdue, with interest on such overdue principal at the rate borne by the respective Bonds, and the reasonable charges and expenses of the Trustee, including fees and expenses of its attorneys, and any and all other defaults known to the Trustee (other than in the payment of principal of and interest on the Bonds due and payable solely by reason of such declaration) shall have been made good or cured to the satisfaction of the Trustee or provision reasonably deemed by the Trustee to be adequate shall have been made therefor, then, and in every such case, the Trustee may, and shall at the Direction of the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding, on behalf of the Registered Owners of all of the Bonds, rescind and annul such declaration and its consequences and waive such default; but no such rescission and annulment shall extend to or shall affect any subsequent default, or shall impair or exhaust any right or power consequent thereon.

Section 9.05 Application of Proceeds. After payment or provision for payment of Operating Expenses (including the Base Management Fee) then due and payable and making the deposits to the Funds and Accounts and such disbursements therefrom as required to be made pursuant to the Cash Management Agreement (which Manager shall, if the Management Agreement remains in effect, continue to have access to as set forth in the Cash Management Agreement), the proceeds received by the Trustee pursuant to the exercise of any right or remedy under this Article, together with all securities and other moneys which may then be held by the Trustee as a part of the Revenues and other assets pledged under this Trust Agreement, subject to the application of amounts in specific Funds and Accounts which are pledged solely to the repayment of Bonds shall be applied in order, as follows:

(a) First, To the payment of the reasonable and proper charges, expenses and liabilities of the Trustee and its attorneys, agents and advisors;

(b) Second,

(i) Unless the principal of all Bonds shall have become or have been declared due and payable,

First, to the payment to the Registered Owners entitled thereto of all installments of interest (together with interest due on overdue installments of interest to the

extent allowed by law) then due on the Bonds in the order of their due dates, and, if the amount available shall not be sufficient to pay in full any installment or installments due on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the Registered Owners entitled thereto, without any discrimination or preference; and

Second, to the payment to the Registered Owners entitled thereto of the unpaid principal or Redemption Price of the Bonds with respect to which such remedy was exercised which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full the unpaid principal or Redemption Price of all the Bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due on such date, to the Registered Owners entitled thereto, without any discrimination or preference.

(ii) If the principal of all of the Bonds with respect to which such remedy was exercised shall have become or have been declared due and payable, to the payment of the principal or Redemption Price and interest then due and unpaid upon the Bonds, with interest on the overdue principal, Redemption Price and interest (to the extent allowed by law) at the rate borne by the respective Bonds, and, if the amount available shall not be sufficient to pay in full the whole amount so due and unpaid, then to the payment thereof ratably, without preference or priority of principal over interest or Redemption Price, or of interest over principal or Redemption Price, or of Redemption Price over principal or interest, or of any installment of interest over any other installment of interest, or of any Bond over any other Bond, according to the amounts due respectively for principal, Redemption Price and interest, to the Registered Owners entitled thereto without any discrimination or preference.

Section 9.06 Trustee May Act Without Possession of Bonds. All rights of action under this Trust Agreement or under any Bonds may be enforced by the Trustee without possession of any of the Bonds or the production thereof in any trial or other proceedings relative thereto, and any such suit or proceedings instituted by the Trustee shall be brought in its name, as Trustee for the ratable benefit of the Registered Owners of the Bonds, subject to the provisions of this Trust Agreement.

Section 9.07 Trustee as Attorney-in-Fact. The Trustee is hereby irrevocably appointed (and the Registered Owners of the Bonds, by taking and holding same from time to time, shall be deemed to have so appointed the Trustee) the true and lawful attorney-in-fact of the Registered Owners of the Bonds, or on behalf of all Registered Owners of the Bonds as a class, with respect to any proof of debt, amendment to proof of debt, petition or other document, and to do and perform any and all acts and things for and in the name of the Registered Owners of the Bonds against the Commission allowed in any equity receivership, insolvency, liquidation, bankruptcy, reorganization or other proceedings to which the Commission shall be a party and to receive payment of or on account of such claims. Any such receiver, assignee, liquidator or trustee is hereby authorized by each of the Registered Owners of the Bonds to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Registered Owners of the Bonds, to pay to the Trustee any amount due for compensation and expenses of the Trustee, including counsel fees, incurred up to the date of such distribution, and the Trustee shall have full power of substitution and delegation in respect of any such powers.

Section 9.08 Remedies Not Exclusive. No remedy conferred upon or reserved to the Trustee or the Registered Owners of the Bonds in this Trust Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Trust Agreement or under the Bonds or now or hereafter existing at law or in equity or by statute.

Section 9.09 Limitation on Suits. All rights of action in respect of this Trust Agreement shall be exercised only by the Trustee, and the Registered Owner of any Bond shall not have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under this Trust Agreement or by reason hereof, unless and until the Trustee shall have received a Request of the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding, and shall have been furnished reasonable indemnity and shall have refused or neglected for thirty (30) days thereafter to institute such suit, action or proceedings, and no direction inconsistent with such Request has been given to the Trustee during such thirty (30)-day period by the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding. The making of such request and the furnishing of such indemnity shall in each and every case be conditions precedent to the execution and enforcement by any Registered Owner of any Affected Bond of the powers and remedies given to such Registered Owner under this Trust Agreement and to the institution and maintenance by any such Registered Owner of any action or cause of action for the appointment of a receiver or for any other remedy under this Trust Agreement, but the Trustee may, in its discretion, and when duly requested in writing by the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding and when furnished indemnity satisfactory to protect it against expenses, charges and liability shall, subject to Section 9.04(b), take such appropriate action by judicial proceedings otherwise in respect of any existing default on the part of the Commission as the Trustee may deem desirable in the interest of the Registered Owners of the Bonds. The rights of the Registered Owners under this Section are in all events subject to the provisions of Section 9.04.

Nothing contained in this Article shall affect or impair the right of any Registered Owner of any Bonds, which shall be absolute and unconditional, to enforce the payment of the principal of, Redemption Price, if any, and interest on the Bonds of such Registered Owner, but only out of the moneys for such payment as provided in this Trust Agreement, or the obligation of the Commission, which shall also be absolute and unconditional, to make payment of the principal of, Redemption Price, if any, and interest on the Bonds, but only out of the funds provided in this Trust Agreement for such payment, to the respective Registered Owners thereof at the time and place stated in this Trust Agreement, and subject in all cases to Section 9.04(b) and the rights of Manager under the Management Agreement, this Trust Agreement and the Cash Management Agreement.

Section 9.10 Right of Registered Owners to Direct Proceedings. Notwithstanding anything to the contrary in this Trust Agreement, other than as specifically set forth in Section 9.04, the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Trust Agreement, or for the pursuit or exercise of any remedy available to the Trustee or any

trust or power conferred on the Trustee or any other proceedings under this Trust Agreement; provided, that the Trustee shall have been satisfactorily indemnified and that such direction shall not be contrary to law or the provisions of this Trust Agreement, and, unless such direction relates to the acceleration of all or a portion of the Bonds, the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith shall determine that the proceedings so directed would involve it in personal liability for which it has not received adequate indemnity. The rights of the Registered Owners under this Section are in all events subject to the provisions of Section 9.04.

Section 9.11 Restoration of Rights and Remedies. If the Trustee or the Registered Owners of the Bonds have instituted any proceeding to enforce any right or remedy under this Trust Agreement and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or the Registered Owners of the Bonds, then and in every such case, the Commission, the Trustee and the Registered Owners of the Bonds shall, subject to any determination in such proceeding, be restored severally and respectively to their former positions under this Trust Agreement, and thereafter all rights and remedies of the Trustee and the Registered Owners of the Bonds shall continue as though no such proceeding had been instituted.

Section 9.12 Waiver of Stay or Extension Laws. To the extent that it may lawfully do so, the Commission covenants that it will not at any time insist upon, plead or in any manner whatsoever claim or take the benefit or advantage of any stay or extension law, whenever or wherever enacted, which may affect the covenants under or the performance of this Trust Agreement. The Commission also covenants that it will not otherwise hinder, delay or impede the execution of any power granted to the Trustee in this Trust Agreement.

Section 9.13 Delay or Omission Not Waiver. No delay or omission of the Trustee or the Registered Owners of the Bonds to exercise any right or remedy accruing upon any Event of Default under this Trust Agreement shall impair any such right or remedy or constitute a waiver of any such Event of Default or acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or the Registered Owners of the Bonds may be executed from time to time, and as often as may be deemed expedient, by the Trustee or the Registered Owners of the Bonds, as the case may be.

Section 9.14 Rights of Manager. Notwithstanding anything to the contrary in this Article, so long as the Management Agreement has not expired or terminated, the exercise of the rights and remedies by the Trustee and the Registered Owners shall not affect the rights of Manager as set forth in this Trust Agreement, the Cash Management Agreement and the Management Agreement.

ARTICLE X CONCERNING THE TRUSTEE

Section 10.01 Trustee; Appointment and Acceptance of Duties.

(a) U.S. Bank National Association is hereby appointed as the initial Trustee. The initial Trustee is appointed to serve as Trustee under this Agreement for an initial term of ten (10) years from the dated date hereof. The Commission shall have the option to extend such

initial term for additional ten (10)-year terms by providing written notice of its intention to do so to the Trustee at least one hundred twenty (120) days prior to the expiration of the then-existing term. Unless the Trustee provides written notice to the Commission of its rejection of such extension at least sixty (90) days prior to the expiration of the then-existing term, the then-existing term shall be deemed to be extended for an additional ten (10) years. Notwithstanding anything to the contrary in this Trust Agreement, the current Trustee shall continue to serve under this Agreement until the appointment and acceptance of a successor Trustee pursuant to Section 10.10.

(b) The Trustee hereby accepts and agrees to execute the trusts hereby created, but only upon the additional terms set forth in this Article, to all of which the Commission agrees and the respective Registered Owners agree by their acceptance of delivery of any of the Bonds. The Trustee shall be deemed to have accepted such trusts with respect to all the Bonds hereafter to be issued, but only upon the terms and conditions set forth in this Trust Agreement. The Trustee may execute any of the trusts or powers set forth in this Trust Agreement and perform the duties required of it or imposed on it under this Trust Agreement by or through attorneys, agents or receivers, and shall be entitled to advice of counsel concerning all matters of trusts and its duties in this Trust Agreement.

Section 10.02 Registrars and Other Agents; Appointment and Acceptance of Duties.

(a) The Commission may appoint one or more Registrars or other Agents to perform any of the duties and obligations imposed under this Trust Agreement or any Supplemental Trust Agreement, and separate appointments may be made for the Bonds of each Series.

(b) Each Registrar or other Agent, other than the Trustee, shall signify its acceptance of the duties and obligations imposed upon it by this Trust Agreement or any Supplemental Trust Agreement by executing and delivering to the Commission and to the Trustee a written acceptance thereof.

Section 10.03 Responsibilities of the Trustee.

(a) The recitals of fact contained in this Trust Agreement and in the Bonds shall be taken as the statements of the Commission, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Trust Agreement or of any Bonds issued thereunder or as to the security afforded by this Trust Agreement, and the Trustee shall not incur any liability in respect thereof. The Trustee shall, however, be responsible for its representations contained in any authentication on the Bonds. The Trustee shall not be under any responsibility or duty with respect to the application of any money paid to the Commission or money collected by the Commission prior to the delivery thereof to the Trustee. The Trustee shall not be under any obligation or duty to perform any act, whether requested by the Registered Owners or otherwise, which would involve it in liability or to institute or defend any suit in respect hereof, or to advance any of its own money, unless it has been satisfactorily indemnified against such liability other than liability resulting from its negligence or willful misconduct. Subject to the provisions of subsection (b) of this Section, the Trustee shall not be liable in connection with the performance of its duties under this Trust Agreement except for its own negligence or willful misconduct.

(b) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Trust Agreement, and no implied covenants or obligations shall be read into this Trust Agreement against the Trustee. In case an Event of Default has occurred (which has not been cured), the Trustee shall exercise such of the rights and powers vested in it by this Trust Agreement, and use the same degree of care and skill in their exercise, as an ordinary prudent corporate trustee would exercise or use under the circumstances. The Trustee shall not be required to take notice or be deemed to have notice or knowledge of any default under this Trust Agreement except an Event of Default under subsection (a), (b), (c) or (g) of Section 9.02, or any other default or Event of Default of which the Trustee has knowledge, or any Manager Event of Default (as defined in the Management Agreement) or any termination of the Management Agreement unless a Responsible Officer of the Trustee shall be specifically notified in writing of the default or termination by the Commission or by the Registered Owners of not less than 25% in principal amount of the Bonds then Outstanding. All notices or other instruments required by this Trust Agreement to be delivered to the Trustee must, to be effective, be delivered at the Principal Office of the Trustee, and in the absence of the notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid. Any provision of this Trust Agreement relating to action taken or to be taken by the Trustee or the evidence upon which the Trustee may rely shall be subject to the provisions of this Section.

(c) Absent manifest error or defects, the Trustee is not required to make any inquiry or investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, approval, bond, debenture or other paper or document (other than to establish facial compliance with the requirements of this Trust Agreement) but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit and, if the Trustee determines to make such further inquiry or investigation, it is entitled to examine the books, records and premises of the Commission, in person or by agent or attorney.

(d) The Trustee's immunities and protections from liability and its right to indemnification in connection with the performance of its duties under this Trust Agreement shall extend to the non-negligent acts and actions taken on behalf of the Trustee by the Trustee's officers, directors, agents, attorneys and employees. Such immunities and protections and right to indemnification, together with the Trustee's right to compensation, shall survive the Trustee's resignation or removal, the discharge of this Trust Agreement and final payment of the Bonds.

(e) The permissive right of the Trustee to take the actions permitted by this Trust Agreement shall not be construed as an obligation or duty to do so.

(f) Promptly after receiving appropriate notification thereof, the Trustee shall be responsible for sending notifications required to be sent to the Registered Owners under this Trust Agreement and requesting consents of the Registered Owners when required under this Trust Agreement.

(g) Except for information provided by the Trustee concerning the Trustee, the Trustee shall have no responsibility for any information in any offering memorandum or other disclosure material distributed with respect to the Bonds, and the Trustee shall have no

responsibility for compliance with any state or federal securities laws in connection with the Bonds.

(h) The Trustee shall provide prior written notice of any name change of the Trustee to the Commission.

(i) No provision of this Trust Agreement shall require the Trustee to risk or advance its own funds for the payment of any amounts due by the Commission or Manager hereunder.

Section 10.04 Evidence on Which the Trustee May Act.

(a) The Trustee, upon receipt of any notice, resolution, request, consent, order, certificate, report, opinion, bond, or other paper or document furnished to it pursuant to any provision of this Trust Agreement, shall be protected in acting upon any such instrument believed by it to be genuine (and in the absence of obvious defects therein) and to have been signed or presented by the proper party or parties and consented to by such other parties where required. The Trustee may consult with counsel, who may or may not be counsel to the Commission, or any Consultant, and the opinion of such counsel or Consultant, if selected with due care, shall be full and complete authorization and protection in respect of any action taken or suffered by it under this Trust Agreement in good faith and in accordance therewith.

(b) Whenever the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or suffering any action under this Trust Agreement, such matter (unless other evidence in respect thereof be therein specifically prescribed) may be deemed to be conclusively proved and established by a Certificate of an Authorized Commission Representative, and such shall be full warrant by the Commission for any action taken or suffered in good faith under the provisions of this Trust Agreement upon the faith thereof; but in its discretion the Trustee may in lieu thereof accept other evidence of such fact or matter or may require such further or additional evidence as to it may seem reasonable.

(c) Except as otherwise expressly provided in this Trust Agreement, any request, order, notice or other direction required or permitted to be furnished pursuant to any provision hereof by the Commission to the Trustee shall be sufficiently executed if executed in the name of the Commission by an Authorized Commission Representative.

(d) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, receivers, agents or employees but shall not be answerable for the conduct of attorneys and receivers who have been selected by it with reasonable care, and may in all cases pay reasonable compensation to all attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof, and the Trustee shall not be responsible for any misconduct or negligence of any agent or attorney appointed with due care by it.

(e) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

Section 10.05 Preservation and Inspection of Documents. All documents received by the Trustee under the provisions of this Trust Agreement shall be retained in its possession and shall be subject at all reasonable times upon reasonable notice to the inspection of the Commission, and any Registered Owner and their agents and their representatives, any of whom may make copies thereof at the expense of the party so requesting.

Section 10.06 Compensation. The Commission shall pay to the Trustee from time to time, from amounts rightfully on deposit in the Administrative Fee Fund (and upon the occurrence of an Event of Default, from other funds held by the Trustee as provided in this Trust Agreement), reasonable compensation for all services rendered under this Trust Agreement, including reasonable default administrative fees of the Trustee upon the occurrence of an Event of Default under this Trust Agreement, and also all reasonable expenses, costs, charges, counsel fees, Consultant fees and other disbursements, including those of the Trustee's attorneys, agents, Consultants and employees, incurred in and about the execution of the trusts created by this Trust Agreement, and in and about the exercise and performance of the powers and duties of the Trustee under this Trust Agreement and for the reasonably necessary costs and expenses incurred in defending any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the negligence or willful misconduct of the Trustee) under this Trust Agreement. The Trustee shall have the right to select and retain counsel of its own choosing to represent it in any such proceedings. In the event the Trustee incurs expenses or renders services in any proceedings which result from the occurrence or continuance of an Event of Default under Section 9.02(g) or (h), or from the occurrence of any event which, by virtue of the passage of time, would become such an Event of Default, the expenses so incurred and compensation for services so rendered are intended to constitute expenses of administration under the United States Bankruptcy Code or equivalent law.

Section 10.07 Certain Permitted Acts. The Trustee may become the Registered Owner of any Bonds with the same rights it would have if it were not the Trustee. To the extent permitted by law, the Trustee may act as depository for, and may permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the rights of Registered Owners or to effect or aid in any reorganization growing out of the enforcement of the Bonds or this Trust Agreement, whether or not any such committee shall represent the Registered Owners of a majority in principal amount of the Bonds Outstanding. The provisions of this Section shall extend to affiliates of the Trustee.

Section 10.08 Resignation of Trustee. Except as otherwise provided by a Supplemental Trust Agreement, the Trustee may at any time resign and be discharged of the duties and obligations created by this Trust Agreement, by giving not less than sixty (60) days' written notice to the Commission of the date it desires to resign and mailing written notice to the Registered Owners of all Bonds, and such resignation shall take effect immediately on the appointment and acceptance of a successor Trustee pursuant to Section 10.10.

Section 10.09 Removal of Trustee. So long as an Event of Default has not occurred and is not continuing, the Trustee may be removed, with or without cause, at any time by an instrument or concurrent instruments in writing, filed with the Trustee and signed by the Commission or its attorney-in-fact duly authorized. Notwithstanding the foregoing, any removal of the Trustee shall not be effective until a successor Trustee has been appointed and has assumed the duties and responsibilities of successor Trustee under this Trust Agreement.

Section 10.10 Appointment of Successor Trustee.

(a) In case at any time the Trustee shall resign or shall be removed or shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or if a receiver, liquidator or conservator of the Trustee, or of its property, shall be appointed, or if any public officer shall take charge or control of the Trustee, or of its property or affairs, a successor may be appointed by the Commission, by an instrument in writing signed and acknowledged by the Commission or by its attorney-in-fact duly authorized and delivered to such successor Trustee, notification thereof being given to the predecessor Trustee. The successor Trustee shall mail notice of the appointment of the successor Trustee to the Registered Owners of all Bonds.

(b) If no appointment of a successor Trustee shall be made within forty-five (45) days after the Trustee shall have given to the Commission written notice as provided in Section 10.08 or after a vacancy in the office of the Trustee shall have occurred by reason of its inability to act, its removal, or for any other reason whatsoever, the Trustee (in the case of a resignation under Section 10.08) or the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, after such notice, if any, as such court may deem proper, appoint a successor Trustee.

(c) Any Trustee appointed under the provisions of this Section in succession to the Trustee shall be a bank or trust company or national or state banking association and duly authorized to exercise trust powers and subject to examination by federal or state the Commission and having (or whose parent holding company shall have) reported capital and surplus of not less than \$50,000,000.

Section 10.11 Transfer of Rights and Property to Successor Trustee. Any successor Trustee appointed under this Trust Agreement shall execute, acknowledge and deliver to its predecessor Trustee and to the Commission an instrument accepting such appointment, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become fully vested with all moneys, estates, properties, rights, powers, duties, and obligations of such predecessor Trustee, with like effect as if originally named as Trustee; but the Trustee ceasing to act shall nevertheless, on the Request of the Commission or of the successor Trustee, execute, acknowledge and deliver such instruments of assignment and further assurance and do such other things as may reasonably be required for more fully and certainly vesting and confirming in such successor Trustee all rights, powers, duties and obligations in and to any property held by it under this Trust Agreement, and shall pay over, assign and deliver to the successor Trustee any money or other property subject to the trusts and conditions set forth in this Trust Agreement. Should any instrument in writing from the Commission be required by such successor Trustee for more fully and certainly vesting in and confirming to such successor Trustee any such estates, rights, powers and duties, any and all such instruments in writing shall, on request, and so far as may be authorized by law, be executed, acknowledged and delivered by the Commission. Any such successor Trustee shall promptly notify any Registrars and other Agents of its appointment as Trustee.

