

LEASE AGREEMENT FOR RENTAL OF AIR SPACE

This **LEASE AGREEMENT FOR RENTAL OF AIR SPACE** ("Lease Agreement") entered into as of the ___ day of _____, 20___, by and between (i) the **DISTRICT OF COLUMBIA**, a public body municipal and corporate (hereinafter sometimes referred to as "Landlord") and (ii) **HQ HOTEL LLC**, a Delaware limited liability company (hereinafter referred to as "Tenant"),

WITNESSETH:

WHEREAS, pursuant to the authority granted by the *New Conventicn Center Hotel Omnibus Financing and Development Act of 2006* (D.C. Law 16-163), as amended (the "Hotel Act"), and following approval by the Council of the District of Columbia in accordance with D.C. Official Code § 1-204.51 (2006 Repl.), Landlord, the Washington Convention Center Authority, a body corporate and an independent authority of the District of Columbia government (hereinafter sometimes referred to as "WCCA") and Tenant entered into that certain Hotel Development and Funding Agreement (the "Hotel Development Agreement"), dated _____, 2008, for the financing and development of an approximately 1,100 room hotel (as more particularly defined in the Hotel Development Agreement, the "Hotel") to be located on the land comprising Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843 and 845 in Square 370 in Washington, D.C. (the "Subject Property"); and

WHEREAS, pursuant to the Hotel Development Agreement, Landlord, WCCA and Tenant have entered into that certain Ground Lease Agreement (the "Ground Lease"), of even date herewith, whereby Tenant has leased the Subject Property for a term of ninety-nine (99) years pursuant to the terms and conditions contained in the Ground Lease; and

WHEREAS, certain portions of the Hotel together with certain portions of a pedestrian tunnel to be constructed between the Hotel and the Walter E. Washington Convention Center (the "Convention Center") and certain portions of a vehicular throughway to be constructed connecting the Hotel's loading docks to the Convention Center's vehicular ramps and access way, are to be located within a portion of the below grade space (the "Subject Public Space") abutting the Subject Property beneath the ____ block of L Street, N.W., the ____ block of Ninth Street, N.W., and the ____ block of Massachusetts Avenue, N.W., all as more particularly described on Exhibit A (the "Subject Air Space"); and

WHEREAS, the Mayor of the District of Columbia (the "Mayor") has authority over the use of all of the space above and below the Subject Public Space pursuant to the *District of Columbia Public Space Utilization Act of 1968*, compiled at D.C. Official Code §10-1121.01 et seq. (2001) (the "Public Space Utilization Act"); and

WHEREAS, pursuant to the Public Space Utilization Act, the Zoning Commission of the District of Columbia, after the requisite public hearing and after securing the advice and recommendations of the National Capital Planning Commission, through the PUD process in Zoning Commission Case No. _____, has determined that the uses proposed for the Subject Air Space are permitted in the Subject Air Space and that the use of the Subject Air Space shall be governed by Zoning Commission Order No. _____ and the Zoning Regulations applicable to the Subject Property; and

WHEREAS, Landlord, as authorized by the Hotel Act, and in accordance with the Public Space Utilization Act, has agreed to lease the Subject Air Space to Tenant, and Tenant has agreed to lease the Subject Air Space from Landlord, for the purposes and on the terms and conditions set forth herein; and

WHEREAS, this Lease Agreement is only for the Subject Air Space, which abuts the Subject Property and is below the Subject Public Space (including the sidewalks abutting the Subject Property);

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

1. **Defined Terms.** Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed to them in the Ground Lease.

2. **Demised Premises.** Landlord agrees to lease and hereby does lease to Tenant and Tenant has agreed to take and hereby does take and hire from the Landlord for the Term and at the rentals and upon the covenants, conditions, limitations, and agreements contained herein, and with the exceptions and reservations set forth herein, the Subject Air Space described in Exhibit A.

3. **Term.** The term of this Lease Agreement (the "Term"), unless earlier terminated as provided herein, shall be for a period of ninety-nine (99) years (the "Initial Term") commencing on the date first indicated above (the "Commencement Date") and ending on the day immediately preceding the ninety-ninth (99th) anniversary of the Commencement Date, provided, however, that if Tenant (or its assign or designee) acquires the Subject Property, whether pursuant to Tenant's right of first refusal set forth in Section 18.1 of the Ground Lease, its Purchase Option or otherwise, then, so long as the Subject Property is operated as a hotel, the Term shall be automatically extended for successive periods of one (1) year each (each an "Extension Term"), not to exceed ninety-nine (99) such Extension Terms, the first such Extension Term commencing at the expiration of the Initial Term and ending on the day

immediately preceding the first (1st) anniversary of the last day of the Initial Term, and each successive Extension Term commencing on the expiration of the immediately preceding Extension Term and ending on the day immediately preceding the anniversary of such commencement date, unless Tenant elects to terminate this Lease Agreement at the end of the Initial Term, or at the end of any successive Extension Term, by giving Landlord no less than sixty (60) days prior written notice of such election. Notwithstanding the foregoing, the Term of this Lease Agreement shall automatically terminate upon the termination of the Ground Lease occurring as a result of a Termination Event of Default.