Section 10.12 Merger or Consolidation. Any bank or trust company into which the Trustee may be merged or converted or with which it may be consolidated or any bank or trust company resulting from any merger, conversion or consolidation to which it shall be a party or

ARTICLE XI
SUPPLEMENTAL TRUST AGREEMENTS AND
AMENDMENT OF BOND DOCUMENTS

Section 11.01 Supplemental Trust Agreements and Amendments of Bond Documents Effective Without Consent of Registered Owners. The Commission and the Trustee may, as appropriate, from time to time and at any time, without the consent of but with notice to the Registered Owners, enter into Supplemental Trust Agreements or amendments to the Bond Documents as follows:

(a) to cure any formal defect, omission, inconsistency or ambiguity in this Trust Agreement or in the applicable Bond Document;

(b) to insert such provisions clarifying matters or questions arising under this Trust Agreement or in the applicable Bond Document as are necessary or desirable and are not contrary to or inconsistent with this Trust Agreement or the applicable Bond Document as theretofore in effect;

(c) to grant to or confer upon the Trustee for the benefit of the Registered Owners any additional rights, remedies, powers, authority or security which may lawfully be granted or conferred and which are not contrary to or inconsistent with this Trust Agreement or the Bond Documents as theretofore in effect;

(d) to authorize Bonds of a Series and, in connection therewith, to specify and determine the matters and things referred to in Article III and also any other matters and things relative to such Bonds which are not in conflict with this Trust Agreement as theretofore in effect, or to amend, modify, or rescind any such authorization, specification or determination at any time prior to the first delivery of such Bonds; provided, that such supplement or amendment shall be limited to the specific terms of the Additional Bonds and shall not otherwise amend this Trust Agreement;

(e) to provide limitations and restrictions in addition to the limitations and restrictions contained in this Trust Agreement or any Supplemental Trust Agreement or the Bond Documents on the delivery of Bonds or the issuance of other evidences of indebtedness;

(f) to add to the covenants and agreements of the Commission in this Trust Agreement or any Supplemental Trust Agreement or the Bond Documents, other covenants and agreements to be observed by the Commission or the other parties thereto which are not in conflict with this Trust Agreement or the applicable Supplemental Trust Agreements or in the applicable Bond Document as theretofore in effect;

(g) to add to the limitations and restrictions in this Trust Agreement or any Supplemental Trust Agreement or the Bond Documents other limitations and restrictions to be observed by the Commission or the other parties thereto which are not in conflict with this Trust Agreement or the applicable Supplemental Trust Agreements or in the applicable Bond Documents as theretofore in effect;

(h) to confirm, as further assurance, any pledge under, and the subjection to any lien or security interest created or to be created by, this Trust Agreement or any Supplemental Trust Agreement, of the Revenues and other assets pledged under this Trust Agreement or of any other moneys, securities or funds, or to subject to the pledge, lien and security interest of this Trust Agreement additional revenues, properties or collateral;

(i) to provide for additional duties of the Trustee in connection with the Revenues and other assets pledged under this Trust Agreement or the Hotel;

(j) to modify, amend or supplement this Trust Agreement or any Supplemental Trust Agreement in such manner as to permit, if presented, the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or under any state blue sky law;

(k) to surrender any right, power or privilege reserved to or conferred upon the Commission by the terms of this Trust Agreement; provided, that the surrender of such right, power or privilege is not in conflict with the covenants and agreements of the Commission contained in this Trust Agreement;

(l) to establish or increase the required balance to be accumulated or maintained in the FF&E Reserve Fund;

(m) to designate Registrars and other Agents for the Bonds of any Series;

(n) to evidence the appointment or a succession of a new Trustee under this Trust Agreement;

(o) to modify, amend or supplement this Trust Agreement or any Supplemental Trust Agreement in order to provide for or eliminate book-entry registration of all or any of the Bonds to the extent not inconsistent with the provisions hereof;

(p) to make any change (including changes to reflect any amendment to the Code or interpretations by the Internal Revenue Service of the Code) that does not materially adversely affect the rights of any Registered Owner; and

(q) to amend a prior Supplemental Trust Agreement in accordance with the provisions thereof.

Section 11.02 Supplemental Trust Agreements and Amendments to Bond Documents Requiring Registered Owner Consent. Except as provided in Section 11.01 and in the immediately following sentence, any modification or amendment of this Trust Agreement or to any Bond Document and of the rights and obligations of the Commission and of the Registered Owners of the Bonds under this Trust Agreement or thereunder, in any particular, may only be made by a Supplemental Trust Agreement or an amendment to the applicable Bond Document in each instance with the prior written consent of the Registered Owners of a majority in aggregate principal amount of Bonds then Outstanding affected by such amendment. No such modification or amendment shall, without the prior written consent of the Registered Owner of each Bond affected thereby, permit (i) a change in the terms of redemption or maturity of the

principal of any Outstanding Bond or of any installment of interest thereon or a reduction in the principal amount or the Redemption Price thereof or in the rate of interest thereon, (ii) creation of a lien upon or a pledge of or payment priority from the Total Operating Revenues ranking prior to or on a parity with the lien or pledge created by this Trust Agreement, (iii) a preference or priority of any Bond or Bonds over any other Bond or Bonds of the same lien priority, (iv) a reduction in the percentages or otherwise affect the classes of Bonds of which the consent of the Registered Owners is required to effect any such modification or amendment, (v) an impairment of the exclusion from gross income for federal income tax purposes of interest on any Tax-Exempt Bond, (vi) a deprivation to any Registered Owners of the pledge, lien and security interest created by this Trust Agreement or (vii) a change or modification of any of the rights or obligations of any Agent without its prior written consent thereto. For the purposes of this Section, a Series of Bonds shall be deemed to be affected by a modification or amendment of this Trust Agreement or an amendment to the applicable Bond Document if the same materially adversely affects or diminishes the rights of the Registered Owners of Bonds of such Series. The Trustee may in its discretion determine whether or not, in accordance with the foregoing powers of amendment, Bonds of any particular Series, lien priority or maturity would be affected by any modification or amendment of this Trust Agreement or an amendment to the applicable Bond Document and any such determination shall be binding and conclusive on the Commission and all Registered Owners.

Section 11.03 Consent of Registered Owners. The Commission and the Trustee, as applicable, may at any time enter into a Supplemental Trust Agreement or an amendment to the applicable Bond Document making a modification or amendment permitted by the provisions of Section 11.02, to take effect when and as provided in this Section. A copy of such Supplemental Trust Agreement or amendment to a Bond Document (or brief summary thereof or reference thereto), together with a request to Registered Owners for their consent thereto in form satisfactory to the Trustee, shall be mailed to Registered Owners as provided in Section 11.08. Such Supplemental Trust Agreement or amendment to such Bond Document requiring the consent of all or any of the Registered Owners will be effective when: (a) there shall have been filed with the Trustee the written consent of such Registered Owners of the percentages of Outstanding Bonds specified in Section 11.02 required to consent to such amendment, and an opinion of Bond Counsel to the effect that such Supplemental Trust Agreement has been duly and lawfully entered into by the Commission in accordance with the provisions of this Trust Agreement, is authorized or permitted by this Trust Agreement, is valid and binding upon the Commission, is in accordance with this Trust Agreement and will not, in and of itself, cause interest on any Tax-Exempt Bonds to be includible in gross income for federal income tax purposes; provided, that such opinion may take exception for limitations imposed by or resulting from bankruptcy, insolvency, moratorium, reorganization or other laws affecting creditors' rights generally and principles of law and equity; and (b) a notice shall have been mailed as hereinafter provided in this Section. Each such written consent shall be effective only if accompanied by proof of the holding, at the date of such consent, of the Bonds with respect to which such consent is given, which proof shall be such as is permitted by Section 12.01. A certificate or certificates by the Trustee filed with the Trustee that it has examined such proof and that such proof is sufficient in accordance with Section 12.01 shall be conclusive that the consents have been given by the Registered Owners of the Bonds described in such certificate or certificates of the Trustee. Any such consent shall be binding upon the Registered Owner of the Bonds giving such consent and, notwithstanding anything to the contrary in Section 12.01, upon any subsequent Registered

Owner of such Bonds and of any Bonds issued in exchange therefor (whether or not such subsequent Registered Owner thereof has notice thereof) unless such consent is revoked in writing by the Registered Owner of such Bonds giving such consent or a subsequent Registered Owner thereof by filing such revocation with the Trustee prior to the time when the written statement of the Trustee hereinafter provided in this Section for is filed. The fact that a consent has not been revoked likewise may be proved by a certificate of the Trustee to the effect that no revocation thereof is on file with the Trustee. At any time after the Registered Owners of the required percentages of Bonds shall have filed their consents to the Supplemental Trust Agreement or amendment to a Bond Document, the Trustee shall make and file with the Commission a written statement that the Registered Owners of such required percentages of Bonds have filed such consents. Such written statement shall be conclusive evidence that such consents have been so filed. Upon receipt of the requisite consents, filing of the written statement of the Trustee required under this Trust Agreement and the execution of such amendment by the parties thereto, notice, stating in substance that the Supplemental Trust Agreement (which may be referred to as a Supplemental Trust Agreement entered into by the Commission and the Trustee as of a stated date, a copy of which is on file with the Trustee) or other amendment to the Bond Documents has been consented to by the Registered Owners of the required percentages of Bonds and will be effective as provided in this Section, shall be given by the Trustee to Registered Owners by mailing such notice to Registered Owners immediately thereafter. Proof of the mailing of such notice shall be filed with the Trustee. A record, consisting of the papers required or permitted by this Section to be filed with the Trustee, shall be proof of the matters therein stated. Such Supplemental Trust Agreement or amendment to a Bond Document making such amendment or modification shall be deemed conclusively binding upon the Commission, the Agents and the Registered Owners of all Bonds after the filing with the Trustee of the proof of the mailing of such last mentioned notice, except in the event of a final decree of a court of competent jurisdiction setting aside such Supplemental Trust Agreement or amendment to a Bond Document in a legal action or equitable proceeding for such purpose commenced prior to such mailing; provided, that any Agent and the Commission prior to such mailing and any such further period during which any such action or proceeding may be pending shall be entitled in their absolute discretion to take such action, or to refrain from taking such action, with respect to such Supplemental Trust Agreement or amendment to a Bond Document as they may deem expedient.

Section 11.04 Amendment of Particular Bonds. The provisions of this Article shall not prevent any Registered Owner from accepting any amendment as to the particular Bonds held by such Registered Owner; provided, that due notation thereof is made on such Bonds.

Section 11.05 Exclusion of Bonds. If the Commission is not the holder of all Outstanding Bonds, then Bonds owned or held by or for the account of the Commission or the City shall not be deemed Outstanding for the purpose of any consent or other action or any calculation of Outstanding Bonds provided for in this Article, and the Commission and the City shall not be entitled with respect to such Bonds to give any consent or take any other action provided in this Article. At the time of any consent or other action taken under this Article while the Commission is not the holder of all Outstanding Bonds, the Commission shall furnish the Trustee a certificate of an Authorized Commission Representative, upon which the Trustee may rely, describing all Bonds to be so excluded.

Section 11.06 General Provisions.

(a) This Trust Agreement and the Bond Documents shall not be modified or amended in any respect except as provided in, in accordance with and subject to provisions of this Article.

(b) Any Supplemental Trust Agreement or amendment to a Bond Document referred to and permitted or authorized by Section 11.01 may be entered into by the Commission and the Trustee, as applicable, without the consent of any of the Registered Owners, but shall become effective only (i) after the parties thereto have duly executed such Supplemental Trust Agreement or Bond Document, (ii) following written notice of the proposed supplement or amendment provided to the Registered Owners and (iii) if such Supplemental Trust Agreement or amendment meets the conditions, and to the extent provided, in Section 11.01. Prior to entering into any Supplemental Trust Agreement or amendment to a Bond Document, the Trustee shall receive an opinion of Bond Counsel to the effect that such Supplemental Trust Agreement or amendment to a Bond Document has been duly and lawfully entered into by the Commission in accordance with the provisions of this Trust Agreement, is authorized or permitted by this Trust Agreement, and is valid and binding upon the Commission, will not be materially adverse to the interests of the Registered Owners and will not, in and of itself, cause the interest on any of the Tax-Exempt Bonds to be includible in gross income for federal income tax purposes.

(c) Unless the Management Agreement has been terminated, Manager's prior written consent shall be required to any Supplemental Trust Agreement or amendment or other modification to a Bond Document which is in contravention of the rights of Manager contained in this Trust Agreement or in any other Bond Document, or which adversely affects or could adversely affect, modify or otherwise change any of Manager's rights, recourses, remedies, entitlements, benefits, liabilities, burdens, obligations or other agreements under this Trust Agreement, the Cash Management Agreement or the Management Agreement, or otherwise.

(d) Copies of all Supplemental Trust Agreements or amendments to Bond Documents shall be given to all Rating Agencies then rating the Series 201_ Bonds.

Section 11.07 Notation on Bonds. Bonds authenticated and delivered after the effective date of any action taken as provided in this Article may, and, if the Trustee so determines shall, bear a notation by endorsement or otherwise in form approved by the Trustee as to such action, and in that case upon demand of the Registered Owner of any Bond Outstanding at such effective date and presentation of such Registered Owner's Bond for the purpose at the Principal Office of the Trustee or other Agent responsible for transferring Bonds or upon any transfer of any Bond Outstanding at such effective date, suitable notation shall be made on such Bond or upon any Bond issued upon any such transfer by the Trustee or other Agent responsible for transferring Bonds as to any such action. If the Trustee shall so determine, new Bonds so modified as directed by the Trustee to conform to such action shall be prepared, authenticated and delivered, and upon demand of the Registered Owner of any Bond Outstanding shall be exchanged, without cost to such Registered Owner, for Bonds Outstanding, upon surrender of such Bonds, for Bonds of the same Series and maturity then Outstanding.

any bank or trust company to which the Trustee may sell or transfer all or substantially all of its corporate trust business; provided, that such entity shall be a bank or trust company organized under the laws of any state of the United States or a national banking association, and shall be authorized by law to perform all duties imposed upon it by this Trust Agreement, shall be the successor Trustee without the execution or filing of any paper or the performance of any further act. The successor Trustee shall mail notice to the Registered Owners of all Outstanding Bonds of the successor Trustee.

Section 10.13 Adoption of Authentication. If any of the Bonds contemplated to be issued under this Trust Agreement shall have been authenticated but not delivered, any successor Trustee may adopt the certificate of authentication of any predecessor Trustee so authenticating such Bonds and deliver such Bonds so authenticated; and if any such Bonds shall not have been authenticated, any successor Trustee may authenticate such Bonds in the name of the predecessor Trustee, or in the name of the successor Trustee, and in all such cases such certificate shall be of full force and effect.

Section 10.14 Resignation or Removal of Agents and Appointment of Successors.

(a) Any Registrar or other Agent may at any time resign and be discharged of the duties and obligations created by this Trust Agreement or any Supplemental Trust Agreement by giving at least sixty (60) days' written notice to the Commission, the Trustee and the other Agents, if any. Any such Agent may be removed at any time by an instrument filed with such Agent and the Trustee and signed by the Authorized Commission Representative. Any successor Agent shall be appointed by the Commission with the approval of the Trustee and shall be willing and able to accept the office on reasonable and customary terms and authorized by law to perform all the duties imposed upon it in such capacity by this Trust Agreement.

(b) In the event of the resignation or removal of any Agent, such Agent shall pay over, assign and deliver any money held by it to its successor, or if there be no successor, to the Trustee. In the event that for any reason there shall be a vacancy in the office of any Registrar appointed by the Commission, the Trustee shall act as such Registrar.

(c) The provision of this Section may be modified by a Supplemental Trust Agreement in respect of any Series of Bonds, authorized thereby, and in the event of any conflict with the provisions hereof the provisions of such Supplemental Trust Agreement shall control in respect of any Series of Bonds authorized thereby.

Section 10.15 Cash Management Agreement. The Trustee is hereby authorized and directed to enter into the Cash Management Agreement (which Cash Management Agreement shall set forth Manager's rights to and the manner of any disbursement of funds by the Depository Bank or the Trustee and which provisions shall be consistent with those set forth in this Trust Agreement and shall include a provision that incorporates Section 5.20). Notwithstanding the foregoing, in the event of any inconsistencies between such agreement and this Trust Agreement, the provisions of this Trust Agreement shall control. The Trustee shall not enter into new, substitute or replacement Cash Management Agreement inconsistent with this Trust Agreement. In executing and performing its obligations under the Cash Management Agreement, the Trustee shall be entitled to its protections, immunities and limitations from liability set forth in this Trust Agreement.

Section 11.08 Mailing. Any provision in this Article for the mailing of a notice or other instrument to Registered Owners shall be fully complied with if it is mailed postage prepaid to each Registered Owner of Bonds at the address, if any, appearing upon the Register and to the Trustee.

ARTICLE XII MISCELLANEOUS

Section 12.01 Evidence of Signatures of Registered Owners and Ownership of Bonds.

(a) Any request, consent, revocation of consent or other instrument which this Trust Agreement may require or permit to be signed and executed by the Registered Owners may be in one or more instruments of similar tenor, and shall be signed or executed by such Registered Owners in person or by their attorneys appointed in writing. Proof of the execution of any such instrument, or of an instrument appointing any such attorney, shall be sufficient for any purpose of this Trust Agreement (except as otherwise expressly provided in this Trust Agreement) if made in the following manner, or in any other manner satisfactory to the Trustee, which may nevertheless in its discretion require further or other proof in cases where it deems the same desirable:

(i) The fact and date of the execution by any Registered Owner or such Registered Owner's attorney of such instruments may be proved by a guarantee of the signature thereon by a bank or trust company or member of a national securities exchange or by the certificate of any notary public or other officer authorized to take acknowledgments of deeds, that the person signing such request or other instrument acknowledged the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer. Where such execution by an officer of a corporation or association or a member of a partnership, purports to be on behalf of such corporation, association or partnership, such signature guarantee, certificate or affidavit shall also constitute sufficient proof of such officer's or member's authority.

(ii) The amount of Bonds transferable by delivery held by any Person executing any instrument as a Registered Owner, the date of such Person's holding such Bonds, and the numbers and other identification of such Bonds, may be proved by a certificate, which need not be acknowledged or verified, in form satisfactory to the Trustee, executed by the Trustee or by a member of a financial firm or by an officer of a bank, trust company, insurance company or financial corporation or other depository wherever situated, showing at the date mentioned that such person exhibited to such member or officer or had on deposit with such depository the Bonds described in such certificate. Such certificate may be given by a member of a financial firm or by an officer of any bank, trust company, insurance company or financial corporation or depository with respect to Bonds owned by it, if acceptable to the Trustee. In addition to the foregoing provisions, the Trustee may from time to time make such reasonable regulations as it may deem advisable permitting other proof of holding of Bonds transferable by delivery.

(b) The ownership of Bonds and the amount, numbers and other identification, and date of holding the same shall be provided by the Registrar.

(c) Any request or consent by the Registered Owner of any Bond shall bind all future Registered Owners of such Bond in respect of anything done or suffered to be done by the Commission or any Agent in accordance herewith.

(d) In determining whether the Registered Owners of the requisite percentage of the Series of Bonds have been met for any request, consent, approval or other action required under this Trust Agreement from such Registered Owners, such requisite percentage shall be based upon the principal amount of all of the Bonds of such Series then Outstanding, excluding any Bonds then registered in the name of the Commission and the City.

Section 12.02 Money Held for Particular Bonds. Subject to the provisions of Section 12.03, the amounts held by the Trustee for the payment of the interest or principal or Redemption Price due on any date with respect to particular Bonds shall, on and after such date and pending such payment, be set aside on its books and held in trust by it for the Registered Owners of the Bonds entitled thereto.

Section 12.03 Failure to Present Bonds. Notwithstanding anything to the contrary in this Trust Agreement, but subject to any applicable escheat or unclaimed property laws of the State, any money held by an Agent in trust for the payment and discharge of any of the Bonds which remain unclaimed for such period of time, after the date when such Bonds have become due and payable, either at their stated maturity dates or by call for earlier redemption, that the Registered Owner thereof shall no longer be able to enforce the payment thereof, the Agent shall at the Request of the Commission received at least forty-five (45) days prior to the expiration and/or running of any applicable escheat or unclaimed property laws, pay such money to the Commission as its absolute property and free from trust, and the Agent shall thereupon be released and discharged with respect thereto and the Registered Owners shall look only to the Commission for the payment of such Bonds; provided, that before being required to make any such payment to the Commission, the Agent shall, at the Direction and expense of the Commission, cause to be mailed to the Registered Owners of the Bonds entitled to such money, a notice that such money remains unclaimed and that, after a date named in said notice at the Commission's Direction, which date shall be not less than thirty (30) days after the date of the mailing of such notice, the balance of such money then unclaimed will be returned to the Commission.

Section 12.04 Filing of Security Instruments. The Commission hereby covenants that it will cause to be filed all documents, security instruments and financing statements as they may reasonably deem necessary to protect and maintain in force the lien and pledge of, and the security interests created by, this Trust Agreement. Without limiting the generality of the foregoing, the Commission shall execute and file with County of San Francisco and with the Secretary of State of the State financing statements meeting the requirements of the Uniform Commercial Code of California with respect to the Available Revenues, the Lockbox Fund and the other Funds, Accounts, properties and interests therein comprising the Revenues and other assets pledged under this Trust Agreement. The Trustee and the Commission shall execute and file with County of San Francisco and the Secretary of State of the State such financing or continuation statements or other documents as in the opinion of counsel to the Commission may be necessary to maintain the perfection of the lien hereof. Within ten (10) days after any filing required by this Section (other than in connection with the issuance of the Series 201_ Bonds issued under this Trust Agreement), the Commission shall deliver to the Trustee a letter of

counsel to the Commission stating that such filing has been accomplished and setting forth the particulars thereof. Not more than six months nor less than one month prior to each fifth anniversary of the date of delivery of the Series 201_ Bonds under this Trust Agreement (or such other date on which financing statements will expire), the Commission shall deliver to the Trustee a letter of such counsel, addressed to the Trustee, stating that no recording or filing (including any re-filing) of any instrument is necessary during the five-year period immediately succeeding such fifth anniversary date or expiration date in order to comply with this Section or, if such recording or filing is necessary, setting forth the requirements to be met and promptly thereafter shall deliver to the Trustee an opinion of such counsel to the Commission to the effect that they have been met. If the Commission fails to deliver such opinion of counsel within such period, the Trustee shall notify the Registered Owners and shall file such continuation statements and such other instruments as are required in order to protect and maintain in force the lien and pledge of, and the security interest created by, this Trust Agreement and the Bond Documents.

Section 12.05 Parties Interested Herein. Nothing in this Trust Agreement or any Supplemental Trust Agreement expressed or implied is intended or shall be construed to confer upon, or to give to, any person, other than the Commission, the Trustee and the Registered Owners, any right, remedy or claim under or by reason of this Trust Agreement or any Supplemental Trust Agreement or any covenant, condition or stipulation hereof or thereof; and all the covenants, stipulations, promises and agreements in this Trust Agreement and each Supplemental Trust Agreement contained by and on behalf of the Commission shall be for the sole and exclusive benefit of the Commission, the Trustee and the Registered Owners thereunto appertaining; provided, that to the extent that this Trust Agreement confers upon or gives or grants to Manager or the Design-Builder any right or claim under or by reason of this Trust Agreement, Manager and the Design-Builder are hereby expressly recognized as being third-party beneficiaries under this Trust Agreement and, as third-party beneficiaries of this Trust Agreement, shall have all rights, remedies and recourses available as if they were parties to and signatories of this Trust Agreement, including the right by mandamus or other suit, action or proceeding at law or in equity to require the Trustee or the Commission to perform its covenants, representations, duties, obligations and other agreements with respect to Manager or the Design-Builder under this Trust Agreement, the Cash Management Agreement, the Management Agreement or the Development Agreements; by action or suit in equity to enjoin any omissions, act or things which may be unlawful or in violation of any of the rights of Manager or the Design-Builder; and take such other steps to protect and enforce their rights whether by action, suit or proceeding in aid of the execution of any power granted in this Trust Agreement or for the enforcement of any other appropriate legal or equitable remedy, including an action for specific performance. No remedy conferred upon or reserved to Manager or the Design-Builder in this Trust Agreement is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Trust Agreement, under the Cash Management Agreement, the Management Agreement, the Development Agreements or the other Principal Transaction Documents now or hereafter existing at law or in equity or by statute. The parties to this Trust Agreement acknowledge and agree that the inclusion of the aforesaid third party beneficiary rights conferred to Manager and Design-Builder under this Trust Agreement and the intentions of the parties to this Trust Agreement to permit and grant same are a material inducement to Manager's agreement to permit this Trust Agreement to control in the event of any inconsistencies between it and the Cash Management Agreement, to Manager's agreement to enter into the Cash

Management Agreement and the Management Agreement and to the Design-Builder's agreement to permit this Trust Agreement to control in the event of any inconsistencies between it and the Development Agreements and to enter into the Development Agreements.

Section 12.06 No Recourse on the Bonds. No recourse shall be had for the payment of the principal or Redemption Price of or interest on the Bonds or for any claim based thereon or for any other obligation under this Trust Agreement or on any Supplemental Trust Agreement against any officer or employee of the Commission or the Trustee or any person executing or authenticating the Bonds.

Section 12.07 No Individual Liability. NOTWITHSTANDING ANY OTHER PROVISIONS OF OR INFERENCES IN THIS TRUST AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT, NO COVENANT OR AGREEMENT CONTAINED IN THE BONDS, THIS TRUST AGREEMENT OR ANY SUPPLEMENTAL TRUST AGREEMENT OR ANY OTHER TRANSACTION DOCUMENT SHALL BE DEEMED TO BE THE COVENANT OR AGREEMENT OF ANY MEMBER OF THE BOARD OR ANY OFFICER, AGENT, EMPLOYEE OR REPRESENTATIVE OF THE COMMISSION OR THE TRUSTEE, AND NEITHER THE OFFICERS, AGENTS, EMPLOYEES OR REPRESENTATIVES OF THE COMMISSION OR THE TRUSTEE NOR ANY PERSON EXECUTING OR AUTHENTICATING THE BONDS SHALL BE PERSONALLY LIABLE THEREON OR BE SUBJECT TO ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE THEREOF, WHETHER BY VIRTUE OF ANY CONSTITUTIONAL PROVISION, STATUTE OR RULE OF LAW, OR BY THE ENFORCEMENT OF ANY ASSESSMENT OR PENALTY OR OTHERWISE, ALL SUCH LIABILITY BEING EXPRESSLY RELEASED AND WAIVED AS A CONDITION OF AND IN CONSIDERATION FOR THE EXECUTION OF THIS TRUST AGREEMENT, ANY SUPPLEMENTAL TRUST AGREEMENT AND THE ISSUANCE OF THE BONDS.

Section 12.08 Trust Agreement and Supplemental Trust Agreements to Constitute Contracts. In consideration of the purchase and acceptance of any and all of the Bonds authorized to be issued under this Trust Agreement by those who shall hold the same from time to time, this Trust Agreement and each Supplemental Trust Agreement shall be deemed to be and shall constitute a contract among the Commission, the Trustee and the Registered Owners, and as provided in Section 12.05, Manager and the Design-Builder shall be considered third-party beneficiaries of this Trust Agreement and each Supplemental Trust Agreement to the extent set forth in such Section 12.05; and the pledge made in this Trust Agreement and the covenants and agreements in this Trust Agreement to be performed by or on behalf of the Commission shall be for the equal benefit, protection and security of the Registered Owners of any and all of the Bonds, all of which, regardless of the time or times of their authentication and delivery or maturity, shall be of equal rank within preference, priority or distinction of any of the Bonds over any other thereof, except as otherwise provided in or permitted by this Trust Agreement or Supplemental Trust Agreement.

Section 12.09 Notice. Any notice, demand, direction, request or other instrument authorized or required by this Trust Agreement to be given to or filed with the Commission, the City, the Trustee, the Design-Builder or Manager shall be deemed to have been given only upon receipt. Any notice shall be sent by registered or certified mail or by overnight delivery, postage

prepaid, to the address specified below or to such other address as may be designated in writing by the parties:

Commission:

City:

Trustee:

Design-Builder:

Manager:

with a copy to:

Section 12.10 Opinion of Bond Counsel. Notwithstanding anything to the contrary in this Trust Agreement, any requirement in this Trust Agreement to obtain an Opinion of Bond Counsel to the effect that a specified action will not, in and of itself, cause the interest on any of the Tax-Exempt Bonds to become includable in gross income for federal income tax purposes shall only be required if any Tax-Exempt Bonds are then Outstanding.

Section 12.11 Effect of Purchase of Bonds. No purchase of Bonds pursuant to this Trust Agreement shall be deemed to be a payment or redemption of such Bonds or any portion thereof and such purchase shall not operate to extinguish or discharge the indebtedness evidenced by such Bonds, unless such Bonds are submitted to the Trustee for cancellation.

Section 12.12 Contracting Provisions. The Trustee agrees to observe and perform the covenants set forth in Exhibit J to this Trust Agreement, which are incorporated in this Trust Agreement by this reference.

Section 12.13 Governing Law. This Trust Agreement and each Supplemental Trust Agreement shall be governed in all respects, including validity, interpretation and effect, by, and shall be enforceable in accordance with, the laws of the State without regard to conflict of laws provisions.

Section 12.14 Severability of Invalid Provisions. If any one or more of the covenants or agreements provided in this Trust Agreement or any Supplemental Trust Agreement on the part of the Commission or the Trustee to be performed shall be contrary to law, then such covenant or covenants or agreement or agreements shall be deemed severable from the remaining covenants and agreements, and shall in no way affect the validity of the other provisions of this Trust Agreement or any Supplemental Trust Agreement.

Section 12.15 Successors. Whenever in this Trust Agreement or any Supplemental Trust Agreement the Commission or the Trustee is named or referred to, it shall be deemed to include any entity succeeding to the principal functions and powers of the Commission or the Trustee, as appropriate, and all the covenants and agreements in this Trust Agreement and each Supplemental Trust Agreement by or on behalf of the Commission or the Trustee shall bind and inure to the benefit of said successor whether so expressed or not.

Section 12.16 Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any right, as provided in this Trust Agreement, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Trust Agreement, and no interest shall accrue for the period after such nominal date.

Section 12.17 Execution in Several Counterparts. This Trust Agreement may be simultaneously executed in several counterparts, all of which shall constitute one and the same instrument and each of which shall be, and shall be deemed to be, an original.

[EXECUTION PAGE FOLLOWS]

IN WITNESS WHEREOF, the Commission and the Trustee have caused this Trust Agreement to be executed and sealed on their behalf by their duly authorized representatives, all as of the day and year first written above.

**AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO**

By: _____
Its: _____

Approved as to form:

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION

By: _____
Its: _____

EXHIBIT A

DESCRIPTION OF HOTEL

The Hotel is anticipated to include the following:

- 1) 350 soundproofed guest rooms (including 33 suites);
- 2) 17,500 net square feet of meeting space, including:
 - (a) 6,600 square-foot ballroom;
 - (b) 3,000 square-foot junior ballroom;
 - (c) Six (6) meeting rooms (total of 6,000 square feet);
 - (d) Two (2) boardrooms (total of 900 square feet); and
 - (e) Club lounge (1,000 square feet);
- 3) 100-seat three-meal restaurant (with 12-seat holding bar);
- 4) 40-seat wine and sushi bar (lobby lounge);
- 5) 50-seat rooftop cocktail lounge;
- 6) 20-seat casual café;
- 7) “Grab & go” outlet;
- 8) In-room dining;
- 9) 7,500-square-foot health club featuring a fitness center, changing rooms and showers, whirlpool, sauna and spa;
- 10) Indoor 75-foot-long heated lap pool (3 lanes);
- 11) 24-hour business center;
- 12) Gift shop;
- 13) 215-space surface parking lot; and
- 14) Other agreed-upon facilities and amenities.

EXHIBIT B

FORM OF SERIES 201_ BONDS

REGISTERED

REGISTERED

No. RA-_____

\$ _____

AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO
SPECIAL FACILITY REVENUE BONDS (SAN FRANCISCO INTERNATIONAL
AIRPORT HOTEL), SERIES 201_

THE OBLIGATIONS OF THE CORPORATION WITH RESPECT TO THE SERIES 201_ BONDS SHALL BE AND REMAIN LIMITED RECOURSE OBLIGATIONS OF THE CORPORATION PAYABLE SOLELY AND ONLY FROM THE REVENUES AND OTHER ASSETS PLEDGED UNDER THE TRUST AGREEMENT. THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS OR PLEDGE OF THE FAITH AND CREDIT OR THE TAXING POWER OF THE CITY AND COUNTY OF SAN FRANCISCO, THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF. THE BONDS SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE CORPORATION EXCEPT TO THE EXTENT HEREIN SET FORTH. NEITHER THE STATE OF CALIFORNIA, THE CITY AND COUNTY OF SAN FRANCISCO NOR ANY POLITICAL SUBDIVISION OF THE STATE OF CALIFORNIA SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, OR INTEREST ON THE BONDS, OR OTHER COSTS INCIDENT THERETO. THE CORPORATION SHALL BE OBLIGATED TO MAKE SUCH PAYMENTS ONLY FROM THE REVENUES AND OTHER AMOUNTS PLEDGED THEREFOR UNDER THE TRUST AGREEMENT.

Interest Rate	Maturity Date	Dated Date	CUSIP No.
%	_____ 1, 20____	[DATE], 201_	

REGISTERED OWNER: [City and County of San Francisco, acting by and through its Airport Commission]

PRINCIPAL AMOUNT: _____ Dollars

The City and County of San Francisco, acting by and through its Airport Commission (the "the Commission"), for value received, hereby promises to pay upon surrender hereof at the designated corporate trust office of [_____], or any successor thereto (the "Trustee"), solely from the sources and as herein and in the Trust Agreement provided and permitted, to the Registered Owner hereof, or the registered assigns or legal representatives, the principal sum stated above on the maturity date stated above, subject to prior redemption as provided herein, and to pay, solely from such sources, interest hereon semiannually on each [_____] 1 and [_____] 1 (each, an "Interest Payment Date"), beginning [_____] 1, 20__, at the Interest Rate stated above. Interest is payable from (a) the Dated Date set forth above, if this Series 201_ Bond is authenticated prior to [_____] 1, 20__, or (b) otherwise from the [_____] 1 or

[] 1, that is, or immediately precedes, the date on which this Series 201_ Bond is authenticated (unless payment of interest hereon is in default, in which case this Series 201_ Bond shall bear interest from the date to which interest has been paid). Interest is payable on each Interest Payment Date (1) by check or draft mailed on such date to the Registered Owner hereof at such Registered Owner's address as it appears on the Register, as defined in the Trust Agreement, as hereafter defined, as of the close of business on the 15th day of the calendar month (whether or not a Business Day) preceding such Interest Payment Date (the "Record Date"), or (2) by wire transfer in accordance with a written notice and completed wire instructions for a wire transfer address in the United States provided by the Registered Owner hereof to the Trustee not less than fifteen (15) days prior to such Interest Payment Date (which notice may provide that it will remain in effect with respect to subsequent Interest Payment Dates unless and until changed or revoked by subsequent notice); provided, that such wire transfer shall only be made for a registered owner of \$1,000,000 or more in aggregate principal amount of the Series 201_ Bonds as of the close of business on the Record Date for such Interest Payment Date. Notwithstanding the foregoing, the Record Date for defaulted interest shall be the fifth day preceding payment thereof. This Series 201_ Bond shall be payable as to principal and Redemption Price, as defined in the Trust Agreement, and interest in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

This Series 201_ Bond is one of an issue of \$[] Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds (San Francisco International Airport Hotel), Series 201_ (the "Series 201_ Bonds"), being issued to finance Costs of the Hotel, as defined in the Trust Agreement, including the funding of a debt service reserve fund, and to pay Costs of Issuance, as defined in the Trust Agreement.

This Series 201_ Bond and the premium, if any, and the interest hereon are limited obligations of the Commission and are payable from the Revenues, as defined in the Trust Agreement, including the Available Revenues, as defined in the Trust Agreement, and other assets pledged under the Trust Agreement, all in accordance with the Trust Agreement. Upon deposit of Available Revenues with the Trustee pursuant to the Trust Agreement, such Revenues are pledged to the payment of the Series 201_ Bonds to the extent and as provided in the Trust Agreement.

The Series 201_ Bonds are issued under a Trust Agreement dated as of [DATE], 201_ (the "Trust Agreement"), between the Commission and the Trustee. Reference is hereby made to the Trust Agreement for a description of the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Commission, the rights of the Registered Owners, as defined in the Trust Agreement, of the Series 201_ Bonds and the terms upon which the Series 201_ Bonds are issued and secured. Additional Bonds ranking on parity with the Series 201_ Bonds may be issued on the terms provided in the Trust Agreement. The Series 201_ Bonds and all Additional Bonds ranking on a parity with the Series 201_ Bonds are collectively referred to as the "Bonds."

The Series 201_ Bonds may not be called for redemption except as provided herein and in the Trust Agreement.

The Series 201_ Bonds will be subject to redemption at the option of the Commission, in whole or in part on any date on or after [_____] 1, 20__, from any legally available funds, at a Redemption Price equal to the principal amount of Series 201_ Bonds called for redemption, without premium, plus accrued interest with respect thereto to the date fixed for redemption.

The Series 201_ Bonds maturing on [MONTH/DAY, 20__] are subject to mandatory redemption, at a Redemption Price equal to the principal amount of the Series 201_ Bonds being redeemed, together with accrued interest thereon to the Redemption Date, pursuant to Mandatory Sinking Fund Installments on January 1 in each of the years and principal amounts set forth in the table below; provided, that the Mandatory Sinking Fund Installments of Series 201_ Bonds maturing on [MONTH/DAY, 20__] shall be reduced in chronological order by the principal amount of any Series 201_ Bonds maturing on [MONTH/DAY, 20__] redeemed pursuant to any other optional or mandatory redemption provision on or before the date on which any such Mandatory Sinking Fund Installment is due:

<u>Year</u>	<u>Mandatory Sinking Fund Installment</u>
-------------	---

*Final Maturity

The Series 201_ Bonds shall be subject to extraordinary mandatory redemption at the Direction of the Commission, in whole or in part on the earliest date following the date for which notice of redemption can be given as provided in the Trust Agreement, at a Redemption Price equal to the principal amount of Series 201_ Bonds to be redeemed plus interest accrued thereon to the date fixed for redemption, without premium, from proceeds of insurance, payment received under the Performance and Payment Bonds, or condemnation awards permitted or required to be applied to such redemption under the Trust Agreement.

Series 201_ Bonds subject to optional redemption shall be selected in such order of maturity as the Commission may direct. If less than all of the Series 201_ Bonds of a single maturity shall be called for prior redemption, the particular Series 201_ Bonds or portions of Series 201_ Bonds to be redeemed shall be selected by lot or other random method by the Trustee in such a manner as the Trustee may determine. In the case of any Series 201_ Bonds that are payable from Mandatory Sinking Fund Installments, if any such Series 201_ Bond is redeemed in part at the option of the Commission or pursuant to any redemption provision (other than through Mandatory Sinking Fund Installment Payments), the principal amount redeemed shall be applied to reduce the Mandatory Sinking Fund Installments relating to such Series 201_ Bond in chronological order beginning with the earliest Mandatory Sinking Fund Installment. In the case of any partial redemption during the continuance of an Event of Default, such redemption shall be applied on a pro rata basis to all Outstanding Series 201_ Bonds called for redemption, without differentiation by maturity or within a maturity. If any of the Series 201_ Bonds or portions thereof are called for redemption, the Trustee shall give notice, in the name of the Commission, of the redemption of such Series 201_ Bonds or portions thereof, by first class mail postage prepaid, not less than thirty (30) days nor more than sixty (60) days before the Redemption Date, to the registered owners of any Series 201_ Bond or portions of Series 201_ Bonds which are to be redeemed, at their last addresses, if any, appearing on the Register. If, on

the Redemption Date, moneys for the redemption of all the Series 201_ Bonds or portions thereof of any like maturity to be redeemed, together with interest to the Redemption Date, shall be held by the Trustee so as to be available therefor on said date and if notice of redemption shall have been given as provided in the Trust Agreement, then, from and after the Redemption Date interest on the Series 201_ Bonds or portions thereof of such maturity so called for redemption shall cease to accrue and become payable. If such moneys shall not be so available on the Redemption Date, such Bonds or portions thereof shall continue to bear interest until paid at the same rate as they would have borne had they not been called for redemption.

No Registered Owner of any Series 201_ Bond shall have any right to institute any suit, action or proceedings at law or in equity for the appointment of a receiver or for any other remedy under the Trust Agreement or by reason thereof, except to the extent and in the circumstances permitted by the Trust Agreement.

The Commission and the Trustee may deem and treat the person in whose name this Series 201_ Bond shall be registered in the Register as the absolute owner of this Series 201_ Bond, whether this Series 201_ Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal and Redemption Price of and interest on this Series 201_ Bond and for all other purposes, and all such payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effectual to satisfy and discharge the liability upon this Series 201_ Bond to the extent of the sum or sums so paid, and the Commission and the Trustee shall not be affected by any notice to the contrary. Notwithstanding the foregoing, interest on this Series 201_ Bond, other than interest payable at maturity or on a Redemption Date, shall be paid to the Person, as defined in the Trust Agreement, in whose name this Series 201_ Bond is registered on the Register at the close of business on the Record Date for such Interest Payment Date.

All acts, conditions and things required to happen, exist or be performed precedent to and in the issuance of this Series 201_ Bond have happened, exist and have been performed.

This Series 201_ Bond shall not be valid or entitled to any security or benefit under the Trust Agreement until the Trustee shall have manually executed the Certificate of Authentication appearing hereon and inserted the date of authentication hereon.

IN WITNESS WHEREOF, the City and County of San Francisco, acting by and through its Airport Commission has caused this Series 201_ Bond to be signed by the manual or facsimile signature of its Authorized Commission Representative [and attested to by the manual or facsimile signature of its _____] on this _____ day of _____, 2015.

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By: _____
Authorized Commission Representative

Attest:

By: _____

CERTIFICATE OF AUTHENTICATION

This Series 201_ Bond is one of the Series 201_ Bonds of the issue described in the within-mentioned Trust Agreement.

Dated: [DATE], 201_

[_____] ,
as Trustee

By: _____
Authorized Signatory

ASSIGNMENT

For value received the undersigned do(es) hereby sell, assign and transfer unto _____ the within-mentioned Series 201_ Bond and hereby irrevocably constitute(s) and appoint(s) _____ attorney to transfer the same on the registration books maintained by the Commission with full power of substitution in the premises.

Dated: _____

Note: The signature(s) to this Assignment must correspond with the Registered Owner of the within Series 201_ Bond in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

Social Security Number, Taxpayer
Identification Number or Other
Identifying Number of Assignee:

NOTICE: Signature must be guaranteed by a member firm of the New York Stock Exchange, the National Association of Securities Dealers or a commercial bank or trust company.