4. **Rental.** Except as provided in Paragraph 22 hereof, the rental for the Subject Air Space shall be at no charge during the Term.

5. **Requirements of D.C. Official Code § 10-1121.03.**

(a) The Subject Air Space shall not be used to deprive any real property not owned by Tenant of any easement of access to which such property is entitled as of the date hereof.

(b) Upon expiration or termination of this Lease Agreement, Landlord may require (at the expense of Tenant or its successor in interest) the removal of any structure constructed in the Subject Air Space and the restoration of the Subject Air Space to its condition prior to the construction of such structure (except that Tenant shall not be required to replace or restore to the Subject Air Space any facilities removed or relocated from the Subject Air Space as referenced in Paragraph 6 hereof). Notwithstanding the foregoing, Tenant shall not be required to remove (or to pay for the removal) of any structure constructed in the Subject Air Space to the extent the Lease Agreement is terminated as a result of condemnation in accordance with Paragraph 13.

(c) All of the rights, duties, terms, conditions, agreements and covenants set forth and contained in this Lease Agreement shall run with, and shall constitute a real covenant against, the Subject Property and shall be applicable to Tenant and its successors and assigns.

(d) Tenant shall only construct structures in the Subject Air Space strictly in accordance with the terms and conditions of the Development Agreement, the Ground Lease, the Covenants and Conditions, the Pedestrian Connector Agreement and the Hotel Loading Dock Access Agreement, as and so long as such agreements are in force and effect, as each is applicable, and Applicable Law. Tenant's use of such structures shall be limited to those uses permitted pursuant to Zoning Commission Order No. _____, as the same may be amended or superceded from time to time, and the Zoning Regulations applicable to the Subject Property and as set forth herein and in the Ground Lease and/or the Covenants and Conditions, as and when such documents are in full force and effect.

6. **Requirements of D.C. Official Code § 10-1121.05.** The District shall not be required to pay the cost of any removal or relocation of publicly or privately owned facilities in the Subject Air Space in connection with the construction of any structure in the Subject Air Space. No such facilities may be removed or relocated unless the Mayor has approved all arrangements for such removal or relocation. Except as may be otherwise provided in the Pedestrian Connector Agreement, Tenant shall be responsible for the cost of any such removal or relocation.

7. **Requirements of D.C. Official Code § 10-1121.07.** The Subject Air Space and any structures constructed in the Subject Air Space shall be deemed to be real property and shall be liable to assessment, taxation, and water and sewer service charges by the District throughout the Term.

8. Requirements of D.C. Official Code § 10-1121.09. If upon the expiration or termination of this Lease Agreement as provided for herein: (1) the Mayor determines pursuant to Paragraph 5(b) that any structure constructed in the Subject Air Space should be removed, or the Subject Air Space should be restored to its condition prior to the construction of such structure, which determination must be made, if at all, by written notice to Tenant within one hundred eighty (180) days after the date of such termination or expiration; and (2) Tenant or its successor in interest upon the request of and direction by the Mayor fail after a reasonable time to remove such structure or to restore the Subject Air Space to its condition prior to the construction of such structure (subject to Paragraph 5(b)), the Mayor may remove such structure and restore such air space. In the event that the Tenant is then the fee owner of the Subject Property, the cost of such removal and restoration shall be assessed against the Subject Property as a tax. Such tax shall be collected in the manner prescribed in D.C. Official Code § 6-806 (2001) for the collection of amounts assessed as a tax under that section. In the event the Landlord is the fee owner of the Subject Property when such structure is removed, and the public space restored, (i) if the Ground Lease has not been terminated, the cost of such removal and restorations shall be paid by Tenant pursuant to the Ground Lease as an Imposition, and (ii) if the Ground Lease has been terminated, Landlord may pursue any of the remedies provided under Paragraph 18 of this Lease Agreement in the event of the Tenant's default.

9. Ingress and Egress Through, Over and Under the Subject Public Space. The Tenant shall not exercise its rights under this Lease Agreement in such a manner as to impede the rights of ingress and egress of the District and all of its agencies and instrumentalities, and the various utility companies from time to time during the Term having facilities in the Subject Public Space and/or serving properties abutting the Subject Public Space. Likewise, except

during periods of construction or excavation within the Subject Public Space such that ingress or egress poses a risk of injury to the general public or impedes the flow of vehicular or pedestrian traffic, all as determined by, and in the sole judgment of, the District officials authorized by Applicable Law to make such determinations, rights of ingress and egress of the General Public over the Subject Public Space shall not be impeded. Notwithstanding anything to the contrary in this Paragraph 9, Landlord shall have the same rights of inspection of the Subject Air Space as the landlord under the Ground Lease has to inspect the Hotel Premises. The District may grant rights of ingress and egress or use to utility companies for areas within the Subject Public Space provided that any such grant of rights of ingress and egress or use within the Subject Public Space shall not impede or interfere with Tenant's use of the Subject Air Space for its intended purposes.

10. **Covenant of Quiet Enjoyment.** Landlord covenants that the Tenant and its successors and assigns shall lawfully and quietly hold, occupy, and enjoy the Subject Air Space pursuant to the terms of this Lease Agreement, free from any adverse claim or interest by any party whomsoever.

11. **Tenant's Right to Encumber Leasehold.** Tenant shall have the right at any time and from time to time during the Term to mortgage and encumber (a "Tenant Mortgage") Tenant's leasehold interest in the Subject Air Space and its fee ownership interest in the improvements to be constructed from time to time in the Subject Air Space (the "Air Space Improvements") in accordance with the provisions of Paragraph 11(a) or Paragraph 11(b), as applicable. The term "Tenant Mortgage" shall mean and include any Hotel Mortgage that encumbers all or any part of the Subject Air Space and/or Air Space Improvements.

(a) For so long as the Ground Lease remains in force and effect, (i) any Tenant Mortgage will be documented and effected as a Hotel Mortgage, it being acknowledged and agreed that the Subject Air Space and Air Space Improvements shall be part of the Hotel Premises, and accordingly, will be encumbered, if at all, along with the Leased Premises and Improvements pursuant to a Hotel Mortgage, and (ii) any such Tenant Mortgage, and the rights of each and every holder of any Tenant Mortgage (each a "Tenant Mortgagee"), shall accordingly be made and governed by the terms and conditions contained in the Ground Lease applicable to Hotel Mortgages and Hotel Mortgagees, including, without limitation, the rights and privileges of a Recognized Hotel Mortgagee, all of which terms and conditions shall apply with equal force to a Tenant Mortgage and each and every Tenant Mortgagee, such that a Recognized Hotel Mortgagee shall have the same rights in respect of, and the same restrictions and conditions shall be applicable to, this Lease Agreement as are applicable to the Ground Lease including, without limitation, the provisions of Section 16.5 of the Ground Lease. In addition, Landlord agrees, so long as any Recognized Hotel Mortgage remains a lien on Tenant's interest in this Lease Agreement, to give a duplicate copy of any notice to Tenant pursuant to Paragraph 17 or Paragraph 18 hereof to each Recognized Hotel Mortgagee simultaneously with the giving of such notice to Tenant, in the manner required for notices pursuant to Section 19.8 of the Ground Lease. Any Recognized Hotel Mortgagee will have the same period after it receives such notice from Landlord for remedying the default or causing the same to be remedied as is given Tenant under this Lease Agreement for remedying the default, plus an additional thirty (30) days, provided, however, if there are multiple Recognized Hotel Mortgages, then the aforementioned thirty (30) day period will be extended to sixty (60) days. Landlord agrees to

accept such performance on the part of any Recognized Hotel Mortgagee as though the same had been done or performed by Tenant.

(b) In the event that Tenant (or its assign or designee) acquires the Landlord's interests under the Ground Lease, whether pursuant to Tenant's right of first refusal set forth in Section 18.1 of the Ground Lease, its Purchase Option or otherwise, then the provisions set forth in Exhibit B attached hereto shall be applicable to each Tenant Mortgage and Tenant Mortgagee.

12. Right to Assign. Tenant shall have the right at any time and from time to time during the Term hereof to assign its interest in this Lease Agreement to any party to whom it transfers its interest in the Subject Property, provided only that such party assumes all of the obligations of Tenant under this Lease Agreement arising from and after the date of such assignment pursuant to a written assumption agreement in recordable form reasonably acceptable to Landlord. Upon such assignment the assignor shall remain liable for any obligations of Tenant hereunder accrued as of the effective date of such assignment and will be released from any obligations of Tenant accruing from and after the effective date of such assignment. Notwithstanding the foregoing, so long as the Ground Lease remains in force and effect any such assignment of Tenant's interest in this Lease Agreement shall be subject to the same terms, conditions and requirements contained in Article XII of the Ground Lease governing Tenant's right to assign or transfer its rights under the Ground Lease or in the Hotel Premises and for any period during which the Covenants and Conditions are in force and effective, any such assignment of Tenant's interest in this Lease Agreement shall be subject to the same terms, conditions and requirements contained in Article 6 of the Covenants and Conditions in respect of a sale of the Hotel and/or the Subject Property.

13. Condemnation. (a) If any portion of the Subject Air Space is taken for any public purpose by any lawful power or authority by the exercise of the right of condemnation by

eminent domain (a "Taking"), Tenant shall be entitled to receive any award for such Taking provided for under Applicable Law (the "Award").

(b) In the event the Taking is of the entirety of Tenant's interest in the Subject Air Space, this Lease Agreement shall terminate immediately upon the Taking and the rent, if any, paid or payable hereunder shall be prorated as of such date of Taking.

(c) In the event of a Taking of less than the entirety of Tenant's interest in the Subject Air Space, Tenant may elect, upon notice to Landlord within thirty (30) days after the Taking, to terminate this Lease Agreement in its entirety if Tenant reasonably determines that, following such Taking, the remainder of the Subject Air Space can no longer be reasonably used for the uses contemplated by this Lease Agreement. If Tenant does not exercise its right to terminate in the case of a partial Taking as provided in this Paragraph 13(c), then this Lease Agreement shall continue in force and effect as to those portions of the Subject Air Space not subject to the Taking and shall terminate, effective as of the date of the Taking, as to those portions of the Subject Air Space subject to the Taking, and the rent, if any, payable hereunder shall be reduced effective as of the date of Taking by the amount of rent allocable to the space taken.