EXHIBIT C

FORM OF REQUISITION

Airport Commission of the City and County of San Francisco Special Facility Revenue Bonds
(San Francisco International Airport Hotel), Series 201_

CONSTRUCTION FUND DISBURSEMENT REQUEST

The Design-Builder hereby requests pursuant to Sections 5.03 and 5.04 of the Trust Agreement, dated as of [DATE], 201_ (the "Trust Agreement"), between the Commission and U.S. Bank National Association, as trustee (the "Trustee"), pursuant to which the above-captioned Bonds were issued, that a Disbursement be made to Design-Builder under the Trust Agreement in the amount described herein. All capitalized terms not otherwise defined herein shall be defined as in the Trust Agreement. In connection with this request the Design-Builder certifies, and Architect states in its professional opinion, that:

1. The Disbursement requested herein is for the Current Payment Due set forth and described in the Application for Payment attached as Appendix I hereto. Appendix I hereto identifies among other items the total value of the Work completed to date, the total value of the Work completed since the date of the last Requisition, the amount of retainages to be withheld from the current Disbursement and the amount of the current payment due. All Work described in Appendix I hereto has been completed and performed in accordance with all Requirements.

2. The Disbursement applied for herein is limited to the total of Cost of the Work charges actually incurred, less any retainage, all as calculated pursuant to the Design-Build Agreement. The total amount of the net Disbursement requested hereby, after subtracting out all required Retention in the amount of \$ _____, is \$ _____.

3. Nothing has come to the attention of each or any certifying party that would cause it to conclude that the representations contained in the Trust Agreement and the Principal Transaction Documents delivered to the Trustee in accordance with the Trust Agreement are not true and correct as of the date hereof.

4. No event has occurred and is continuing which constitutes an Event of Default or would constitute an Event of Default but for the requirement that notice be given or time elapse or both under the Trust Agreement.

5. All of the conditions to this request required by the Trust Agreement have been satisfied and the requisite documentation and certifications attached hereto.

6. All conditions to the Disbursement as set forth in Section 5.04 of the Trust Agreement have been fully, timely and completely satisfied and all documentation and certifications with respect thereto have been delivered to the Trustee.

7. [Reserved.]

7. All approvals and consents required under the Design-Build Agreement as a condition precedent to this Requisition have been obtained in writing or waived by all applicable parties.

9. The Project Schedule, as the same may have been amended, and the Approved Plans, as the same may have been amended, are adequate to provide for completion of the Hotel in accordance with all Hotel Requirements.

10. After disbursement of the amount requested herein, adequate funds will remain on deposit in the Construction Fund for the timely, on budget completion of the Hotel in accordance with all Hotel Requirements.

11. The construction of the Hotel is proceeding at a reasonable pace, with no material impediments that would present a serious threat to completion of the construction at the costs and times contemplated in the Trust Agreement. The amount remaining in the Construction Fund, together with the Commission's reasonable estimate of investment earnings to be deposited therein, is sufficient to pay the expected remaining cost of completing the Hotel. All previous Disbursements made pursuant to the Trust Agreement have been or are being expended for the Hotel Costs incurred in performance of the Work described in previous Construction Fund Disbursement requests executed by the undersigned. This Construction Fund Disbursement request is requested for the payment of a portion of the Maximum Permitted Price.

12. Attached as Appendix II hereto are written lien waivers from all contractors, subcontractors, workmen and suppliers for Work done and materials supplied by them which were paid for pursuant to the immediately preceding Construction Fund Disbursement request, as well as written lien waivers from all contractors, subcontractors, workmen and suppliers for all Work done and all materials furnished by them for the Hotel, subject to payments due, since the date of the last Requisition, provided that the Trustee and Project Manager shall be entitled to rely upon this Certification without having to review any such lien waivers.

13. For value received, the undersigned hereby waives all rights to and claims for a lien on the real property upon which the Hotel is being constructed and warrants that all payments required by reason of the Work and due to contractors, subcontractors, laborers and materialmen and others having mechanic's lien rights have been made or will be made upon receipt of the requested funds, and each of them have waived, or will waive, their lien rights for the period covered by this Requisition except for retainage amounts, if applicable.

14. All governmental licenses, permits and approvals required for the Improvements covered by this Requisition have been obtained and are in full force and effect, and all fees due in connection with the foregoing have been paid.

15. All amounts previously disbursed for non-construction and construction items have been applied or paid, as applicable, by Design-Builder for the items indicated in previous Disbursement requests.

16. No part of the Hotel has been materially injured or damaged by Casualty and no part of the Hotel, after taking into consideration the Work covered by this Requisition, violates any Applicable Law or the other Hotel Requirements.

Dated: _____

[_____] , as Design Builder

By: _____
Name: _____
Title: _____

[_____] , as Architect

By: _____
Name: _____
Title: _____

APPROVED BY:

**AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO**

By: _____
Name: _____
Title: _____

[_____] , as Project Manager

By: _____
Name: _____
Title: _____

EXHIBIT D

FORM OF PRE-OPENING EXPENSES ACCOUNT REQUEST

PRE-OPENING EXPENSES ACCOUNT

REQUEST NO. _____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Trust Agreement, dated as of [DATE], 201_ (the "Trust Agreement") between the City and County of San Francisco, acting by and through its Airport Commission (the "Commission"), and the Trustee pursuant to Section 5.05 of the Trust Agreement. The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement.

Pursuant to Section 5.05 of the Trust Agreement, you are hereby authorized and directed to disburse from the Pre-Opening Expenses Account the amounts set forth in Appendix I attached hereto to the persons named therein in payment of expenditures permitted to be paid from the Pre-Opening Expenses Account pursuant to said Section 5.05 of the Trust Agreement. The total amount to be disbursed pursuant to this request is \$[_____].

Hyatt Corporation (the "Pre-Opening Services Manager") hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Pre-Opening Expenses Account in accordance with the Pre-Opening Budget, (3) no part of any such amounts shall be applied to any item that has been previously paid from the Pre-Opening Expenses Account or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied, and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto. The Pre-Opening Services Agreement has not been terminated.

Dated: _____

[MANAGER],
as Pre-Opening Services Manager

By: _____
Name: _____
Title: _____

EXHIBIT E

FORM OF TAXES AND INSURANCE FUND REQUISITION

TAXES AND INSURANCE FUND

REQUEST NO. ____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Trust Agreement, dated as of [DATE], 201_ (the "Trust Agreement") between the City and County of San Francisco, acting by and through its Airport Commission (the "Commission") and the Trustee pursuant to Section 7(a) of the Cash Management and Lockbox Agreement (the "Cash Management Agreement") among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the "Manager"). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(a) of the Cash Management Agreement and Section 5.08 of the Trust Agreement, you are hereby authorized and directed to disburse from the Taxes and Insurance Fund the [Taxes/Insurance Costs] set forth in Appendix I attached hereto to the persons named therein in payment of [taxes/insurance premiums] due and payable with respect to the ownership and operation of the Hotel. The total amount to be disbursed pursuant to this request is \$[_____].

The [Commission/Manager] hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Taxes and Insurance Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Taxes and Insurance Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof, have been obtained and are attached hereto. The Management Agreement has not been terminated.

Dated: _____

[MANAGER]

[By: _____
Name: _____
Title: _____]

**[AIRPORT COMMISSION OF THE CITY
AND COUNTY OF SAN FRANCISCO]**

By: _____
Name: _____
Title: _____]

EXHIBIT F

FORM OF WORKING CAPITAL RESERVE FUND REQUEST

WORKING CAPITAL RESERVE FUND

REQUEST NO. _____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Trust Agreement, dated as of [DATE], 201_ (the "Trust Agreement") between the City and County of San Francisco, acting by and through its Airport Commission (the "Commission") and the Trustee pursuant to Section [] of the Cash Management and Lockbox Agreement (the "Cash Management Agreement") among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the "Manager"). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(b) of the Cash Management Agreement and Section 5.15 of the Trust Agreement, you are hereby authorized and directed to disburse from the Working Capital Reserve Fund the amounts set forth in Appendix I attached hereto to the persons named therein in payment of expenditures permitted to be paid from the Working Capital Reserve Fund pursuant to Section 7(b) of the Cash Management Agreement and Section 5.15 of the Trust Agreement. The total amount to be disbursed pursuant to this request is \$[_____].

Manager hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Working Capital Reserve Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Working Capital Reserve Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto. Manager further certifies that the Management Agreement has not been terminated.

Dated: _____

[MANAGER],
as Manager

By: _____
Name: _____
Title: _____

EXHIBIT G

FORM OF FF&E RESERVE FUND REQUEST

FF&E RESERVE FUND

REQUEST NO. _____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Trust Agreement, dated as of [DATE], 201_ (the "Trust Agreement") between the City and County of San Francisco, acting by and through its Airport Commission (the "Commission") and the Trustee pursuant to Section 7(c) of the Cash Management and Lockbox Agreement (the "Cash Management Agreement") among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the "Manager"). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(c) of the Cash Management Agreement and Section 5.16 of the Trust Agreement, you are hereby authorized and directed to disburse from the FF&E Reserve Fund the amounts set forth in Appendix I attached hereto to the persons named therein in payment of Hotel expenditures permitted to be paid from the FF&E Reserve Fund under Section 7(c) of the Cash Management Agreement and Section 5.16 of the Trust Agreement. The total amount to be disbursed pursuant to this Request from the FF&E Reserve Fund is \$[_____].

Manager hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the FF&E Reserve Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the FF&E Reserve Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto. Manager further certifies that the Management Agreement has not been terminated.

Dated: _____

[MANAGER],
as Manager

By: _____
Name: _____
Title: _____

EXHIBIT H
FORM OF CAPITAL RESERVE FUND REQUEST

CAPITAL RESERVE FUND

REQUEST NO. _____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Trust Agreement, dated as of [DATE], 201_ (the "Trust Agreement") between the City and County of San Francisco, acting by and through its Airport Commission (the "Commission"), and the Trustee pursuant to Section 7(c) of the Cash Management and Lockbox Agreement (the "Cash Management Agreement") among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the "Manager"). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(c) of the Cash Management Agreement and Section 5.17 of the Trust Agreement, you are hereby authorized and directed to disburse from the Capital Reserve Fund the amounts set forth in Appendix I attached hereto to the persons named therein in payment of Hotel expenditures permitted to be paid from the Capital Reserve Fund under Section 7(c) of the Cash Management Agreement and Section 5.17 of the Trust Agreement. The total amount to be disbursed pursuant to this Request from the Capital Reserve Fund is \$[_____].

Manager hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Capital Reserve Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Capital Reserve Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof have been obtained and are attached hereto. Manager further certifies that the Management Agreement has not been terminated.

Dated: _____

[MANAGER],
as Manager

By: _____
Name: _____
Title: _____

EXHIBIT I

FORM OF REVENUE STABILIZATION FUND REQUEST

REVENUE STABILIZATION FUND

REQUEST NO. _____

This request is being delivered to U.S. Bank National Association, as trustee (the "Trustee") under the Trust Agreement, dated as of [DATE], 201_ (the "Trust Agreement") between the City and County of San Francisco, acting by and through its Airport Commission (the "Commission") and the Trustee pursuant to Section 7(d) of the Cash Management and Lockbox Agreement (the "Cash Management Agreement") among the Depository Bank, the Trustee, the Commission and Hyatt Corporation (the "Manager"). The Trustee is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Trust Agreement or the Cash Management Agreement.

Pursuant to Section 7(d) of the Cash Management Agreement and Section 5.18 of the Trust Agreement, you are hereby authorized and directed to disburse from the Revenue Stabilization Fund the amounts set forth in Appendix I attached hereto to the persons named therein in payment of expenditures permitted to be paid from the Revenue Stabilization Fund pursuant to Section 7(d) of the Cash Management Agreement and Section 5.18 of the Trust Agreement. The total amount to be disbursed pursuant to this request is \$[_____].

[Manager/the Commission] hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Revenue Stabilization Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the Revenue Stabilization Fund or any other Fund or Account, (4) all conditions precedent to such disbursements have been compiled with and satisfied and (5) all consents, if any, required in connection with the submission hereof, have been obtained and are attached hereto. [Manager further certifies that the Management Agreement has not been terminated.]

[MANAGER]

By: _____

Name: _____

Title: _____

**AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO**

By: _____

Name: _____

Title: _____

EXHIBIT J

MANDATORY CONTRACTING PROVISIONS

1. Nondiscrimination; Penalties

a. Trustee Shall Not Discriminate

In the performance of this Agreement, Trustee agrees not to discriminate against any employee, City and County employee working with such contractor or subcontractor, applicant for employment with such contractor or subcontractor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status, or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts

Trustee shall incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing), and shall require all subcontractors to comply with such provisions. Trustee's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.

c. Nondiscrimination in Benefits

Trustee does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract

As a condition to this Agreement, Trustee shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form CMD-12B-101 with supporting documentation and secure the approval of the form by the San Francisco Contract Monitoring Division.

e. **Incorporation of Administrative Code Provisions by Reference**

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this section by reference and made a part of this Agreement as though fully set forth herein. Trustee shall comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Trustee understands that pursuant to §§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Trustee and/or deducted from any payments due Trustee.

2. Requiring Minimum Compensation for Covered Employees

- a. Trustee agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance ("MCO"), as set forth in San Francisco Administrative Code Chapter 12P ("Chapter 12P"), including the remedies provided, and implementing guidelines and rules. The provisions of Sections 12P.5 and 12P.5.1 of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the Internet at www.sfgov.org/olse/mco . A partial listing of some of Trustee's obligations under the MCO is set forth in this section. Trustee is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this section.
- b. The MCO requires Trustee to pay Trustee's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Trustee is obligated to keep informed of the then-current requirements. Any subcontract entered into by Trustee shall require the subcontractor to comply with the requirements of the MCO, and shall contain contractual obligations substantially the same as those set forth in this section. It is Trustee's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this section against Trustee.
- c. Trustee shall not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be reputably presumed to be retaliation-prohibited by the MCO.
- d. Trustee shall maintain employee and payroll records as required by the MCO. If Trustee fails to do so, it shall be presumed that Trustee paid no more than the minimum wage required under state law.
- e. The City is authorized to inspect Trustee's job sites and conduct interviews with employees and conduct audits of Trustee.

- f. Trustee's commitment to provide the minimum compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion shall determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if Trustee fails to comply with these requirements. Trustee agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Trustee's noncompliance. The procedures governing the assessment of liquidated damages shall be those set forth in Section 12P.6.2 of Chapter 12P.
- g. Trustee understands and agrees that if it fails to comply with the requirements of the MCO, the City shall have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of this Agreement, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Trustee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.
- h. Trustee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.
- i. If Trustee is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Trustee later enters into an agreement or agreements that cause contractor to exceed that amount in a fiscal year, Trustee shall thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Trustee and this department to exceed \$25,000 in the fiscal year.

1. [First Source Hiring Program

This section incorporates the requirements of the First Source Hiring Program pursuant to San Francisco Administrative Code Chapter 83 (entitled "First Source Hiring Program"). The Trustee agrees to participate and comply with the provisions of the First Source Hiring Program. As part of the Trustee's HMA with the City, the Trustee shall incorporate provisions of the First Source Hiring Program into any Joint Venture Partnership and shall require subcontractors to do the same. The Mayor's Office of Economic and Workforce Development is the Trustee's main contact for the First Source Hiring Program. For more information regarding First Source Hiring Program, go to: <http://www.workforcedevelopmentsf.org/>.

a. Definitions

The provisions of Chapter 83 of the San Francisco Administrative Code apply to this Trust Agreement. The Trustee shall comply fully with, and be bound by, all

of the provisions that apply to this Trust Agreement under such Chapter, including but not limited to the remedies provided therein. Capitalized terms used in this section and not defined in this Trust Agreement shall have the meanings assigned to such terms in Chapter 83.

Entry Level Position: Any non-custodial position that requires either: (a) No education above a high school diploma or certified equivalency; or (b) Less than two (2) years training or specific preparation; and (c) Shall include temporary positions and paid internships.

Trainee: An economically disadvantaged worker identified by the First Source Hiring Program as having the appropriate training, employment background, and skill set for an available Entry Level Position specified by the Trustee.

b. First Source Hiring Goals

- Over the life of this Trust Agreement, the Trustee shall make good faith efforts to hire a minimum number of Trainees referred by the First Source Hiring Program to fulfill available Entry Level Positions, based on the Trustee Fee Schedule below:

Trustee Fee Schedule	Minimum Number of Trainees to be Hired (over the life of this Trust Agreement)
\$0 – \$499,999	0
\$500,000 – \$899,999	1
\$900,000 – \$1,999,999	2
\$2,000,000 – \$4,999,999	3
\$5,000,000 – \$7,999,999	4
\$8,000,000 – \$10,999,999	5
\$11,000,000 – \$13,999,999	6
(> = \$14M, for each additional \$3 million in Trustee fees, add one additional Trainee)	

- The Trustee may decline to hire a Trainee if the Trustee considers the Trainee in good faith and deems the Trainee is not qualified. The final decision to hire a Trainee shall be made by the Trustee.
- The Trustee shall hire the Trainee on a full-time basis for at least twelve (12) months or on part-time basis for twenty-four (24) months.
- Trainees must be obtained through the First Source Hiring Program and the Trustee must consider all Trainees fairly and equally and comply with the non-discrimination provisions pursuant to local, state, and federal laws. No existing employee may count toward the total number of Trainees hired.

c. Procedures

- Within thirty (30) days of award of contract, the Trustee will email the First Source Hiring Administrator and schedule to meet with staff from the First Source Hiring Program. At the meeting, the Trustee will provide information on Entry Level Positions, number of Trainees to be hired, job description, start date, and rate of pay. If the Trustee cannot quantify the numbers of Trainees to be hired, the Trustee must still meet with the First Source Hiring Program and present a workforce plan of good faith efforts towards the First Source Hiring Goals.
- The Trustee is required to notify the First Source Hiring Program of all available Entry Level Positions.
- The Trustee will designate a representative to monitor all employment related activity and be the main contact for the First Source Hiring Program.
- The Trustee will maintain documentation and records supporting good faith efforts toward the First Source Hiring Program.

d. As-Needed Contracts

- Contractors awarded As-Needed contracts shall follow the provisions of the First Source Hiring Program. However, the First Source Hiring Goals will not be based on each individual Contract Service Order (“CSO”) but rather from the total number of CSOs issued to the contractor. Since a contractor does not know when or how many CSOs will be issued, the contractor shall hire Trainees only if the increase in CSOs creates entry-level employment opportunities.

e. Noncompliance

- Failure to meet the criteria of the First Source Hiring Program does not impute bad faith but rather will trigger a review for compliance. If the City deems the Trustee is noncompliant and acted in bad faith towards the First Source Hiring Program, then the City may withhold progress payments and assess liquidated damages as defined in San Francisco Administrative Code Chapter 83.]

3. Requiring Health Benefits for Covered Employees

Trustee agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (“HCAO”), as set forth in San Francisco Administrative Code Chapter 12Q, including the remedies provided, and implementing regulations, as the same may be amended from time to time. The provisions of section 12Q.5.1 of Chapter 12Q are incorporated by reference and made a part of this Agreement as though fully set forth herein. The text of the HCAO is available on the Internet at www.sfgov.org/olse . Capitalized terms used in this section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12Q.

- a. For each Covered Employee, Trustee shall provide the appropriate health benefit set forth in Section 12Q.3 of the HCAO. If Trustee chooses to offer the health plan option, such health plan shall meet the minimum standards set forth by the San Francisco Health Commission.
- b. Notwithstanding the above, if Trustee is a small business as defined in Section 12Q.3(e) of the HCAO, it shall have no obligation to comply with part (a) above.
- c. Trustee's failure to comply with the HCAO shall constitute a material breach of this Agreement. City shall notify Trustee if such a breach has occurred. If, within 30 days after receiving City's written notice of a breach of this Agreement for violating the HCAO, Trustee fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Trustee fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, City shall have the right to pursue the remedies set forth in 12Q.5.1 and 12Q.5(f)(1-6). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to City.
- d. Any Subcontract entered into by Trustee shall require the Subcontractor to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this section. Trustee shall notify City's Office of Contract Administration when it enters into such a Subcontract and shall certify to the Office of Contract Administration that it has notified the Subcontractor of the obligations under the HCAO and has imposed the requirements of the HCAO on Subcontractor through the Subcontract. Trustee shall be responsible for its Subcontractors' compliance with this Chapter. If a Subcontractor fails to comply, the City may pursue the remedies set forth in this section against Trustee based on the Subcontractor's failure to comply, provided that City has first provided Trustee with notice and an opportunity to obtain a cure of the violation.
- e. Trustee shall not discharge, reduce in compensation, or otherwise discriminate against any employee for notifying City with regard to Trustee's noncompliance or anticipated noncompliance with the requirements of the HCAO, for opposing any practice proscribed by the HCAO, for participating in proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.
- f. Trustee represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the HCAO.
- g. Trustee shall maintain employee and payroll records in compliance with the California Labor Code and Industrial Welfare Commission orders, including the number of hours each employee has worked on this Agreement.
- h. Trustee shall keep itself informed of the current requirements of the HCAO.
- i. Trustee shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subcontractors and Subtenants, as applicable.

- j. Trustee shall provide City with access to records pertaining to compliance with HCAO after receiving a written request from City to do so and being provided at least ten (10) business days to respond.
- k. Trustee shall allow City to inspect Trustee's job sites and have access to Trustee's employees in order to monitor and determine compliance with HCAO.
- l. City may conduct random audits of Trustee to ascertain its compliance with HCAO. Trustee agrees to cooperate with City when it conducts such audits.
- m. If Trustee is exempt from the HCAO when this Agreement is executed because its amount is less than \$25,000, but Trustee later enters into an agreement or agreements that cause Trustee's aggregate amount of all agreements with City to reach \$75,000, all the agreements shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between Trustee and the City to be equal to or greater than \$75,000 in the fiscal year.