(d) If a Total Taking of the Subject Property occurs pursuant to the terms of the Ground Lease, this Lease Agreement shall terminate effective as of the date of such Total Taking. If less than a Total Taking of the Subject Property occurs, but Tenant reasonably determines that, following such Taking, all or a portion of the Subject Air Space can no longer be reasonably used for the uses contemplated by this Lease Agreement, then Tenant shall have the right to terminate this Lease Agreement as to all or such portion of the Subject Air Space as Tenant reasonable determines is no longer reasonably usable for the purposes contemplated by

this Lease Agreement. If this Lease Agreement is only partially terminated then the rent, if any, payable hereunder shall be reduced effective as of the date of such Taking by the amount of rent allocable to the terminated space.

(e) In no event shall the termination of the Lease Agreement as provided herein diminish or affect the amount of the Award.

14. **Insurance.** Except as otherwise provided in the Pedestrian Connector Agreement or the Hotel Loading Dock Access Agreement, the policies and amounts of insurance required to be maintained by Tenant pursuant to the Ground Lease, so long as the Ground Lease remains in effect, and thereafter pursuant to the Covenants and Conditions, shall encompass and include the Subject Air Space and Air Space Improvements and all certificates of insurance required to be delivered to "Landlord" pursuant to the Ground Lease or the "Grantor" pursuant to the Covenants and Conditions, as applicable, shall include coverage for the Subject Air Space and the Air Space Improvements.

15. **Casualty.** If all or any portion of the Air Space Improvements are damaged or destroyed by fire or other casualty, then, so long as the Ground Lease is in effect, the provisions of Sections 14.11, 14.12 and 14.13 of the Ground Lease shall govern the Tenant's (or its assign's) obligations in respect of restoration of such improvements. In the event that Tenant (or its assign) acquires the Landlord's interest under the Ground Lease, whether pursuant to Tenant's right of first refusal set forth in Section 18.1 of the Ground Lease, its Purchase Option or otherwise, then the provisions of Article 4 of the Covenants and Conditions shall be applicable and Tenant shall restore the Air Space Improvements to the extent required to restore the Hotel Improvements under the Covenants and Conditions.

16. **Notices.** Any notice, request or other communication (“Notice”) given or made hereunder shall be in writing and either (a) sent by any of the parties or their respective attorneys, by registered or certified mail, return receipt requested, postage prepaid, or (b) delivered in person or by overnight courier, with receipt acknowledged, to the address specified in this Paragraph 16 for the party to whom the Notice is to be given, or to such other address, addresses, or substitute recipient for such party as such party shall hereafter designate by Notice given to the other party pursuant to this Paragraph 16. Each Notice mailed shall be deemed received on the third business day following the date of mailing the same and each Notice delivered in person or by overnight courier shall be deemed received when delivered. Copies of all Notices given under this Lease Agreement must be given or served simultaneously and in the same manner required for Notices, as follows:

(a) If to the Landlord, simultaneously to:

Office of the Deputy Mayor for Planning and Economic Development
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Attn: Deputy Mayor for Planning and Economic Development
Washington Convention Center Hotel

and

Office of the Chief Financial Officer
One Judiciary Square
441 4th Street, N.W., Suite 400 South
Washington, D.C. 20001
Attn: Senior Advisor for Economic Development
Washington Convention Center Hotel

With a copy to:

Office of the Attorney General
One Judiciary Square
441 4th Street, N.W., Suite 1060 North

Washington, D.C. 20001
Attn: Deputy Attorney General, Commercial Division

(b) If to Tenant, to:

HQ Hotel, LLC
c/o Quadrangle Development Corporation
1001 G Street, N.W.
Suite 700-W
Washington, D.C. 20001
Attn: General Counsel
Tel: (202) 393-1999
Facsimile: (202) 638-5303

17. Tenant's Default. Any of the following occurrences, conditions or acts, after expiration of any applicable notice and cure period, shall constitute a "Lease Event of Default" under this Lease Agreement:

(a) if Tenant shall default in making payment when due of any rental amount payable hereunder (as provided in Paragraph 22 hereof), and such default shall continue for ten (10) days beyond the date such amount is due (a "Payment Default"); or

(b) if Tenant shall default in any material respect in the observance or performance of any term, covenant or condition of this Lease Agreement (other than the payment of rent as set forth above) on Tenant's part to be observed or performed (including those provisions of the Ground Lease and Covenants and Conditions incorporated herein) and Tenant shall fail to remedy such default within thirty (30) days after receipt of written notice of such default; provided, however, that if Tenant has begun and is diligently pursuing a cure of such default within such thirty (30) day period, it shall have up to eighteen (18) months after receipt of notice of such default to diligently and continuously effect such cure, provided that it delivers written reports describing its progress toward a cure every thirty (30) days after the 180th day after the date of such notice; or

(c) if Tenant shall commit an "Event of Default" under the Covenants and Conditions that arises from Tenant's breach of the covenants contained in Article 2 (Uses; Prohibited Uses) of the Covenants and Conditions, if and when same shall become effective ("Covenant Default").