5. Conflict of Interest

Through its execution of this Agreement, Trustee acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

6. Commission Intellectual Property

Pursuant to Resolution No. 01-0118, adopted by the Airport Commission on April 18, 2001, the Airport Commission affirmed that it will not tolerate the unauthorized use of its intellectual property, including the SFO logo, CADD designs, and copyrighted publications. All proposers, bidders, contractors, tenants, permittees, and others doing business with the Commission at the Airport (including subcontractors and subtenants) may not use the Airport intellectual property, or any intellectual property confusingly similar to Commission intellectual property, without the Airport Director's prior consent.

7. Protection of Private Information

Trustee has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, "Nondisclosure of Private Information," and 12M.3, "Enforcement" of Administrative Code Chapter 12M, "Protection of Private Information," which are incorporated herein as if fully set forth. Trustee agrees that any failure of Trustee to comply with the requirements of Section 12M.2 of this Chapter shall be a material breach of this Agreement. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate this Agreement, bring a false claim action against Trustee pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar Trustee.

8. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor, or consultant who submits a false claim shall be liable to the City for the statutory penalties set forth in that section. The text of Section 21.35, along with the entire San Francisco Administrative Code is available on the Internet at:

[http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanfrancisco_ca\\$sync=1](http://www.amlegal.com/nxt/gateway.dll/California/administrative/administrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:sanfrancisco_ca$sync=1).

A contractor, subcontractor, or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor, or consultant: (a) Knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) Conspires to defraud the City by getting a false claim allowed or paid by the City; (d) Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) Is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim.

9. MacBride Principles–Northern Ireland

Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this Agreement on behalf of Trustee acknowledges and agrees that he or she has read and understood this section.

10. Prohibition on Political Activity with City Funds

In accordance with San Francisco Administrative Code Chapter 12.G, Trustee may not participate in, support, or attempt to influence any political campaign for a candidate or for a ballot measure (collectively, “**Political Activity**”) in the performance of the services provided under this Agreement. Trustee agrees to comply with San Francisco Administrative Code Chapter 12.G, and any implementing rules and regulations promulgated by the City’s Controller. The terms and provisions of Chapter 12.G are incorporated herein by this reference. In the event Trustee violates the provisions of this section, the City may, in addition to any other rights or remedies available hereunder, (i) Terminate this Agreement, and (ii) Prohibit Trustee from bidding on or receiving any new City contract for a period of two (2) years. The Controller will not consider Trustee’s use of profit as a violation of this section.

11. Tropical Hardwood and Virgin Redwood Ban

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood, or virgin redwood wood product.

12. Preservative-treated Wood Containing Arsenic

Trustee may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term "preservative-treated wood containing arsenic" shall mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative.

Trustee may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Trustee from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term "saltwater immersion" shall mean a pressure-treated wood that is used for construction purposes, or facilities that are partially or totally immersed in saltwater.

13. Compliance with Americans with Disabilities Act

Trustee acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services, and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Trustee shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state, and local disability rights legislation. Trustee agrees not to discriminate against disabled persons in the provision of services, benefits, or an activity provided under this Agreement, and further agrees that any violation of this prohibition on the part of Trustee, its employees, agents, or assigns will constitute a material breach of this Agreement.

14. Sunshine Ordinance

In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors' bids, responses to solicitations, and all other records of communications between City and persons or companies seeking contracts, shall be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

15. Limitations on Contributions

Through execution of this Agreement, Trustee acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies, or equipment, for the sale or lease of any land or building, or for a grant, loan, or loan guarantee, from making any campaign contribution to (1) An individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or the board of a state agency on which an appointee of that individual serves, (2) A candidate

for the office held by such individual, or (3) A committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved.

Trustee acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Trustee further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Trustee's board of directors; Trustee's chairperson, chief executive officer, chief financial officer, and chief operating officer; any person with an ownership interest of more than 20% in Trustee; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Trustee.

Additionally, Trustee acknowledges that Trustee must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126. Trustee further agrees to provide to City the names of each person, entity, or committee described above.

16. Drug-Free Workplace Policy

Trustee acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Trustee agrees that any violation of this prohibition by Trustee, its employees, agents, or assigns will be deemed a material breach of this Agreement.

17. Resource Conservation

Chapter 5 of the San Francisco Environment Code ("**Resource Conservation**") is incorporated herein by reference. Failure by Trustee to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

18. Proprietary or Confidential Information of City

Trustee understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Trustee may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Trustee agrees that all information disclosed by City to Trustee shall be held in confidence and used only in performance of this Agreement. Trustee shall exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

19. Ownership of Results

Any interest of Trustee or its subcontractors, in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files, and media, or other documents prepared by Trustee or its subcontractors in connection with services to be performed under this

Agreement, shall become the property of and will be transmitted to City. However, Trustee may retain and use copies for reference and as documentation of its experience and capabilities.

20. Audit and Inspection of Records

Trustee agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Trustee will permit City to audit, examine, and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records, or personnel, and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Trustee shall maintain such data and records in an accessible location and condition for a period of not less than five (5) years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement shall have the same rights conferred upon City by this section.

21. Subcontracting

Trustee is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision shall confer no rights on any party and shall be null and void.

22. Food Service Waste Reduction Requirements

Trustee agrees to comply fully with and be bound by all of the provisions of the Food Service Waste Reduction Ordinance, as set forth in San Francisco Environment Code Chapter 16, including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 16 are incorporated herein by reference and made a part of this Agreement as though fully set forth. This provision is a material term of this Agreement.

By entering into this Agreement, Trustee agrees that if it breaches this provision, City will suffer actual damages that will be impractical or extremely difficult to determine; further, Trustee agrees that the sum of one hundred dollars (\$100) liquidated damages for the first breach, two hundred dollars (\$200) liquidated damages for the second breach in the same year, and five hundred dollars (\$500) liquidated damages for subsequent breaches in the same year is a reasonable estimate of the damage that City will incur based on the violation, established in light of the circumstances existing at the time this Agreement was made. Such amount shall not be considered a penalty, but rather agreed monetary damages sustained by City because of Trustee's failure to comply with this provision.

23. Consideration of Criminal History in Hiring and Employment Decisions

- a. Trustee agrees to comply fully with and be bound by all of the provisions of Chapter 12T "City Contractor/Subcontractor Consideration of Criminal History in Hiring and Employment Decisions," of the San Francisco Administrative Code (Chapter 12T), including the remedies provided, and implementing regulations, as may be amended from time to time. The provisions of Chapter 12T are incorporated by reference and made a

part of this Agreement as though fully set forth herein. The text of the Chapter 12T is available on the web at:

http://www.amlegal.com/nxt/gateway.dll?f=templates&fn=default.htm&vid=amlegal:san_francisco_ca

A partial listing of some of Trustee's obligations under Chapter 12T is set forth in this Section. Trustee is required to comply with all of the applicable provisions of 12T, irrespective of the listing of obligations in this Section. Capitalized terms used in this Section and not defined in this Agreement shall have the meanings assigned to such terms in Chapter 12T.

- b. The requirements of Chapter 12T shall only apply to Trustee's or Subcontractor's operations to the extent those operations are in furtherance of the performance of this Agreement, and shall apply only to applicants and employees who would be or are performing work in furtherance of this Agreement, whose employment is or would be in whole or in substantial part physically located in the City and County of San Francisco, which excludes Airport property.
- c. Applicants or employees who would be or are performing work in furtherance of this Agreement may be required to be screened by the U.S. Department of Homeland Security for security badging. A rejection by the U.S. Department of Homeland Security of an applicant's or employee's security badging application, and the resulting inability of Trustee to hire the applicant or assign the employee to perform services under this Agreement, shall not be considered an Adverse Action under Chapter 12T.
- d. Trustee shall incorporate by reference in all subcontracts the provisions of Chapter 12T, and shall require all subcontractors to comply with such provisions. Trustee's failure to comply with the obligations in this subsection shall constitute a material breach of this Agreement.
- e. Trustee or Subcontractor shall not inquire about, require disclosure of, or if such information is received, base an Adverse Action on an applicant's or potential applicant for employment or employee's: (1) Arrest not leading to a Conviction, unless the Arrest is undergoing an active pending criminal investigation or trial that has not yet been resolved; (2) participation in or completion of a diversion or a deferral of judgment program; (3) a Conviction that has been judicially dismissed, expunged, voided, invalidated, or otherwise rendered inoperative; (4) a Conviction or any other adjudication in the juvenile justice system; (5) a Conviction that is more than seven years old, from the date of sentencing; or (6) information pertaining to an offense other than a felony or misdemeanor, such as an infraction.
- f. Trustee or Subcontractor shall not inquire about or require applicants, potential applicants for employment, or employees to disclose on any employment application the facts or details of any conviction history, unresolved arrest, or any matter identified in subsection (e), above. Trustee or Subcontractor shall not require such disclosure or make such inquiry until either after the first live interview with the person, or after a conditional offer of employment.

- g. Trustee or Subcontractor shall state in all solicitations or advertisements for employees that are reasonably likely to reach persons who are reasonably likely to seek employment to be performed under this Agreement that Trustee or Subcontractor will consider for employment qualified applicants with criminal histories in a manner consistent with the requirements of Chapter 12T.
- h. Trustee and Subcontractors shall post the notice prepared by the Office of Labor Standards Enforcement (OLSE), available on OLSE's website, in a conspicuous place at every workplace, job site, or other location under Trustee or Subcontractor's control at which work is being done or will be done in furtherance of the performance of this Agreement. The notice shall be posted in English, Spanish, Chinese, and any language spoken by at least 5% of the employees at the workplace, job site, or other location at which it is posted.
- i. Trustee understands and agrees that if it fails to comply with the requirements of Chapter 12T, the City shall have the right to pursue any rights or remedies available under Chapter 12T, including but not limited to, a penalty of \$50 for a second violation and \$100 for a subsequent violation for each employee, applicant or other person as to whom a violation occurred or continued, termination or suspension in whole or in part of this Agreement.

24. Sugar-Sweetened Beverage Prohibition

[Not applicable – Waiver Obtained.]

EXHIBIT K

INSURANCE REQUIREMENTS

The Commission shall maintain or cause to be maintained, and shall pay or cause to be timely paid the premiums for, the following insurance when and as such insurance is available at and on commercially reasonable rates and terms:

1. **Property.** Commencing on the Date of Substantial Completion, property insurance on an all risk policy form, including coverage for the perils of fire, lightning, windstorm, flood, explosion, earthquake, subsidence, aircraft, vehicle damage, smoke, vandalism and malicious mischief and other risks covered by extended coverage endorsements, including water damage and collapse, on the Improvements and contents in an amount equal to the full replacement value thereof, subject to reasonable deductibles not to exceed [\$250,000] for any one loss. The replacement value of the Hotel shall be determined from time to time at the written request of the Commission or the Trustee (but not less frequently than once every five (5) years) by the Insurance Consultant.

2. **Builders All-Risk.** During the course of construction of the Hotel, builder's risk insurance in the amount of the full completed value of such construction work, subject to reasonable deductibles per accident or casualty, covering, at a minimum, loss by fire, lightning and removal from the premises endangered by fire and lightning, and other risks covered by the extended coverage endorsement then in use in the State.

3. **Business Interruption.** Business interruption insurance on an all risk policy form, including coverage for business interruption resulting from the perils of fire, windstorm, flood, and accidental damage to or the explosion of boilers, pressure vessels and pipes, electrical apparatus and air conditioning systems, including refrigeration and heating apparatus, and other risks covered by extended coverage endorsements, for full recovery of the Total Operating Revenues of the Hotel for the entire period of any business interruption less charges and expenses that do not continue during such interruption (subject to the terms and conditions of the policy and the policy limit), with limits equal to the sum of (i) Debt Service for the next twelve months, (ii) the Management Fee for the next twelve months, (iii) a reasonable estimate of the Centralized Services Fees and Reimbursable Expenses that will be payable to Manager under this Trust Agreement for the next twelve months, (iv) a reasonable estimate of the Taxes and Insurance Costs for the Hotel during the next twelve months, and (v) a reasonable estimate of the Administrative Expenses during the next twelve months.

4. **Boiler.** Broad form insurance against loss from accidental damage to or the explosion of boilers, pressure vessels and pipes, electrical apparatus and air conditioning systems, including refrigeration and heating apparatus, in an amount equal to the full replacement value of such items; provided, that it shall be in an amount not less than \$1,000,000, subject to reasonable deductibles not exceeding [\$250,000] per occurrence.

5. **Commercial General Liability and Automobile Liability.** Commencing on or before Manager places Hotel Personnel on Site, broad form commercial general liability and automobile liability insurance, including coverage for owned, non-owned and leased automobiles, garage keepers liability, products and completed operations, contractual liability, liquor liability and innkeepers' liability, in an amount not less than \$100,000,000 per occurrence and in the aggregate. This coverage shall be satisfied by any combination of the primary general liability and excess and/or umbrella policies.

6. **Crime.** Comprehensive crime insurance, including coverage for Key Personnel and all Hotel Personnel handling cash or receipts of the Hotel or with access to the funds in the Lockbox Fund, in an amount not less than \$5,000,000.

7. **Terrorism.** Insurance against acts of terrorism.

8. **Workers Compensation and Employer's Liability.** Commencing on or before Manager places Hotel personnel on Site, workers' compensation insurance as required by Applicable Law providing statutory benefits and employers' liability insurance in an amount not less than \$1,000,000 each accident/disease - policy limit/disease - each employee.

9. **Employment Practices.** Commencing on or before Manager places Hotel personnel on Site, employment practices liability insurance, including for employment discrimination, harassment and wrongful discharge, in an amount not less than \$25,000,000 per occurrence and in the aggregate.

10. **Cyber Risks.** Cyber security liability insurance, including for network security, privacy and e-commerce, in an amount not less than \$25,000,000.

11. **Environmental.** Environmental liability insurance, including for pollution, asbestos, lead and under- and above-ground storage tanks, in an amount not less than \$25,000,000.

12. **Other Coverages.** Following the Date of Substantial Completion, such other insurance coverages, if any, in such amounts as customarily carried and insured against by others in connection with the ownership, operation, maintenance and use of facilities of similar size and character to the Hotel.

EXHIBIT H
CURRENT FORMAT OF HYATT BUDGET

(ATTACHED)

Hyatt Sample
Summary Operating Statement

Entity: Currency

	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Rooms Available	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Rooms Sold	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Occupancy	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%	0.0%
Average Rate	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
RevPAR	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Revenue															
Rooms Division	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
F&B Division	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Other Operating Division	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Miscellaneous Income	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Total Revenue	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Departmental Expenses															
Rooms Division	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
F&B Division	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Other Operating Division	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Total Departmental Expenses	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Departmental Income (Loss)	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Undistributed Operating Expenses															
Administration & General	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Information & Telecommunications Syste	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Sales & Marketing	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Repairs & Maintenance	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Heat, Light & Power	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Total Undistributed Expenses	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Gross Operating Profit	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Management Fees	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Income Before Non Operating Income	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Non-Operating Income and Expenses															
Rent Expense Hotels	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Property & Other Taxes	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Insurance	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
Total Non-Operating Income and Expe	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
EBITDA	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
FFE Replacement Reserves	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0
EBITDA Less Replacement Reserves	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

Hyatt Sample
Rooms Division
Rooms Operating Statement

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working		FY15 Y-T-D(Dec) Budget Final		FY16 Y-T-D(Dec) Forecast Working		FY16 Jan Forecast Working		FY16 Feb Forecast Working		FY16 Mar Forecast Working		FY16 Apr Forecast Working		FY16 May Forecast Working		FY16 Jun Forecast Working		FY16 Jul Forecast Working		FY16 Aug Forecast Working		FY16 Sep Forecast Working		FY16 Oct Forecast Working		FY16 Nov Forecast Working		FY16 Dec Forecast Working
Wholesale Rooms Sold	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Transient Rooms Sold	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Group Rooms Sold																													
Corporate Rooms Sold	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Association/Convention Rooms Sold	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
SMERF Rooms Sold	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Group Rooms Sold	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Contract Rooms Sold	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Rooms Sold	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Rooms Complimentary	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Transient Average Rate																													
Retail Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Discount Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Nonrelated Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Qualified Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Wholesale Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Transient Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Group Average Rate																													
Corporate Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Association/Convention Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
SMERF Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Group Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Contract Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
Average Rate	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	
RevPAR	0.00		0.00		0.00		0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

Hyatt Sample
F&B Operating Statement

Entity:Currency

	FY14 Y-T-D(Dec) Forecast Working		FY15 Y-T-D(Dec) Budget Final		FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Venue Customers	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
In-Room Customers	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Banquet Customers	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total F&B Customers	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
F&B Venues Avg Food Check	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
F&B Venues Avg Beverage Check	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
F&B Venues Average Check	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
F&B Room Service Avg Food Check	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
F&B Room Service Avg Beverage Check	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
F&B Room Service Average Check	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
F&B Banquets & Outside Catering Avg I	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
F&B Banquets & Outside Catering Avg 1	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
F&B Banquets & Outside Catering Aver	0.00		0.00		0.00	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####	#####
Group Banquet Revenue	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Local Catering Revenue	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

**Hyatt Sample
Other Operating Departments
Summary Statement**

	FY14 Y-T-D(Dec) Forecast Working		FY15 Y-T-D(Dec) Budget Final		FY16 Y-T-D(Dec) Forecast Working		FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Departmental Revenue																		
Guest Communications	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Spa & Fitness	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other Operating Division	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Departmental Expenses																		
Guest Communications	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Spa & Fitness	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other Operating Division	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Departmental Profit (Loss)																		
Guest Communications	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Spa & Fitness	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other Operating Division	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

**Hyatt Sample
Guest Communications
Operating Statement**

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working		FY15 Y-T-D(Dec) Budget Final		FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Revenue																	
Local Call Revenue	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Long Distance Revenue	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Guestroom Internet Revenue	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Guest Communications Other Revenu	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Revenue	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Cost of Sales																	
COS Guestroom Internet	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Cost of Sales	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Gross Profit (Loss)	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Departmental Expenses	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Departmental Profit (Loss)	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

**Hyatt Sample
Spa & Fitness
Operating Statement**

Entity: Currency

	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Revenue															
HCS Club Use Revenue	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
HCS Other Revenue	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
HCS Allowances	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
HCS Massage & Body Treatment Revenue	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Revenue	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Cost of Sales															
COS Merchandise Sales	0		0	0	0	0	0	0	0	0	0	0	0	0	0
COS Clothing Sales	0		0	0	0	0	0	0	0	0	0	0	0	0	0
Cost of Sales	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Gross Profit (Loss)	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Labor Costs & Related Expenses															
Salaries, Wages, Service Charges, Contracted Labor & Bonuses															
Total Salaries & Wages															
Non-Management Salaries & Wages															
SF Spa	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Non Management Salaries & Wages	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Salaries & Wages	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Bonuses & Incentives	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total S&W, Service Charges, Contractec	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Pavroll-Related Expenses															
Pavroll Taxes	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Employee Benefits	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Pavroll-Related Expenses	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Labor Costs & Related Expenses	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Other Expenses															
Entertainment - In House	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Operating Supplies	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Printing & Stationery	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Laundry & Dry Cleaning Expense	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Licenses & Permits	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Contract Services	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Linen Expense	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Uniform Costs	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Health & Beauty Products	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Other Expenses	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Total Departmental Expenses	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Departmental Profit (Loss)	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0	0
Average FTEs															
Management FTE	0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Non Management FTEs	0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

**Hyatt Sample
Miscellaneous Income
Operating Statement**

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Revenue															
MI Commissions	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
MI Cancellation Fees	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
MI Attrition Fees	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
MI Other Income	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
MI Package Breakage	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Revenue	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Gross Profit (Loss)	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Departmental Profit (Loss)	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

Hyatt Sample
Administration & General
Overhead Operating Statement

Entity Currency

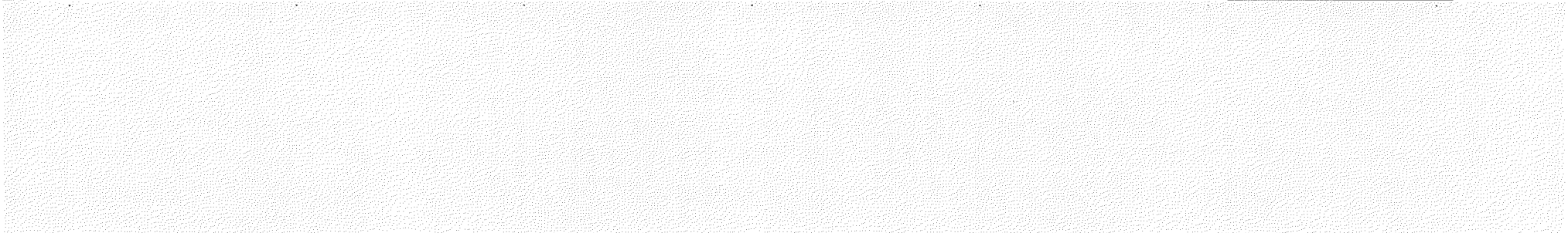
	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Labor Costs & Related Expenses															
Salaries, Wages, Service Charges, Contract Labor & Bonuses															
Total Salaries & Wages															
Management Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Non-Management Salaries & Wages															
AG Executive Office	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
AG Finance	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
AG Security	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
AG HR Personnel Administration	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Non Management Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Service Charge Distribution	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Contracted, Leased & Outsourced Labor	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Bonuses & Incentives	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total S&W, Service Charges, Contracte	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses															
Payroll Taxes	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Supplemental Pay	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Employee Benefits	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Labor Costs & Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Other Expenses															
HR Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll Processing	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Training and Education Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Central Accounting Charges	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Legal Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Professional Fees	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Travel Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Meals & Entertainment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Entertainment - In House	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Provision for Doubtful Accounts	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Dues & Subscriptions Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Operating Supplies	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Postage & Overnight Delivery Charges	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Printing & Stationery	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Decorations	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Complimentary Gifts & Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Licenses & Permits	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Cash Overages & Shortages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Credit & Collection	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Loss & Damage	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Contract Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Security Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Uniform Laundry	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Uniform Costs	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Miscellaneous Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Bank Charges	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Credit Card Commissions	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Other Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Departmental Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
FTEs															
Management FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Non Management FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Outside Labor FTEs Kitchen Cleanin	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

Hyatt Sample
Administration & General
Overhead Operating Statement

EntityCurrency

FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
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**Hyatt Sample
Information & Telecommunications Systems
Overhead Operating Statement**

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Labor Costs & Related Expenses															
Salaries, Wages, Service Charges, Contract Labor & Bonuses															
Total Salaries & Wages															
Non-Management Salaries & Wages															
Telecommunications	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Information Systems	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Non Management Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total S&W, Service Charges, Contract	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses															
Payroll Taxes	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Supplemental Pav	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Employee Benefits	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Labor Costs & Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Cost of Services															
COS Internet Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
COS Long Distance Calls	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Cost of Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Other Expenses															
Information Systems Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Telecommunications Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Contract Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Other Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Departmental Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
FTEs															
Non Management FTEs	0.0		0.0		0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

Hyatt Sample
Sales & Marketing
Overhead Operating Statement

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Labor Costs & Related Expenses															
Salaries, Wages, Service Charges, Contract Labor & Bonuses															
Total Salaries & Wages															
Management Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Non-Management Salaries & Wages															
MS Marketing & Sales	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
MS Banquet & Catering Sales	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Non Management Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Contracted, Leased & Outsourced Labor	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Bonuses & Incentives	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total S&W, Service Charges, Contracte	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses															
Payroll Taxes	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Supplemental Pay	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Employee Benefits	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Labor Costs & Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Other Expenses															
Training and Education Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Travel Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Lodging	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Meals & Entertainment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Entertainment - In House	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Dues & Subscriptions Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Operating Supplies	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Postage & Overnight Delivery Charges	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Printing & Stationery	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Laundry & Dry Cleaning Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Complimentary Gifts & Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Contract Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Miscellaneous Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Agency Fees	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Collateral Material	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Web-Site	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Franchise and Affiliation Fees - Royalties	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
In House Graphics	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Photography	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Familiarization Trips	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Outside Sales Representation	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Promotions	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Trade Shows	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Media	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Loyalty Programs	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Other Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Departmental Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
FTEs															
Management FTE	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Non Management FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Outside Labor FTEs General	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total FTEs	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

**Hyatt Sample
Repairs & Maintenance
Overhead Operating Statement**

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Labor Costs & Related Expenses															
Salaries, Wages, Service Charges, Contract Labor & Bonuses															
Total Salaries & Wages															
Management Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Non-Management Salaries & Wages															
RM Maintenance	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Non Management Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Bonuses & Incentives	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total S&W, Service Charges, Contracted	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses															
Payroll Taxes	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Supplemental Pay	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Employee Benefits	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Labor Costs & Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Other Expenses															
Training and Education Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Travel Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Meals & Entertainment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Entertainment - In House	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Equipment Rental	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Operating Supplies	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Printing & Stationery	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
HVAC Equipment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Building Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Electrical & Mechanical Equipment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Elevators & Escalators	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Engineering Supplies	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Floor Covering	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Furniture & Equipment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Kitchen Equipment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Laundry Equipment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Life Safety	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Light Bulbs	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Painting and Wallcovering	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Plumbing	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Other R&M	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Swimming Pool	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Waste Removal	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Licenses & Permits	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Contract Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Uniform Laundry	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Uniform Costs	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Miscellaneous Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Other Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Departmental Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
FTEs															
Management FTE	0.0		0.0		0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Non Management FTEs	0.0		0.0		0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total FTEs	0.0		0.0		0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

Hyatt Sample
Heat, Light & Power
Overhead Operating Statement

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Other Expenses															
Utilities															
Electricity	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Gas	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Steam	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Water and Sewer	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Utilities	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Other Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Departmental Expens	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

**Hyatt Sample
Staff Dining
Overhead Operating Statement**

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working	FY15 Y-T-D(Dec) Budget Final	FY16 Y-T-D(Dec) Forecast Working	FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Labor Costs & Related Expenses															
Salaries, Wages, Service Charges, Contract Labor & Bonuses															
Total Salaries & Wages															
Non-Management Salaries & Wages															
Staff Dining	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Non Management Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Salaries & Wages	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Contracted, Leased & Outsourced Labor	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total S&W, Service Charges, Contracted	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses															
Payroll Taxes	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Supplemental Pay	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Employee Benefits	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Payroll-Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Labor Costs & Related Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Cost of Sales															
Cost of F&B Sales	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Cost of Sales	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Other Expenses															
Training and Education Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Operating Supplies	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
OS Paper & Plastics	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Licenses & Permits	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Contract Services	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
China Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Flatware Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Other Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Chargeout															
Charge Out Other	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Charge Outs	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
Total Departmental Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0
FTEs															
Non Management FTEs	0.0		0.0		0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Outside Labor FTEs General	0.0		0.0		0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total FTEs	0.0		0.0		0.0		0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

Hyatt Sample
Rent, Property, Other Taxes and Insurance

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working		FY15 Y-T-D(Dec) Budget Final		FY16 Y-T-D(Dec) Forecast Working		FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Non Operating Income																		
Non Operating Cost Recovery Income	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Non Operating Other Income	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Interest Income FFE	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Non Operating Income	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Rent																		
Land and Buildings	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Rent Other Property & Equipment	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Rent Expense Hotels	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Property & Other Taxes																		
Real Estate Taxes	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Taxes Personal Property	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Business and Occupation Taxes	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other Taxes and Assessments	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Property & Other Taxes	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Insurance																		
Insurance Property	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Insurance Liability	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Insurance Deductible	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Insurance	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other																		
Non Operating Cost Recovery Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Owner Expenses	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Gain/Loss on Fixed Assets Hotel	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Unrealized Foreign Exchange Gain/Loss	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Non Operating Other Expense	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Total Non-Operating Income and Expense:	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

**Hyatt Sample
Management Fees**

EntityCurrency

	FY14 Y-T-D(Dec) Forecast Working		FY15 Y-T-D(Dec) Budget Final		FY16 Y-T-D(Dec) Forecast Working		FY16 Jan Forecast Working	FY16 Feb Forecast Working	FY16 Mar Forecast Working	FY16 Apr Forecast Working	FY16 May Forecast Working	FY16 Jun Forecast Working	FY16 Jul Forecast Working	FY16 Aug Forecast Working	FY16 Sep Forecast Working	FY16 Oct Forecast Working	FY16 Nov Forecast Working	FY16 Dec Forecast Working
Management Fees																		
Basic Management Fees	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Incentive Management Fe	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Other Management Fees	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0
Management Fees	0	0.0%	0	0.0%	0	0.0%	0	0	0	0	0	0	0	0	0	0	0	0

NOTE: This forecast is based upon reasonable assumptions, given current economic conditions; however, it reflects only our best judgment at the present time and constitutes no representation or warranty of what the operating results, will, in fact, be.

EXHIBIT I

LIST OF PERIODIC REPORTS TO BE PROVIDED BY MANAGER

	Report	Daily	W'kly	Mon'ly	Annual
1.	A consolidated and a detailed department-by-department operating statement which includes Total Operating Revenues, Operating Expenses, Gross Operating Profit and Net Operating Income			X	
2.	A detailed report of productivity, labor costs and overtime			X	
3.	A complete cash flow statement depicting monthly source and uses of cash including funding for the Taxes and Insurance Fund, the Administrative Fee Fund, the FF&E Reserve Fund, and the Capital Reserve Fund; Base and Subordinate Management Fees, together with a schedule of any anticipated requirements for funding from Total Operating Revenues and funds held by the Trustee under the Trust Agreement			X	
4.	A statement of net position (excluding any Fixed Asset Accounting) with accounts receivable and accounts payable aging; and a schedule of all accounts receivable and accounts payable over ninety (90) days			X	
5.	A STAR (Smith Travel Accommodations Report) report (which benchmarks the Hotel's performance in terms of occupancy, average daily rate and per-available-room against its competitive aggregate and local market)			X	
6.	A HOST report (which illustrates revenues and expenses for the Hotel's rooms, food and beverage, spa, parking and other departments, and includes expenses for administrative and general, sales and marketing, property operations and maintenance, and utilities, as well as select fixed expenses)				X
7.	A detailed food and beverage report, by outlet, of meal covers by dining period; meeting and banquet space utilization; meeting room rentals; and equipment rental revenues			X	
8.	A detailed statement of all allocable Centralized Services Fees (to the extent such costs are set forth as a separate line item or to the extent such breakdown is reasonably available to Manager)			X	
9.	An evaluation report on the implementation of the marketing plan, with expected results and actual results, including a breakdown of utilized rooms by categories of customers			X	
10.	A cancellation report and lost business report		X	X	
11.	A group booking pace report, including all tentative and definite group business on the books, and all business booked during periods under consideration and compared against sales goals		X	X	
12.	A management report	X			

13.	A detailed transient reservation activity report including reservation activity by reservations source and comparisons to year-prior		X	X	
14.	A customer satisfaction report			X	
15.	A schedule of FF&E expenditures			X	
16.	A schedule of expenditures for Capital Expenses			X	
17.	A sales plan by market segment			X	
18.	A report of all claims, lawsuits or other actions as required by Section 3.12			X	
19.	A variance report as required by Section 3.21(f)			X	
20.	A detailed report showing Reimbursable Expenses			X	
21.	A detailed report showing all Occupancy Agreements, service contracts, banquet and meeting facility contracts, parking contracts, utility contracts and all other contracts which Manager has entered into for the benefit of the Hotel and the status of each such contract, including sums paid pursuant to each such contract in the most recent calendar month			X	
22.	The ACDBE reports described in Exhibit U.			X	
23.	Such other reports as are reasonably requested by Owner		X	X	

EXHIBIT J
[RESERVED]

EXHIBIT K
MANAGEMENT FEES

A. Base Management Fee

Owner shall pay Manager a management fee (the “**Base Management Fee**”) for its services as shown in the following table:

Year	Base Management Fee*
Year 1	\$ 710,473
Year 2	\$ 1,086,714
Year 3	\$ 1,480,406
Year 4	\$ 1,524,819
Year 5	\$ 1,570,564
Year 6	\$ 1,622,111
Year 7	\$ 1,666,211
Year 8	\$ 1,716,197
Year 9	\$ 1,767,682
Year 10	\$ 1,825,702

* These fees are for each twelve (12)-month period commencing with the first full month following the Opening Date.

B. Subordinate Management Fee

Owner shall pay Manager a subordinate management fee (the “**Subordinate Management Fee**”) for its services as shown in the following table:

Year	Subordinate Management Fee*
Year 1	\$ 236,824
Year 2	\$ 364,049
Year 3	\$ 491,495
Year 4	\$ 506,240
Year 5	\$ 521,427
Year 6	\$ 538,541
Year 7	\$ 553,182
Year 8	\$ 569,777
Year 9	\$ 586,871
Year 10	\$ 606,133

* These fees are for each twelve (12)-month period commencing with the first full month following the Opening Date.

The foregoing Management Fee amounts shall be adjusted by Bay Area CPI for the preceding calendar year for each full year occurring between January 1, 2019 and the Opening Date.

EXHIBIT L

FORM OF REQUEST FOR PAYMENT OF REIMBURSABLE EXPENSES

REQUEST NO. _____

This Request is being delivered to Owner (the "Owner") under the Hotel Management Agreement, dated as of January 1, 2016 (the "Agreement") between Owner and Hyatt Corporation (the "Manager") pursuant to Section 4.4 of the Agreement. Owner is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

Pursuant to Section 4.4 of the Agreement, you are hereby authorized and directed to cause the Trustee to disburse from the Working Capital Reserve Fund and the Revenue Stabilization Fund, in such order, the amounts set forth in Exhibit _ attached hereto to Manager in payment of Reimbursable Expenses in excess of the amount available therefore in Lockbox Fund. The total amount to be disbursed pursuant to this Request is \$ _____. Attached hereto are invoices and statements evidencing such Reimbursable Expenses.

The Manager hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the Working Capital Reserve Fund and the Revenue Stabilization Fund, in such order, (3) no part of any such amounts shall be applied to any item which has been previously paid, (4) all conditions precedent to such disbursements have been complied with and satisfied and (5) all consents, if any, required in connection with the submission hereof, have been obtained and are attached hereto.

Dated: _____

HYATT CORPORATION

By _____

Name _____

Title _____

EXHIBIT M

FORM OF REQUEST FOR FF&E AND CAPITAL EXPENSES

This Request is being delivered to Owner (the "Owner") under the Hotel Management Agreement, dated as of January 1, 2016 (the "Agreement") between Owner and Hyatt Corporation (the "Manager") pursuant to Section 3.22 of the Agreement. Owner is hereby directed to take the action described herein. Capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Agreement.

Pursuant to Section 3.22 of the Agreement, you are hereby authorized and directed to disburse from the FF&E Reserve Fund and Capital Reserve Fund the amounts set forth in Exhibit _ attached hereto to the persons named therein payment of Hotel expenditures permitted to be paid from the FF&E Reserve Fund and Capital Reserve Fund under Section 3.22 of the Agreement. The total amount to be disbursed pursuant to this Request from the FF&E Reserve Fund and Capital Reserve Fund is \$ _____.

Manager hereby certifies that (1) the statements made herein are accurate, (2) each such amount constitutes a proper charge against the FF&E Reserve Fund and Capital Reserve Fund, (3) no part of any such amounts shall be applied to any item which has been previously paid from the FF&E Reserve Fund and Capital Reserve Fund or any other Fund or Account, (4) all consents, if any, required in connection with the submission hereof, have been obtained and are attached hereto.

Dated: _____

HYATT CORPORATION

By _____

Name _____

Title _____

EXHIBIT N

INSURANCE REQUIREMENTS

1. **Owner-Provided Insurance.** Owner shall maintain or cause to be maintained, and will pay or cause to be timely paid the premiums for (but solely from the Taxes and Insurance Fund) the following insurance when and as such insurance is available at and on commercially reasonable rates and terms:
 - a. **Property.** Property insurance on an all risk policy form, including coverage for the perils of fire, lightning, windstorm, flood, explosion, earthquake, subsidence, aircraft, vehicle damage, smoke, vandalism and malicious mischief and other risks covered by extended coverage endorsements, including water damage and collapse, on the Improvements and contents in an amount equal to the full replacement value thereof, subject to reasonable deductibles not to exceed \$250,000 for any one loss. The replacement value of the Hotel shall be determined from time to time at the written request of Owner or the Trustee (but not less frequently than once every five (5) years) by the Insurance Consultant.
 - b. **Builders All-Risk.** During the course of any substantial addition, extension, alteration or improvement to the Hotel, Owner shall maintain or cause to be maintained builder's risk insurance in the amount of the full completed value of such construction work, subject to reasonable deductibles per accident or casualty, covering, at a minimum, loss by fire, lightning and removal from the premises endangered by fire and lightning, and other risks covered by the extended coverage endorsement then in use in the State.
 - c. **Business Interruption.** Business interruption insurance on an all risk policy form, including coverage for business interruption resulting from the perils of fire, windstorm, flood, and accidental damage to or the explosion of boilers, pressure vessels and pipes, electrical apparatus and air conditioning systems, including refrigeration and heating apparatus, and other risks covered by extended coverage endorsements, for full recovery of the Total Operating Revenues of the Hotel for the entire period of any business interruption less charges and expenses that do not continue during such interruption (subject to the terms and conditions of the policy and the policy limit), with limits equal to the sum of (i) Debt Service for the next twelve months, (ii) the Management Fee for the next twelve months, (iii) a reasonable estimate of the Centralized Services Fees and Reimbursable Expenses that will be payable to Manager under this Agreement for the next twelve months, (iv) a reasonable estimate of the Taxes and Insurance Costs for the Hotel during the next twelve months, and (v) a reasonable estimate of the Administrative Expenses during the next twelve months.
 - d. **Boiler.** Broad form insurance against loss from accidental damage to or the explosion of boilers, pressure vessels and pipes, electrical apparatus and air conditioning systems, including refrigeration and heating apparatus, in an amount

equal to the full replacement value of such items; provided, that it shall be in an amount not less than \$1,000,000, subject to reasonable deductibles not exceeding \$250,000 per occurrence.

2. **Manager-Provided Insurance.** Manager shall maintain or cause to be maintained, and will pay or cause to be timely paid the premiums for (but solely from the Taxes and Insurance Fund) the following insurance when and as such insurance is available at and on commercially reasonable rates and terms:
 - a. **Commercial General Liability and Automobile Liability.** Broad form commercial general liability and automobile liability insurance, including coverage for owned, non-owned and leased automobiles, garage keepers liability, products and completed operations, contractual liability, liquor liability and innkeepers' liability, in an amount not less than \$100,000,000 per occurrence and in the aggregate. This coverage shall be satisfied by any combination of the primary general liability and excess and/or umbrella policies.
 - b. **Crime.** Comprehensive crime insurance, including coverage for Key Personnel and all Hotel Personnel handling cash or receipts of the Hotel or with access to the funds in the Lockbox Fund, in an amount not less than \$5,000,000.
 - c. **Terrorism.** Insurance against acts of terrorism.
 - d. **Workers Compensation and Employer's Liability.** Workers' compensation insurance as required by Applicable Law providing statutory benefits and employers' liability insurance in an amount not less than \$1,000,000 each accident/disease - policy limit/disease - each employee.
 - e. **Employment Practices.** Employment practices liability insurance, including for employment discrimination, harassment and wrongful discharge, in an amount not less than \$25,000,000 per occurrence and in the aggregate.
 - f. **Cyber Risks.** Cyber security liability insurance, including for network security, privacy and e-commerce, in an amount not less than \$25,000,000.
 - g. **Environmental.** Environmental liability insurance, including for pollution, asbestos, lead and under- and above-ground storage tanks, in an amount not less than \$25,000,000.
 - h. **Other Coverages.** Such other insurance coverages, if any, in such amounts as customarily carried and insured against by others in connection with the ownership, operation, maintenance and use of facilities of similar size and character to the Hotel.

EXHIBIT O

HYATT LOGOS AND OTHER HYATT NAMES

Federal Trademark Registration Number	TRADEMARK
4596657	GRAND HYATT
4433777	GRAND HYATT logo
3331214	GRAND CLUB
1445682	HYATT GOLD PASSPORT
4258605	HYATT logo

EXHIBIT P

LIST OF NON-ASSIGNABLE CONTRACTS

The Parties acknowledge and agree that this list shall be updated throughout the Term. Manager shall provide notice to Owner upon the existence of any additional Non-Assignable Contracts, which shall become a part of this Exhibit P for all purposes upon Manager providing such notice.

- Credit Card agreements
- Music licensing
- Telecommunications agreements
- HR data & Payroll processing
- Music licensing
- Group Sales support (i.e., systems supporting RFP platforms)
- Food Safety and Sanitation Auditing
- Marketing Services agreements
- Employee Group Life Insurance
- Employee Benefits Processing
- Employee Background checks
- Records Storage
- Customer satisfaction
- Site License and Support Agreement for Opera property management system
- Software and Hardware for Kiosk Systems
- Travel agent commission processing
- Social media monitoring
- Music licensing
- Smith Travel
- Exclusive coffee, soda and similar brand vendor agreements
- Accounting software
- Avenda
- Proprietary IT systems and support agreements
- Employee recruitment software
- Check guarantee services

EXHIBIT Q

PRO FORMA DEBT SERVICE COVERAGE RATIOS (\$ 000s)

For purposes of this Exhibit, Pro-Forma Debt Service Coverage Ratio is equal to Net Operating Income less Administrative Expense divided by the Net Debt Service on the Initial Series of Bonds.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Gross Operating Profit (including Base Management Fee)	\$10,155	\$13,535	\$15,607	\$16,085	\$16,576	\$17,143	\$17,605	\$18,143	\$18,697	\$19,335
Investment Earnings	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
	\$10,155	\$13,535	\$15,607	\$16,085	\$16,576	\$17,143	\$17,605	\$18,143	\$18,697	\$19,335
Taxes	\$22	\$22	\$23	\$23	\$24	\$24	\$25	\$25	\$26	\$26
Insurance Costs	\$732	\$746	\$761	\$776	\$792	\$808	\$824	\$840	\$857	\$874
Amounts added to the FF&E Reserve Fund	\$474	\$1,087	\$1,776	\$2,440	\$2,513	\$2,595	\$2,666	\$2,746	\$2,828	\$2,921
Subtotal	\$1,228	\$1,855	\$2,560	\$3,239	\$3,329	\$3,427	\$3,515	\$3,611	\$3,711	\$3,821
Net Operating Income	\$8,927	\$11,680	\$13,047	\$12,846	\$13,247	\$13,716	\$14,090	\$14,532	\$14,986	\$15,514
Administrative Expenses	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300	\$300
Net Debt Service on the Initial Series of Bonds	\$7,340	\$7,952	\$8,851	\$8,908	\$8,974	\$9,029	\$9,078	\$9,122	\$9,158	\$9,182
Pro-Forma Debt Service Coverage Ratio	1.18	1.43	1.44	1.41	1.44	1.49	1.52	1.56	1.60	1.66

Excluded from calculation:

Subordinated Management Fee

Amounts added to the Capital Reserve Fund

EXHIBIT R
RESTRICTED RADIUS

The Restricted Radius shall be the entire area within a ten (10) mile radius of the front door of the Hotel as shown on the following page.