18. Remedies for Tenant's Default.

(a) No right or remedy herein conferred upon or reserved to the Landlord is intended to be exclusive of any other right or remedy, and every right and remedy shall be cumulative and in addition to any other legal or equitable right or remedy given hereunder or provided Landlord under Applicable Law, now or hereafter existing. No waiver by the Landlord of any provision of this Lease Agreement shall have been made or shall be deemed to have been made unless expressly made in writing. The Landlord shall be entitled, to the extent permitted by law, to injunctive relief in case of any Lease Event of Default or any other violation, or attempted or threatened violation, of any provision of this Lease Agreement, or to a decree compelling observance or performance of any provision of this Lease Agreement, or to any other legal or equitable remedy. Notwithstanding anything contained in this Lease Agreement to the contrary, Tenant shall not be liable to Landlord for, and Landlord agrees not to seek a judgment or recovery against Tenant of, any incidental, special, consequential, exemplary or punitive damages, all of which Landlord hereby expressly waives.

(b) Subject to the rights of any Recognized Hotel Mortgagee as set forth in Article XVI of the Ground Lease (so long as the Ground Lease remains applicable pursuant to Paragraph 11(a) hereof), and thereafter subject to the rights of any Hotel Mortgagee (including a Tenant Mortgagee) pursuant to the provisions of Paragraph 11(b) hereof, Landlord shall have the

right, at its election, to terminate this Lease Agreement then or thereafter upon the occurrence of a Covenant Default or a Payment Default while any such Default shall continue and notwithstanding the fact that Landlord may have some other remedy hereunder or at law or in equity, by giving written notice to Tenant (and any Recognized Hotel Mortgagee or Hotel Mortgagee (inclusive of any Tenant Mortgagee), as applicable) of its intention to terminate this Lease Agreement on a date specified in such notice, which date shall be no earlier than thirty (30) days after the giving of such notice; and upon the date so specified, provided that Tenant has not cured the specified Covenant Default or Payment Default, this Lease Agreement shall expire and terminate with the same force and effect as if the date specified in such notice were the date hereinbefore fixed for the expiration of this Lease Agreement, and all rights of Tenant hereunder shall expire and terminate, and, in addition to any rental charges accrued prior to termination, Tenant shall be liable for the costs to remove structures constructed in and restore the Subject Air Space in accordance with the provisions of Paragraph 8 hereof.

(c) In the event of any termination of this Lease Agreement following a Lease Event of Default giving rise thereto, Tenant shall forthwith quit and surrender the Subject Air Space to Landlord, and Landlord may, without further notice, enter upon, re-enter, possess and repossess the same by summary proceedings, ejectment or otherwise, so that it can again have, repossess and enjoy the same as if this Lease Agreement had not been made, and in any such event neither Tenant nor any person claiming through or under Tenant by virtue of any law or an order of any court shall be entitled to possession or to remain in possession of the Subject Air Space, but shall forthwith quit and surrender the Subject Air Space.

19. **Amendments.** This Lease Agreement may be amended only by written instrument signed by Landlord and Tenant and recorded in the land records of the District of Columbia.

20. Successors and Assigns. This Lease Agreement, and all of the rights, obligations, agreements and covenants herein, shall be binding upon, and inure to the benefit of, Landlord and Tenant and each of their respective permitted successors and assigns.

21. Execution in Counterparts. This Lease Agreement may be executed in counterparts, each of which shall be deemed an original and all counterparts together shall constitute one and the same Lease Agreement.

22. Tenant's Exercise of Right of First Refusal or Purchase Option in Ground Lease; Obligation to Pay Rent. Tenant's exercise of its right of first refusal or the Purchase Option, pursuant to Article XVIII of the Ground Lease, and its purchase of the Subject Property pursuant thereto, shall not affect, alter, or terminate any provision or condition of this Lease Agreement or the parties' respective rights and obligations hereunder, except as otherwise expressly provided herein. If Tenant (or its assign or designee) does acquire the Subject Property, whether pursuant to Tenant's right of first refusal set forth in Section 18.1 of the Ground Lease, its Purchase Option or otherwise, then, effective as of the first day of the first month following the date that is the later to occur of (i) the payment in full of the TIF Bonds, and (ii) a Change in Circumstances, Tenant shall be obligated to pay to Landlord rent in the amount then assessed for the rental of subsurface space in public space, as determined in accordance with D.C. Official Code §§ 10-1103.02 through 10-1103.04 (2007 Supp.), or as otherwise provided in accordance with the District of Columbia Public Space Rental Act, approved October 17, 1968 (82 Stat. 1156; D.C. Official Code § 10-1101.01 et seq.), as amended and then in effect.

23. Recovery of Costs. Landlord shall be entitled to recover its costs, including reasonable attorneys' fees, in connection with any litigation or threatened litigation brought to enforce its rights under this Lease Agreement. For purposes of this Lease Agreement, in the

event the District or WCCA is represented by the Office of the Attorney General for the District of Columbia, reasonable attorneys' fees shall be calculated based on the then applicable hourly rates established in the most current Laffey matrix prepared by the Civil Division of the United States Attorney's Office for the District of Columbia and the number of hours employees of the Office of the Attorney General for the District of Columbia prepared for or participated in any such litigation.

24. **Estoppel Certificates.** Landlord agrees at any time and from time to time, within thirty (30) days following receipt of a written request from Tenant, to execute, acknowledge and deliver to Tenant, any Hotel Mortgagee or assignee, or any prospective Hotel Mortgagee or prospective assignee, a statement in writing certifying that (i) the Lease Agreement is unmodified and in full force and effect, or, if there has been modifications that this Lease Agreement is in full force and effect as modified, (ii) whether or not there is any existing default by Tenant and whether any notice of default has been given by Landlord; and (iii) the name and address of the current Tenant under this Lease Agreement. If any such certification by Landlord shall allege that a default exists by Tenant, the certification shall state the nature and extent of such default.

25. **Recordation.** Following the Effective Date, the District shall promptly record this Lease Agreement, or a Memorandum of this Lease Agreement, in the land records of the District (and cause such recorded Lease Agreement or Memorandum thereof to be indexed against the Subject Property).

26. **Recitals.** The Recitals of this Lease Agreement are hereby incorporated herein by this reference and made a substantive part of the agreements between Landlord and Tenant.

[Signature Pages Follow]

IN WITNESS WHEREOF, HQ Hotel LLC, a Delaware limited liability company intending hereby to bind itself, has caused its name to be signed by and has appointed and does hereby appoint said its attorney-in-fact to execute, acknowledge and deliver these presents in its behalf.

HQ HOTEL LLC,
a Delaware Limited Liability Company

By: _____
Name: _____
Title: _____

DISTRICT OF COLUMBIA, ss:

I, _____, Notary Public in and for the jurisdiction aforesaid do hereby certify that personally appeared before in said District and, being personally well-known to me, acknowledged that they had executed the foregoing LEASE AGREEMENT FOR RENTAL OF AIR SPACE as their act and deed.

GIVEN under my hand and seal this ____ day of _____ 20__.

Notary Public, D.C.

My commission expires:

IN WITNESS WHEREOF, the Mayor of the DISTRICT Of COLUMBIA, having first considered and approved the foregoing LEASE AGREEMENT FOR RENTAL OF AIR SPACE, has directed the execution thereof in the name of said DISTRICT OF COLUMBIA by its Deputy Mayor for Planning and Economic Development, who has hereunto set his hand and affixed the seal of the DISTRICT OF COLUMBIA hereunto.

DISTRICT OF COLUMBIA
(a municipal corporation)

By _____
Name: _____
Title: Deputy Mayor for Planning and
Economic Development, pursuant
to delegation set forth in Mayor's
Order No. 2008-__.

APPROVED AS TO LEGAL SUFFICIENCY:

D.C. Office of the Attorney General

Assistant Attorney General

DISTRICT OF COLUMBIA SS.:

I, _____, Notary Public in and for the District of Columbia, do hereby certify that _____, who is personally well known to me as the person named as Deputy Mayor for Planning and Economic Development of the District of Columbia in the foregoing LEASE AGREEMENT FOR RENTAL OF AIR SPACE bearing date on the ___ day of _____, 20 __, and hereunto annexed, personally appeared before me in said District, and in his official capacity, and by virtue of the authority in him vested, acknowledged the same to be the act and deed of the District of Columbia.

GIVEN under my hand and seal this ___ day of _____ 20__.

Notary Public, D.C.

My commission expires:

FINAL EXECUTION DOCUMENT
09-25-2008

EXHIBIT A

Legal Description of Subject Air Space

EXHIBIT B

Tenant Mortgage Provisions (Paragraph 11 (b))

1.1 **Notices of Lease Default.** So long as any Tenant Mortgage shall remain a lien on Tenant's interest in all or any portion of the Subject Air Space or Air Space Improvements, Landlord agrees, simultaneously with the giving of any notice to Tenant pursuant to Paragraph 17 or Paragraph 18 of the Lease Agreement, to give a duplicate copy thereof, in the manner required for notices pursuant to Paragraph 16 of the Lease Agreement, to each Tenant Mortgagee.

1.2 **Tenant Mortgagee Right to Cure.** Except as otherwise provided in Section 1.4 of this Exhibit B, any Tenant Mortgagee will have the same period after it receives notice from Landlord pursuant to Section 1.1 of this Exhibit B for remedying the default or causing the same to be remedied as is given Tenant under the Lease Agreement for remedying the default (or if applicable, for remedying a default under the Hotel Development Agreement), plus an additional thirty (30) days, provided, however, if there are multiple Tenant Mortgages, then the aforementioned thirty (30) day period will be extended to sixty (60) days. Landlord agrees to accept such performance on the part of any Tenant Mortgagee as though the same had been done or performed by Tenant.