(ATTACHED)



EXHIBIT S
LIST OF HOTEL CONSULTANTS

CHMWarnick

CBRE Hotels

Deloitte Consulting

Ernst & Young

Hospitality Real Estate Counselors

HVS

Jones Lang LaSalle, Hotels and Hospitality Group

Pinnacle Advisory Services

PwC

The Highland Group

EXHIBIT T

LIST OF PROPRIETARY SOFTWARE

- Reserve
- Envision (manages hotel room inventories)
- Prio (revenue management)
- Hyatt apps (e.g., Hyatt, Ask Hyatt)
- VCC (credit card processing)
- HSIA Access
- Hyatt Connect (internal website)
- Hycam (integrates Opera PMS)
- EMS (sales and catering automation)
- Envision (group sales and catering systems)

EXHIBIT U

ACDBE OBLIGATIONS

Manager agrees to use its good faith commercially reasonable efforts to identify and enter into agreements with qualified and available Airport Concession Disadvantaged Business Enterprises (“ACDBEs”) as defined in Title 49, Code of Federal Regulations, Part 23 (“49 CFR 23”) to perform portions of this Agreement. Throughout the term of this Agreement, Manager shall continue to utilize qualified and available ACDBEs to the fullest extent which is reasonably possible to achieve and to an extent necessary to comply with the requirements of 49 CFR Part 23. Manager and its Subcontractors will be required to submit to Owner’s Small Business Affairs Office (“SBAO”) the following information: (1) the names and addresses of ACDBEs and suppliers that will participate in Hotel operations; (2) a description of the work that each ACDBE will perform; (3) the dollar amount of the participation of each ACDBE participating; and (4) written and signed confirmation from the ACDBE that it is participating in the operation of the Hotel as described by Manager.

If an ACDBE Subcontractor must be replaced for any reason during the Term, Manager agrees to replace the Subcontractor with another ACDBE, or if it cannot, then Manager shall demonstrate that it made good faith efforts to do so.

Manager agrees that it shall not terminate an ACDBE Subcontractor without Owner’s prior written consent, including in circumstances where Manager seeks to perform work originally designated for an ACDBE Subcontractor with its own employees, those of an Affiliate, a non-ACDBE firm, or with another ACDBE firm.

Manager agrees that it shall include the provisions of this section in every contract entered into in connection with the operation of the Hotel, so that such provisions will be binding upon each Subcontractor.

Manager further agrees that it shall comply with all airport concession disadvantaged business enterprise regulations of the U.S. Department of Transportation as they may be adopted or amended from time to time prior to or during the Term.

Manager shall submit to SBAO monthly reports in a form satisfactory to SBAO identifying all ACDBEs and the amounts spent with such firms during the preceding month for the purpose of demonstrating compliance by Manager with these provisions. Manager shall also submit an annual report describing the same information as required by the monthly reports as a part of the annual financial statements of the Hotel submitted to Owner.

EXHIBIT V

HYATT CENTRALIZED SERVICES FEES

Centralized Services Fees*	
Year 1	\$2,000,000
Year 2	\$2,060,000
Year 3	\$2,121,800
Year 4	\$2,185,454
Year 5	\$2,251,017
Year 6	\$2,318,548
Year 7	\$2,388,104
Year 8	\$2,459,748
Year 9	\$2,533,540
Year 10	\$2,609,546

* These fees are for each twelve (12)-month period commencing with the first full month following the Opening Date.

EXHIBIT W

HOTEL EVALUATION OPERATIONS STANDARDS (as of September 25, 2015)

Rooms Brand Standards Checklist

Concierge

Front Office

- Check-In
- Gold Passport Check-In
- Checkout
- Interactions
- Training
- Service
- Pet Program

Guest Services

- Bell Standards
- Door Standards
- Transportation

Housekeeping

- Guestroom
- Closet
- Coffee Service
- Bedroom Area
- Bathroom Area
- Request Items – “Hyatt Has It”
- Programs/Procedures
- Pet Program
- Turndown
- Women’s Experience
- Hallway Areas
- Housekeeping Tools and Equipment
- General – Housekeeping
- Training
- Premier Suites

Laundry Brand Standards

Parking

PBX

- Procedures
- Security

RECEIVED
ACCOUNTING

First Modification to Hotel Management Agreement

2017 JUN 28 PM 3: 39

THIS FIRST MODIFICATION TO HOTEL MANAGEMENT AGREEMENT (this "Modification") is made as of June 1, 2017, by and between the AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO ("Owner") and HYATT CORPORATION ("Manager").

RECITALS

- A. Owner and Manager have entered into the Agreement (as defined below).
- B. On September 22, 2015, by Resolution No. 15-0178, Owner awarded this Agreement to Manager.
- C. On December 1, 2015, by Resolution No. 434-15, the Board of Supervisors of the City and County of San Francisco ("City") approved this Agreement under San Francisco Charter Section 9.118.
- D. Owner and Manager desire to modify the Agreement on the terms and conditions set forth herein to extend the date by which the Initial Series of Bonds is expected to be issued and to make other administrative changes requested by Owner.
- E. Owner and Manager have each obtained such approvals, if any, as are required for the execution of this Modification.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein and in the Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Owner and Manager agree as follows:

1. **Definitions.**

a. **Agreement.** The definition of "Agreement" in Section 1.01 is hereby replaced in its entirety as follows:

"Agreement" means the Hotel Management Agreement dated as of January 1, 2016 between Manager and Owner, as amended by the First Modification dated as of June 1, 2017.

b. **Other Terms.** Terms used and not defined in this Modification shall have the meanings assigned to such terms in the Agreement.

2. **Section 5.8. Termination upon Inability to Issue Bonds** is hereby amended by replacing the date "June 30, 2017" with the date "March 31, 2019."

3. A new **Section 3.24(e), Federal Fair Labor Standards Act** is hereby added to read as follows:

(e) **Federal Fair Labor Standards Act.** This Agreement incorporates by reference the provisions of 29 USC §201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full

text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers. Manager shall monitor its compliance to the referenced statute or regulation. Manager must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

4. A new **Section 3.24(f), Occupational Safety and Health Act of 1970** is hereby added to read as follows:

(f) ***Occupational Safety and Health Act of 1970.*** This Agreement incorporates by reference the requirements of 29 CFR §1910 with the same force and effect as if given in full text. Manager must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Manager shall monitor its compliance and its contractors' and subcontractors' compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR §1910). Manager must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor Occupational Safety and Health Administration.

5. The following paragraphs are hereby added to **Section 6, Federal Non-Discrimination Provisions** of Exhibit B as follows:

Manager agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision binds Manager and any contractors or subcontractors from the bid solicitation period through the completion of this Agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

During the performance of this Agreement, Manager, for itself, its assignees, and successors in interest (hereinafter referred to as "Manager") agrees as follows:

a. **Compliance with Regulations.** Manager (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this Agreement.

b. **Nondiscrimination.** Manager, with regard to the work performed by it during the Agreement, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. Manager will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the Agreement covers any activity, project, or program set forth in Appendix B of 49 CFR §21.

c. **Solicitations for Subcontracts.** Including Procurements of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation made by Manager for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by Manager of Manager's obligations under this Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

d. **Information and Reports.** Manager will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by Owner or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to Owner or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

e. **Sanctions for Noncompliance.** In the event of a contractor's noncompliance with the Non-discrimination provisions of this Agreement, Owner will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to: (1) withholding payments to the contractor under the contract until the contractor complies; and/or (2) cancelling, terminating, or suspending a contract, in whole or in part.

f. **Incorporation of Provisions.** Manager will include the provisions of paragraphs a. through e. in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. Manager will take action with respect to any subcontract or procurement as the Airport or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if Manager becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, Manager may request Owner to enter into any litigation to protect the interests of Owner. In addition, Manager may request the United States to enter into the litigation to protect the interests of the United States.

g. **Title VI List of Pertinent Nondiscrimination Acts and Authorities.** During the performance of this Agreement, Manager, for itself, its assignees, and successors in interest (hereinafter referred to as the "Manager") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);

- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation— Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 USC §4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 USC. §794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR §27;
- The Age Discrimination Act of 1975, as amended, (42 USC §6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC §471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §12131 12189) as implemented by Department of Transportation regulations at 49 CFR §37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 USC §47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 CFR at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 USC §1681 et seq.).

6. No Claims or Disputes; No Defaults or Termination Events. Owner and Manager acknowledge and agree that, as of the date of this Modification, neither Party has a pending claim against or dispute with the other Party under the Agreement; no Manager Event of Default, Owner Event of Default or Performance Termination Event has occurred; and, to such Party’s knowledge, no facts exist

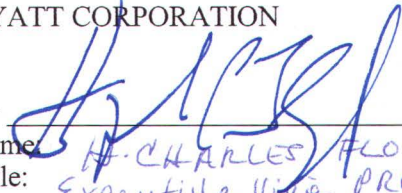
that constitute a potential claim, dispute, Manager Event of Default, Owner Event of Default or Performance Termination Event.

7. **Effective Date.** Each of the changes set forth in this Modification shall be effective on and after the date of this Modification.


8. **Legal Effect.** Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Modification on the day and year first above written.


HYATT CORPORATION

By 
Name: H. CHARLES FLOYD
Title: Executive Vice PRESIDENT and
Global PRESIDENT - OPERATIONS

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By 
Ivar C. Satero
Airport Director CF

Approved as to form:
DENNIS J. HERRERA,
City Attorney

By 
Brooke D. Abola
Deputy City Attorney

Second Modification to Hotel Management Agreement

THIS SECOND MODIFICATION TO HOTEL MANAGEMENT AGREEMENT (this "Modification") is made as of October 3, 2017, by and between the AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO ("Owner") and HYATT CORPORATION ("Manager").

RECITALS

- A. Owner and Manager have entered into the Agreement (as defined below).
- B. On September 22, 2015, by Resolution No. 15-0178, Owner awarded this Agreement to Manager.
- C. On December 1, 2015, by Resolution No. 434-15, the Board of Supervisors of the City and County of San Francisco ("City") approved this Agreement under San Francisco Charter Section 9.118.
- D. Owner and Manager desire to administratively modify the Agreement on the terms and conditions set forth herein to modify the Hotel name.
- E. Owner and Manager have each obtained such approvals, if any, as are required for the execution of this Modification.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein and in the Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Owner and Manager agree as follows:

1. Definitions.

a. Agreement. The definition of "Agreement" in Section 1.01 is hereby replaced in its entirety as follows:

"*Agreement*" means the Hotel Management Agreement dated as of January 1, 2016 between Manager and Owner, as amended by the First Modification dated as of June 1, 2017 and by the Second Modification dated as of August 1, 2017.

b. Other Terms. Terms used and not defined in this Modification shall have the meanings assigned to such terms in the Agreement.

2. Section 11.5. Name of Hotel; Signage; Advertising is hereby amended by replacing the phrase "Grand Hyatt at San Francisco International Airport" with the phrase "Grand Hyatt at SFO."


3. No Claims or Disputes; No Defaults or Termination Events. Owner and Manager acknowledge and agree that, as of the date of this Modification, neither Party has a pending claim against or dispute with the other Party under the Agreement; no Manager Event of Default, Owner Event of Default or Performance Termination Event has occurred; and, to such Party's knowledge, no facts exist that constitute a potential claim, dispute, Manager Event of Default, Owner Event of Default or Performance Termination Event.

4. **Effective Date.** Each of the changes set forth in this Modification shall be effective on and after the date of this Modification.

5. **Legal Effect.** Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Modification on the day and year first above written.

HYATT CORPORATION



By _____

Name: PETER SEARS
Title: EXECUTIVE VICE PRESIDENT,
GROUP PRESIDENT - AMERICAS

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By  _____
Ivar C. Satero
Airport Director *KK JL WF*

Approved as to form:
DENNIS J. HERRERA,
City Attorney

By  _____
Brooke D. Abola
Deputy City Attorney

Third Modification to Hotel Management Agreement

THIS **THIRD MODIFICATION TO HOTEL MANAGEMENT AGREEMENT** (this “**Modification**”) is made as of May 9, 2018, by and between the **AIRPORT COMMISSION OF THE CITY AND COUNTY OF SAN FRANCISCO** (“**Owner**”) and **HYATT CORPORATION** (“**Manager**”).

RECITALS

- A. Owner and Manager have entered into the Agreement (as defined below).
- B. On September 22, 2015, by Resolution No. 15-0178, Owner awarded this Agreement to Manager.
- C. On December 1, 2015, by Resolution No. 434-15, the Board of Supervisors of the City and County of San Francisco (“**City**”) approved this Agreement under San Francisco Charter Section 9.118.
- D. Owner and Manager desire to administratively modify the Agreement on the terms and conditions set forth herein to modify the definition of Insurance Consultant.
- E. Owner and Manager have each obtained such approvals, if any, as are required for the execution of this Modification.

AGREEMENTS

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements contained herein and in the Agreement, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, Owner and Manager agree as follows:

1. Definitions.

a. Agreement. The definition of “**Agreement**” in Section 1.01 is hereby replaced in its entirety as follows:

“**Agreement**” means the Hotel Management Agreement dated as of January 1, 2016 between Manager and Owner, as amended by the First Modification dated as of June 1, 2017; the Second Modification dated as of October 3, 2017; and the Third Modification dated as of May 9, 2018.

b. Other Terms. Terms used and not defined in this Modification shall have the meanings assigned to such terms in the Agreement.

2. Section 1.1. Definitions. The definition of “**Insurance Consultant**” is hereby deleted and replaced with the following:

“**Insurance Consultant**” means an insurance consultant who may be an employee of the City, unless there is a dispute between the Manager and the Commission regarding such insurance consultant’s findings, in which case the Manager and the Commission shall mutually agree to an independent insurance consultant.

3. No Claims or Disputes; No Defaults or Termination Events. Owner and Manager acknowledge and agree that, as of the date of this Modification, neither Party has a pending claim against or dispute with the other Party under the Agreement; no Manager Event of Default, Owner Event of Default or Performance Termination Event has occurred; and, to such Party's knowledge, no facts exist that constitute a potential claim, dispute, Manager Event of Default, Owner Event of Default or Performance Termination Event.

4. Effective Date. Each of the changes set forth in this Modification shall be effective on and after the date of this Modification.

5. Legal Effect. Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Modification on the day and year first above written.

HYATT CORPORATION

Peter Sears

By peter.sears@hyatt.com

Name: Peter Sears
Title: EVP, Group President - Americas

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By _____

Ivar C. Satero
Airport Director

Approved as to form:
DENNIS J. HERRERA,
City Attorney

By _____

Brooke D. Abola
Deputy City Attorney

3. **No Claims or Disputes; No Defaults or Termination Events.** Owner and Manager acknowledge and agree that, as of the date of this Modification, neither Party has a pending claim against or dispute with the other Party under the Agreement; no Manager Event of Default, Owner Event of Default or Performance Termination Event has occurred; and, to such Party's knowledge, no facts exist that constitute a potential claim, dispute, Manager Event of Default, Owner Event of Default or Performance Termination Event.

4. **Effective Date.** Each of the changes set forth in this Modification shall be effective on and after the date of this Modification.

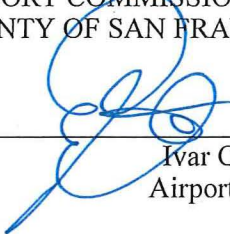
5. **Legal Effect.** Except as expressly changed by this Modification, all of the terms and conditions of the Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Modification on the day and year first above written.


HYATT CORPORATION

By _____
Name:
Title:

AIRPORT COMMISSION OF THE CITY AND
COUNTY OF SAN FRANCISCO

By  _____
Ivar C. Satero
Airport Director

Approved as to form:
DENNIS J. HERRERA,
City Attorney

By  _____
Brooke D. Abola
Deputy City Attorney

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 21-0092

APPROVAL OF THE FOURTH MODIFICATION TO CONTRACT NO. 50006, THE HOTEL MANAGEMENT AGREEMENT WITH HYATT CORPORATION, TO REDUCE THE BASE MANAGEMENT FEES PAYABLE IN 2021 AND 2022 AND TO ADJUST CERTAIN MANAGEMENT AGREEMENT TERMINATION EVENTS, TO EXTEND THE INITIAL 10-YEAR TERM BY AN ADDITIONAL TWO YEARS, AND TO PROVIDE FOR PAYMENT OF A NET ADDITIONAL AMOUNT OF \$3,896,462 OF MANAGEMENT FEES TO BE PAID FROM HOTEL REVENUE, AND RELATED ACTIONS

- WHEREAS, on September 22, 2015, by Resolution No. 15-0178, the Airport Commission (Commission) awarded Contract No. 50006, the Hotel Management Agreement (HMA), to Hyatt Corporation (Hyatt), to manage the Grand Hyatt at SFO (Hotel) with a term of 10 years and one 5-year option to extend at the discretion of the Commission, and a not-to-exceed compensation amount of \$19,945,418, plus reimbursement of expenses; and
- WHEREAS, on December 1, 2015, by Resolution No. 434-15, the San Francisco Board of Supervisors (Board) approved the execution and delivery of the HMA under Section 9.118 of the San Francisco Charter; and
- WHEREAS, the HMA has been administratively modified to clarify certain matters by a First Modification, dated as of June 1, 2017, a Second Modification, dated as of August 1, 2017, and a Third Modification, dated as of May 9, 2018; and
- WHEREAS, the Hotel opened on October 4, 2019 and has been operating at a loss since the onset of the COVID-19 pandemic in March 2020 due to substantially reduced guest reservations and event facility bookings; and
- WHEREAS, the HMA provides for Hyatt to receive compensation in the form of a Management Fee for its services as Hotel manager, according to a fixed fee schedule, with a portion (the Base Management Fee) being paid from gross Hotel revenue, and a portion (the Subordinate Management Fee) being paid from net Hotel revenue after funding certain reserves and paying debt service on special facility bonds issued to finance the Hotel; and
- WHEREAS, Airport staff have negotiated a Fourth Modification to the HMA to (1) reduce the Base Management Fees by 60% for 2021 and by 30% for 2022, for a total fee reduction of \$1,158,535; (2) extend the commencement date for certain performance termination events that allow the Commission to terminate the HMA due to Hyatt's performance as manager; (3) extend the initial HMA term by two years, for a new initial term of 12 years while retaining one 5-year option to extend at the discretion of the Commission; (4) provide for payment of additional Management Fees of \$5,054,997 to compensate Hyatt for its management services during the additional two years of the initial HMA term; and (5) make changes necessary to preserve the tax-exempt status of interest on the related bonds, among other changes; and

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 21-0092

WHEREAS, on June 6, 2018, the Commission issued \$260,000,000 aggregate principal amount of bonds secured solely by Hotel revenues (the Hotel Special Facility Bonds), pursuant to a Trust Agreement with U.S. Bank National Association as trustee (the Hotel Bonds Trustee), to finance the Hotel; and

WHEREAS, on June 6, 2018, pursuant to Resolution No. 91-0210 as supplemented and amended, the Commission also issued \$276,340,000 aggregate principal amount of its San Francisco International Airport Second Series Revenue Bonds, Series 2018B and Series 2018C (the 1991 Resolution Bonds), to finance the construction of the Hotel and certain related projects; and

WHEREAS, using a portion of the proceeds of the 1991 Resolution Bonds, the Commission invested in the Hotel Special Facility Bonds by causing the Hotel Special Facility Bonds to be purchased by a separate trust entity created under Delaware law for the purpose of making such purchase, with the Commission as trust beneficiary; and

WHEREAS, as Hotel Special Facility Bonds investor and trust beneficiary, the Commission has authority to direct The Bank of New York Mellon Trust Company, N.A (BNY Mellon Trust), as trustee of the separate trust entity that is the bondholder of the Hotel Special Facility Bonds, to take actions and give directions to the Hotel Bonds Trustee on the Commission's behalf; and

WHEREAS, the HMA requires that the Hotel Bonds Trustee consent to any modification to the HMA; now, therefore, be it

RESOLVED, that this Commission finds that the above recitals are true and correct; and, be it further

RESOLVED, that this Commission approves the Fourth Modification to the HMA with Hyatt as described above and in the Airport Director's memorandum accompanying this Resolution, with a revised initial term of 12 years and one 5-year option to extend at the discretion of the Commission, and a net increase to the total compensation amount of \$3,896,462; and, be it further

RESOLVED, that the Airport Director is authorized to execute and deliver the Fourth Modification to the HMA in the form on file with the Commission Secretary; and, be it further

RESOLVED, that the Airport Director is authorized and directed, for and on behalf of and in the name of the Commission, as Hotel Special Facility Bonds investor and trust beneficiary, to direct and instruct BNY Mellon Trust, as trustee of the separate trust entity that is bondholder of the Hotel Special Facility Bonds, to consent to and approve the Fourth Modification to the HMA, and to execute and deliver any related consents, certificates or instructions; and, be it further

AIRPORT COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 21-0092

RESOLVED, that the Commission Secretary, for and on behalf of and in the name of the Commission, is authorized and directed to seek approval of the Fourth Modification to the HMA from the Board under Section 9.118 of the San Francisco Charter; and, be it further

RESOLVED, that the actions of the officers, agents, and employees of the Commission taken prior to the adoption of this Resolution to carry out the purposes and intents of this Resolution are ratified, approved, and confirmed.