1.3 **Effect of Tenant Mortgages.**

(a) The execution and delivery of a Tenant Mortgage shall not give or be deemed to give a Tenant Mortgagee any greater rights against Landlord than those granted to Tenant under the Lease Agreement (except for those specific rights of a Tenant Mortgagee expressly set forth herein). The lien of all Tenant Mortgages shall be subject and subordinate to the Lease Agreement. As between Landlord and Tenant, the terms and conditions of the Lease Agreement shall govern in the event of a conflict between the terms hereof and the terms and conditions of any Tenant Mortgage or any instrument relating to the loan secured thereby (or any other transaction), except as may otherwise be expressly agreed to in writing by Landlord, Tenant and the Tenant Mortgagee.

(b) There may exist more than one Tenant Mortgage at any given time. In the event that there is more than one Tenant Mortgage at any given time, all rights and remedies accorded to a Tenant Mortgagee hereunder and all references to a Tenant Mortgagee herein, shall be deemed to be accorded, and to be references, to each of such Tenant Mortgagees; provided, however, that as between multiple Tenant Mortgagees, the rights and remedies of the Senior Tenant Mortgagee (as hereinbelow defined) shall be senior to the rights and remedies of any and all other such Tenant Mortgagees and, in the event of any conflict or inconsistency in the exercise, enforcement or construction of rights and remedies given multiple Tenant Mortgagees hereunder, the exercise, enforcement and construction of such rights and remedies by or for the Senior Tenant Mortgagee shall govern, control and take precedence over any exercise, enforcement and construction of such other Tenant Mortgagees. Notwithstanding anything to the contrary set forth herein, the Landlord shall be required only to provide a single cure period that shall be applicable to all Tenant Mortgagees. The term "Senior Tenant Mortgagee" shall mean the Tenant Mortgagee that holds the Tenant Mortgage that, at the time in question, has and enjoys the first mortgage lien priority out of all then outstanding Tenant Mortgages in respect of the Subject Air Space.

(c) Any Tenant Mortgagee may consist of a syndicate of lenders provided, however, that (i) only one such lender or other party designated by the syndicate of lenders ("Administrative Agent") may exercise the rights of the Tenant Mortgagee hereunder, (ii) such Administrative Agent shall be identified by a notice delivered to Landlord, (iii) Landlord shall deal solely with such Administrative Agent, on behalf of such syndicate, (iv) the actions taken, and the documents executed, by such Administrative Agent shall be binding upon all Persons in such syndicate and (v) Landlord shall be permitted to disregard any notice, demand, direction or other communication received from any lender in such syndicate that is not such designated Administrative Agent.

1.4 Tenant Mortgagee's Opportunity to Foreclose. Upon the occurrence of any Lease Event of Default other than a failure to pay rent when due, each Tenant Mortgagee shall have such additional period of time to cure such Lease Event of Default as, with due diligence and in good faith, will enable such Tenant Mortgagee to institute and complete foreclosure proceedings or otherwise acquire possession of the Subject Air Space and thereafter to cure such Lease Event of Default, and during such period of time the Lease Agreement shall remain in full

force and effect and shall not be terminated, provided that such Tenant Mortgagee shall, within the initial cure period provided in Section 1.2 of this Exhibit B:

(a) notify Landlord in writing of its election to proceed with due diligence to foreclose or otherwise to proceed promptly to acquire ownership and possession of the Subject Air Space and Air Space Improvements;

(b) cure any Lease Event of Default involving the payment of rent by paying the sums then due and owing; and

(c) deliver to Landlord an instrument in writing duly executed and acknowledged wherein such Tenant Mortgagee agrees that:

(i) during the period that such Tenant Mortgagee shall be in possession of the Subject Air Space and during the pendency of any such foreclosure or other proceedings and until the interest of the then Tenant under the Lease Agreement shall terminate or be transferred, as the case may be, it will pay or cause to be paid to Landlord all sums from time to time becoming due under the Lease Agreement for rent;

(ii) if delivery or possession of the Subject Air Space shall be made to such Tenant Mortgagee or to its nominee, whether voluntarily or pursuant to any foreclosure or other proceedings or otherwise, Tenant Mortgagee shall, promptly following such delivery of possession, perform or cause such nominee to perform, as the case may be, all the covenants and agreements contained in the Lease Agreement on Tenant's part to be performed to the extent that the Tenant shall have failed to perform the same to the date of delivery of possession, as aforesaid, excluding defaults or a Lease Event of Default, or unfulfilled obligation not "reasonably susceptible" of being cured or performed by a Tenant Mortgagee or such nominee, including but not limited to such covenants and agreements which relate to or result from (x) the failure of Tenant to comply with the time requirements of any term or provision of the Lease Agreement, (y) the failure of Tenant to give any required notices or certificates to Landlord, or (z) the Tenant's identity or condition, e.g., the Tenant is in bankruptcy, or of a similar character; and

(iii) upon such Tenant Mortgagee, or its nominee, succeeding to the interest of Tenant under the Lease Agreement and becoming the owner of the Air Space Improvements, any uncured Lease Event of Default which relates to the prior Tenant's identity or condition, e.g., the then Tenant is in bankruptcy or such Lease Event of Default is of a similar

character and cannot be cured by such Tenant Mortgagee or its nominee, shall be deemed cured so long as there is no then uncured default in the payment of rent or any other uncured Lease Event of Default. If the Tenant Mortgagee or its nominee thereafter assigns or sells its interest in the Lease Agreement in accordance with the terms of the Lease Agreement, it shall be fully released and relieved of all liability under the Lease Agreement with respect to matters occurring after the date of such assignment or sale.