Page 3 of 3

I hereby certify that the foregoing resolution was adopted by the Airport Commission

at its meeting of _____ **APR - 6 2021** _____



Secretary



San Francisco International Airport

MEMORANDUM

April 6, 2021

TO: AIRPORT COMMISSION
Hon. Larry Mazzola, President
Hon. Eleanor Johns, Vice President
Hon. Richard J. Guggenlime
Hon. Everett A. Hewlett, Jr.
Hon. Malcolm Yeung

21-0092

APR - 6 2021

FROM: Airport Director

SUBJECT: Approval of the Fourth Modification to the Hotel Management Agreement, Contract No. 50006, with Hyatt Corporation

DIRECTOR'S RECOMMENDATION: APPROVE THE FOURTH MODIFICATION TO CONTRACT NO. 50006, THE HOTEL MANAGEMENT AGREEMENT WITH HYATT CORPORATION, TO REDUCE THE BASE MANAGEMENT FEES PAYABLE IN 2021 AND 2022 AND TO ADJUST CERTAIN MANAGEMENT AGREEMENT TERMINATION EVENTS, TO EXTEND THE INITIAL 10-YEAR TERM BY AN ADDITIONAL TWO YEARS, AND TO PROVIDE FOR PAYMENT OF A NET ADDITIONAL AMOUNT OF \$3,896,462 OF MANAGEMENT FEES TO BE PAID FROM HOTEL REVENUE, AND RELATED ACTIONS.

Executive Summary

Staff recommends approval of the Fourth Modification to the Hotel Management Agreement (HMA) between Hyatt Corporation (Hyatt) and the Airport Commission (Commission). The Fourth Modification will provide savings of \$1,158,535 in calendar years 2021 and 2022 through the reduction of the Base Management Fee payable to Hyatt for the management and operation of the on-Airport Grand Hyatt at SFO (Hotel). These near-term fee reductions will help the Hotel weather the significant financial impacts triggered by the COVID-19 pandemic. In addition, the Fourth Modification will extend the start date for certain HMA-stipulated performance termination events by two years, providing more time for the Hotel to generate positive income levels as required under the HMA and will add two years to the existing 10-year initial term of the HMA, for a new initial term of 12 years, while retaining the existing five-year option to extend at the discretion of the Commission. The Fourth Modification provides for a net increase to the total compensation amount of \$3,896,462 to compensate Hyatt for its management services during the additional two years of the initial HMA term.

Background

The Commission is the owner of and sole investor in the Hotel, which is managed by Hyatt pursuant to a competitively-procured HMA between Hyatt and the Commission.

THIS PRINT COVERS CALENDAR ITEM NO. 2

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED MAYOR LARRY MAZZOLA PRESIDENT ELEANOR JOHNS VICE PRESIDENT RICHARD J. GUGGENHIME EVERETT A. HEWLETT, JR. MALCOLM YEUNG IVAR C. SATERO AIRPORT DIRECTOR

On September 22, 2015, by Resolution No. 15-0178, the Commission awarded Contract No. 50006, the HMA, to Hyatt, to manage the Hotel with an initial term of ten years plus one 5-year option to extend at the discretion of the Commission, and a not-to-exceed compensation amount of \$19,945,418 plus reimbursement of expenses. On December 1, 2015, by Resolution No. 434-15, the San Francisco Board of Supervisors (Board) approved the execution and delivery of the HMA under Section 9.118 of the San Francisco Charter. The HMA has been administratively modified to clarify certain matters by a First Modification, dated as of June 1, 2017; a Second Modification, dated as of August 1, 2017; and a Third Modification, dated as of May 9, 2018.

Following its opening in October 2019, the Hotel was ramping up its performance and penetrating the highly competitive lodging market. Since the COVID-19 health crisis began in March 2020, the Hotel has been experiencing a substantial reduction in income and limited operations, attributable to the pandemic and compliance with the related health orders. This significant reduction in income is expected to continue for at least the next two years. As such, the Hotel's initial two years of operation, which in normal conditions would have been a time of startup and stabilization, have been extremely volatile and challenging.

Staff initiated negotiations with Hyatt to reduce its fixed management fees under the HMA in the near term, to help reduce the cost burden to the Hotel, and the Fourth Modification to the HMA reflects the outcome of those negotiations.

The HMA provides for Hyatt to receive compensation in the form of a Management Fee for its services as Hotel manager, according to a fixed fee schedule, with a portion (the Base Management Fee) being paid from gross Hotel revenue, and a portion (the Subordinate Management Fee) being paid from net Hotel revenue (after funding certain reserves and paying debt service on special facility bonds issued to finance the Hotel).

Under the HMA, the Commission has the right to terminate Hyatt under specific circumstances (known as performance termination events), subject to Hyatt's right to cure and certain procedural requirements. Each of these requirements is described in Attachment A.

As the Airport is both the owner of the Hotel, the issuer of the Hotel Special Facility Bonds issued to finance the Hotel, and the ultimate investor in the Hotel Special Facility Bonds, Staff wants to ensure that the Hotel is a viable going concern to preserve the Airport's investment in the Hotel, which is a unique amenity unavailable at other Bay Area airports. Staff and Hyatt want to avoid facing a performance-based early termination scenario that would be premature given the ongoing and expected near-term challenges of operating during the COVID-19 pandemic. Over the last six months, Staff and Hyatt have been in discussions to minimize the risks of such scenarios, and the proposed amendment reflects this strong collaboration between the Airport and Hyatt.

Proposed Commission Action and Rationale

Staff and Hyatt have negotiated a Fourth Modification to the HMA to (1) reduce the Base Management Fee by 60% for 2021 and by 30% for 2022, for a total fee reduction of \$1,158,535; (2) extend the commencement date for certain performance termination events that allow the Commission to terminate the HMA due to Hyatt's performance as manager; (3) extend the initial HMA term by two years, for a new initial term of 12 years, while retaining one 5-year option to

extend at the discretion of the Commission; (4) provide for payment of additional Management Fees of \$5,054,997 to compensate Hyatt for its management services during the additional two years of the initial HMA term; and (5) make changes necessary to preserve the tax-exempt status of interest on the related bonds, among other changes.

The Fourth Modification will result in a net increase of \$3,896,462 in Management Fees payable to Hyatt from Hotel revenue, as shown in the table below:

Additional Management Fees – Years 11 and 12	\$5,054,997
<u>Less: Reduction in Management Fees – 2021 and 2022</u>	<u>(\$1,158,535)</u>
Net Increase in Management Fees	\$3,896,462

The present value of the net increase in management fees is approximately \$2,400,000.

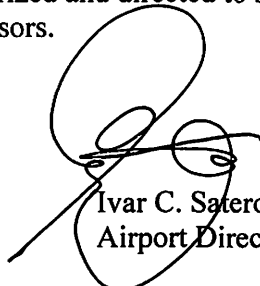
The proposed changes to the HMA performance termination events under the Fourth Modification are summarized in Attachment A. Avoiding these termination events benefits the Airport by continuing the consistent operation of the Hotel and helping to preserve the Airport's investment in the Hotel, while still holding Hyatt accountable once the Hotel has had an opportunity to stabilize. Both Staff and Hyatt intend for the existing relationship to endure for the length of the term, with mutual benefits resulting from the Hotel's continued operation.

Staff recommends that the Commission adopt the attached Resolution, which would approve the Fourth Modification and authorize the Airport Director to take two actions:

- (1) on behalf of the Commission (as Hotel owner), to execute the Fourth Modification; and
- (2) on behalf of the Commission (as investor in the Hotel Special Facility Bonds), to give instructions necessary to cause the Hotel Special Facility Bonds trustee to consent to and approve the Fourth Modification.

Recommendation

I recommend the Commission adopt the attached Resolution approving the Fourth Modification to the HMA authorizing the Airport Director to execute and deliver the amended HMA, authorizing the Airport Director to instruct the Hotel Special Facility Bonds Trustee to consent to the Fourth Modification, and authorizing other related actions by Staff. If the attached Resolution is adopted, the Commission Secretary will be authorized and directed to seek approval of the Fourth Modification to the HMA from the Board of Supervisors.



Ivar C. Satero
Airport Director

Prepared by: Kevin Bumen
Chief Commercial Officer

Attachment A

**SUMMARY OF CHANGES TO PERFORMANCE TERMINATION EVENTS
IN THE FOURTH MODIFICATION TO THE HOTEL MANAGEMENT AGREEMENT (HMA)**

The following table summarizes the negotiated amendments to the HMA's performance termination events. The specific amendments are underlined.

Performance Termination Events		
	Current HMA	Amended HMA
ADR Requirement	Commencing with the third (3rd) full Operating Year, if the Average Daily Rate (ADR) for the Hotel, as certified in writing by Manager's Chief Financial Officer, is less than 135% of the ADR for the Hyatt Regency in Burlingame in any two (2) Operating Years;	Commencing with the <u>fifth (5th)</u> full Operating Year, if the ADR for the Hotel, as certified in writing by Manager's Chief Financial Officer, is less than 135% of the ADR for the Hyatt Regency in Burlingame in any two (2) Operating Years;
RevPAR Requirement	Commencing with the fourth (4th) full Operating Year, if the Revenue Per Available Room (RevPAR) for the Hotel is less than 120% of the average RevPAR for the Competitive Set in any two (2) consecutive Operating Years; or	Commencing with the <u>sixth (6th)</u> full Operating Year, if the RevPAR for the Hotel is less than 120% of the average RevPAR for the Competitive Set in any two (2) consecutive Operating Years; or
NOI Requirement	Commencing with the fourth (4th) full Operating Year, if Net Operating Income (NOI) is less than ten million two hundred thousand dollars (\$10,200,000) (the Hurdle Amount), in any two (2) consecutive Operating Years. The Hurdle Amount shall be adjusted each Operating Year commencing with the fourth (4th) full Operating Year by the Bay Area Consumer Price Index (CPI) for the immediately preceding calendar year.	Commencing with the <u>sixth (6th)</u> full Operating Year, if NOI is less than ten million two hundred thousand dollars (\$10,200,000) (the Hurdle Amount), in any two (2) consecutive Operating Years. The Hurdle Amount shall be adjusted each Operating Year commencing with the <u>sixth (6th)</u> full Operating Year by the Bay Area CPI for the immediately preceding calendar year.

*Each of the above requirements is independent of the others. A full Operating Year is an Operating Year consisting of twelve calendar months.



San Francisco International Airport

April 16, 2021

Ms. Angela Calvillo
Clerk of the Board
Board of Supervisors
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102-4689

Subject: Fourth Modification to the Hotel Management Agreement between Hyatt Corporation and the City and County of San Francisco, acting by and through its Airport Commission

Dear Ms. Calvillo:

Pursuant to Section 9.118 of the City Charter, I am forwarding for the Board of Supervisors' approval the proposed Resolution, which approves the Fourth Modification to the Hotel Management Agreement (HMA) between Hyatt Corporation (Hyatt) and the City and County of San Francisco, acting by and through its Airport Commission (Commission).

The Commission owns the Grand Hyatt at SFO (Hotel), and Hyatt serves as Hotel manager under the HMA. In response to the substantial reduction in income and limited operations at the Hotel, which are directly attributable to the COVID-19 pandemic, Airport staff and Hyatt have negotiated a Fourth Modification to the HMA to (1) reduce the Base Management Fees paid to Hyatt by 60% for 2021 and by 30% for 2022, for a total fee reduction of \$1,158,535; (2) extend the commencement date for certain performance termination events that allow the Commission to terminate the HMA due to Hyatt's performance as manager; (3) extend the initial HMA term by two years, for a new initial term of 12 years, while retaining one 5-year extension option at the discretion of the Commission; (4) provide for payment from Hotel revenues of additional management fees of \$5,054,997 to compensate Hyatt for its management services during years 11 and 12 of the initial HMA term; and (5) make changes necessary to preserve the tax-exempt status of interest on the related bonds, among other changes.

The following is a list of accompanying documents:

- Board of Supervisors Resolution;
- Approved Airport Commission Resolution No. 21-0092;
- Memorandum accompanying Airport Commission Resolution No. 21-0092;
- Copy of electronically filed SFEC-126(f)4 for Hyatt Corporation;
- A copy of the original HMA;

AIRPORT COMMISSION CITY AND COUNTY OF SAN FRANCISCO

LONDON N. BREED
MAYOR

LARRY MAZZOLA
PRESIDENT

ELEANOR JOHNS
VICE PRESIDENT

RICHARD J. GUGGENHIME

EVERETT A. HEWLETT, JR.

MALCOLM YEUNG

IVAR C. SATERO
AIRPORT DIRECTOR

Ms. Angela Calvillo
April 16, 2021
Page 2

- A copy of the First Modification to the HMA;
- A copy of the Second Modification to the HMA;
- A copy of the Third Modification to the HMA; and
- A copy of the Fourth Modification to the HMA.

The following person may be contacted regarding this matter:

Anwar Elgonemy
Hotel and Special Projects Director
(650) 821-5804
Anwar.Elgonemy@flysfso.com

Very truly yours,

Carolyn Jayin /s/

Carolyn Jayin
Acting Commission Secretary

Enclosures

cc: Anwar Elgonemy, SFO Hotel & Special Projects
Cathy Widener, SFO Governmental Affairs

From: [Dyanna Quizon \(AIR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Subject: RE: BOS Legislation: Fourth Modification to the Hotel Management Agreement with Hyatt Corporation
Date: Monday, April 19, 2021 2:15:20 PM
Attachments: [image002.png](#)
[image003.png](#)

These changes are acceptable.

Thank you!
Dyanna



Dyanna Quizon (*preferred pronouns: she/her/hers*)
Manager | Government Affairs

From: BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Sent: Monday, April 19, 2021 2:13 PM
To: Dyanna Quizon (AIR) <dyanna.quizon@flysfo.com>; BOS Legislation, (BOS) <bos.legislation@sfgov.org>
Cc: Carolyn Jayin (AIR) <carolyn.jayin@flysfo.com>; Cathy Widener (AIR) <Cathy.Widener@flysfo.com>
Subject: RE: BOS Legislation: Fourth Modification to the Hotel Management Agreement with Hyatt Corporation

Hello,

Please see attached proof with clerical edits to the legislation. Kindly review and confirm that these changes are acceptable.

Thank you.

Lisa Lew
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102
T 415-554-7718 | F 415-554-5163
lisa.lew@sfgov.org | www.sfbos.org

(VIRTUAL APPOINTMENTS) To schedule a “virtual” meeting with me (on Microsoft Teams), please ask and I can answer your questions in real time.

Due to the current COVID-19 health emergency and the Shelter in Place Order, the Office of the Clerk of the Board is working remotely while providing complete access to the legislative process and our services.



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From: Dyanna Quizon (AIR) <dyanna.quizon@flysfo.com>

Sent: Monday, April 19, 2021 9:11 AM

To: BOS Legislation, (BOS) <bos.legislation@sfgov.org>

Cc: Carolyn Jayin (AIR) <carolyn.jayin@flysfo.com>; Cathy Widener (AIR) <Cathy.Widener@flysfo.com>

Subject: BOS Legislation: Fourth Modification to the Hotel Management Agreement with Hyatt Corporation

CITY AND COUNTY OF SAN
FRANCISCO

AIRPORT COMMISSION

BOARD OF SUPERVISORS LEGISLATION

To: BOS Legislation

Date: April 19, 2021

RE: Fourth Modification to the Hotel Management Agreement between Hyatt Corporation and the City and County of San Francisco, acting by and through its Airport Commission

Attached is proposed legislation concerning approval of Fourth Modification to the Hotel Management Agreement between Hyatt Corporation and the City and County of San Francisco, acting by and through its Airport Commission between the City and County of San Francisco, acting by and through its Airport Commission, and Hyatt Corporation.

The Airport Commission approved the Fourth Modification to the Hotel Management Agreement by adopting Resolution No. 21-0092 on April 6, 2021.

The attachments for the Lease are listed below:

- Board of Supervisors Resolution;
- Approved Airport Commission Resolution No. 21-0092;
- Memorandum accompanying Airport Commission Resolution No. 21-0092;
- Copy of electronically filed SFEC-126(f)4 for Hyatt Corporation;
- A copy of the original HMA;
- A copy of the First Modification to the HMA;
- A copy of the Second Modification to the HMA;
- A copy of the Third Modification to the HMA; and
- A copy of the Fourth Modification to the HMA.

Contacts:

Cathy Widener, Governmental Affairs Administrator
650-821-5023

Anwar Elgonemy, Director, Hotel and Special Projects
650-821-5804



Dyanna Quizon (*preferred pronouns: she/her/hers*)
Manager | Government Affairs



San Francisco Ethics Commission

25 Van Ness Avenue, Suite 220, San Francisco, CA 94102

Phone: 415.252.3100 . Fax: 415.252.3112

ethics.commission@sfgov.org . www.sfethics.org

Received On:

File #: 210411

Bid/RFP #:

Notification of Contract Approval

SFEC Form 126(f)4

(S.F. Campaign and Governmental Conduct Code § 1.126(f)4)

A Public Document

Each City elective officer who approves a contract that has a total anticipated or actual value of \$100,000 or more must file this form with the Ethics Commission within five business days of approval by: (a) the City elective officer, (b) any board on which the City elective officer serves, or (c) the board of any state agency on which an appointee of the City elective officer serves. For more information, see: <https://sfethics.org/compliance/city-officers/contract-approval-city-officers>

1. FILING INFORMATION

TYPE OF FILING	DATE OF ORIGINAL FILING (for amendment only)
Original	
AMENDMENT DESCRIPTION – Explain reason for amendment	

2. CITY ELECTIVE OFFICE OR BOARD

OFFICE OR BOARD	NAME OF CITY ELECTIVE OFFICER
Board of Supervisors	Members

3. FILER'S CONTACT

NAME OF FILER'S CONTACT	TELEPHONE NUMBER
Angela Calvillo	415-554-5184
FULL DEPARTMENT NAME	EMAIL
office of the clerk of the Board	Board.of.Supervisors@sfgov.org

4. CONTRACTING DEPARTMENT CONTACT

NAME OF DEPARTMENTAL CONTACT	DEPARTMENT CONTACT TELEPHONE NUMBER
CATHY WIDENER	650-821-5184
FULL DEPARTMENT NAME	DEPARTMENT CONTACT EMAIL
AIR 27	CATHY.WIDENER@FLYSFO.COM

5. CONTRACTOR	
NAME OF CONTRACTOR HYATT CORPORATION	TELEPHONE NUMBER 312-750-1234
STREET ADDRESS (including City, State and Zip Code) 150 North Riverside Plaza, Chicago, IL 60606	EMAIL HENNING.HOPPER@HYATT.COM

6. CONTRACT		
DATE CONTRACT WAS APPROVED BY THE CITY ELECTIVE OFFICER(S)	ORIGINAL BID/RFP NUMBER	FILE NUMBER (If applicable) 210411
DESCRIPTION OF AMOUNT OF CONTRACT \$23,841,880		
NATURE OF THE CONTRACT (Please describe) <p>Fourth Modification to Hotel Management Agreement with Hyatt Corporation for management of the on-airport hotel at San Francisco International Airport, to reduce the management fees paid to Hyatt Corporation during Hotel operating years 2021 and 2022, extend the trigger dates for certain performance termination events, extend the initial term by two years, and increase the contract amount for a new total amount not to exceed \$23,841,880.</p>		

7. COMMENTS
<p>The Airport Commission approved the Fourth Modification to Contract No. 50006, the Hotel Management Agreement to Hyatt Corporation, by Commission Resolution No. 21-0092 adopted April 6, 2021.</p>

8. CONTRACT APPROVAL	
This contract was approved by:	
<input type="checkbox"/>	THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM
<input checked="" type="checkbox"/>	A BOARD ON WHICH THE CITY ELECTIVE OFFICER(S) SERVES Board of Supervisors
<input type="checkbox"/>	THE BOARD OF A STATE AGENCY ON WHICH AN APPOINTEE OF THE CITY ELECTIVE OFFICER(S) IDENTIFIED ON THIS FORM SITS

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor's board of directors; (B) the contractor's principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
1	Pritzker	Thomas	Board of Directors
2	Hoplamazian	Mark	CEO
3	Ballew	Paul	Board of Directors
4	Kronick	Susan	Board of Directors
5	McDonald	Mackey	Board of Directors
6	McMillan	Cary	Board of Directors
7	Nicholson	Pamela	Board of Directors
8	Pritzer	Jason	Board of Directors
9	Rocca	Michael	Board of Directors
10	Tuttle	Richard	Board of Directors
11	Wooten, Jr.	James	Board of Directors
12	Bottarini	Joan	CFO
13	Floyd	H. Charles	COO
14	Trustees of the Thomas J.	Pritzker Family Trusts	Shareholder
15			
16			
17			
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19			

9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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9. AFFILIATES AND SUBCONTRACTORS

List the names of (A) members of the contractor’s board of directors; (B) the contractor’s principal officers, including chief executive officer, chief financial officer, chief operating officer, or other persons with similar titles; (C) any individual or entity who has an ownership interest of 10 percent or more in the contractor; and (D) any subcontractor listed in the bid or contract.

#	LAST NAME/ENTITY/SUBCONTRACTOR	FIRST NAME	TYPE
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Check this box if you need to include additional names. Please submit a separate form with complete information. Select “Supplemental” for filing type.

10. VERIFICATION

I have used all reasonable diligence in preparing this statement. I have reviewed this statement and to the best of my knowledge the information I have provided here is true and complete.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

<p>SIGNATURE OF CITY ELECTIVE OFFICER OR BOARD SECRETARY OR CLERK</p> <p>BOS Clerk of the Board</p>	<p>DATE SIGNED</p>
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