1.5 Tenant Mortgagee's Right to New Lease.

(a) In the event of the termination of the Lease Agreement prior to its stated expiration date (except a termination pursuant to Paragraph 13(b) of the Lease Agreement, but only if the Tenant Mortgagee has agreed in writing to such termination), Landlord agrees that it will enter into a new lease of the Subject Air Space with the Senior Tenant Mortgagee, or a designee of the Senior Tenant Mortgagee who is reasonably acceptable to Landlord, for the remainder of the Term effective as of the date of such termination, on the same terms, conditions, covenants, agreements, provisions, and limitations contained in the Lease Agreement, provided (i) the Senior Tenant Mortgagee makes written request upon Landlord for such new lease within thirty (30) days from the date Landlord notifies the Senior Tenant Mortgagee of such termination and such written request is accompanied by a commitment to pay to Landlord upon execution of such new lease all amounts then due to Landlord under the Lease Agreement but for such termination and (ii) the Senior Tenant Mortgagee pays or causes to be paid to Landlord at the time of the execution and delivery of such new lease any and all sums which would at the time of the execution and delivery thereof be due under the Lease Agreement but for such termination and pays or causes to be paid any and all reasonable third-party expenses in connection with any such termination and in connection with the execution and delivery of such new lease.

(b) Any new lease made pursuant to this Section 1.5 shall have the same priority as the Lease Agreement and shall be prior to any mortgage and any other lien, charge or other encumbrance on Landlord's interest in the Subject Air Space and Air Space Improvements, for a term of years equal to the balance of the Term.

(c) Any mortgage or any other lien, charge or encumbrance encumbering Landlord's interest in the Subject Air Space and Air Space Improvements, and any action by any holder, mortgagee, trustee or beneficiary of such mortgage, or other such lien, charge or

encumbrance, by way of receivership, foreclosure, exercise of power of sale, deed in lieu thereof or other enforcement action shall be subject to the Lease Agreement and to the new lease to be given pursuant to this Section 1.5 and any such holder, mortgagee, trustee or beneficiary must recognize the Lease Agreement and any new lease given pursuant to this Section 1.5 and all rights of Tenant and Tenant Mortgagee hereunder, including, without limitation, their rights with respect to insurance proceeds and condemnation awards.

(d) If Tenant exercises any election to reject the Lease Agreement pursuant to the United States Bankruptcy Code, the Senior Tenant Mortgagee shall have the option to enter into a new lease pursuant to the terms and conditions of this Section 1.5, and there shall be deducted from the amount payable to Landlord by the Senior Tenant Mortgagee any amount of rent paid to Landlord during the pendency of the Tenant's bankruptcy proceeding.

(e) The provisions of this Section 1.5 shall be self-operative and require no further action by the holder, mortgagee, trustee or beneficiary of any mortgage or other lien, charge or encumbrance encumbering Landlord's interest in the Air Space Lease and Air Space Improvements.

1.6 No Modification Without Tenant Mortgagee's Consent. The Lease Agreement shall not be modified, supplemented, amended, surrendered, cancelled, or terminated, except for a termination by Landlord as a result of a Lease Event of Default pursuant to Paragraph 18 of the Lease Agreement (subject nevertheless to the rights of a Tenant Mortgagee hereunder), nor shall Landlord accept or acquiesce in any attempted surrender, termination or cancellation of the Lease Agreement, without the express prior written consent of all Tenant Mortgagees.

1.7 Lease Modification. In connection with Tenant obtaining or renewing a Tenant Mortgage, if the Tenant Mortgagee shall request reasonable modifications of the Lease Agreement as a condition of such Tenant Mortgage (or any amendment, extension or modification thereof), Landlord shall reasonably consider such modifications; provided, however, that Landlord shall have no obligation to grant any modification that, in Landlord's reasonable discretion, materially (i) increases Landlord's obligations under the Lease Agreement, (ii) diminishes Landlord's rights under the Lease Agreement, or (iii) limits or impairs Landlord's remedies under the Lease Agreement.

1.8 Recognition Agreement. The Landlord will, if requested by Tenant, enter into a recognition agreement with any Tenant Mortgagee confirming and acknowledging such Tenant

Mortgagee's rights as such hereunder and such other matters as may be reasonably requested by such Tenant Mortgagee; provided that Landlord shall have no obligation to approve any other matter that, in Landlord's reasonable discretion, materially (i) increases Landlord's obligations under the Lease Agreement, (ii) diminishes Landlord's rights under the Lease Agreement, or (iii) limits or impairs Landlord's remedies under the Lease Agreement.

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