

CONSENT TO SUBLEASE

(CHSP TRS Mission Bay LLC: Wellness Lounge Mission Bay LLC)

THIS CONSENT TO SUBLEASE ("Consent") is provided by THE CITY OF SAN DIEGO, a California municipal corporation ("City"), to CHSP TRS MISSION BAY LLC, a Delaware limited liability company, d.b.a. Hyatt Regency Mission Bay Spa and Marina ("Lessee"), the respective authorized representatives of City and Lessee all signing this Consent and the form of this Consent being approved by the San Diego City Attorney. This Consent is made and entered into in reference to the following facts:

RECITALS

- A. City and Kencal Ownership LLC, a California limited liability company, entered into that certain City of San Diego Lease Agreement, filed as Document RR-300863 on October 4, 2005, in the Office of the San Diego City Clerk ("Agreement"), relating to that City-owned real property located at 441 Quivira Road, San Diego, California 92109, commonly known as "Hyatt Regency Mission Bay Spa and Marina," and more particularly described in the Agreement ("Premises").
- B. The Agreement was assigned to CHSP MISSION BAY LLC, Delaware limited liability company, d.b.a. Hyatt Regency Mission Bay Spa and Marina, and the Premises was subleased to Lessee under the City of San Diego Consent to Assignment dated September 6, 2012 ("Assignment") (the Agreement and Assignment are hereafter jointly referred to as the "Master Agreement").
- C. Lessee now desires to sublease a portion of the Premises, consisting of approximately 2,700 rentable square feet, to Wellness Lounge Mission Bay LLC dba Wellness Lounge, a California limited liability company ("Sublessee"), for the operation of spa services, conducting yoga classes, and the retail sale of customary spa-related products, and for no other purpose. A true and correct copy of the sublease between Lessee and Sublessee (subject to this Consent being effective) is attached to this Consent as Exhibit "A" ("Sublease").
- D. The Master Agreement requires that the Lessee obtain City's consent to sublease the Premises or any portion thereof.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is acknowledged, City and Lessee agree as follows:

1. City Consent to Sublease. Subject to the terms and conditions of this Consent and the Master Agreement, City consents to Lessee subleasing to Sublessee that certain portion of the Premises subject to the Sublease ("Sublease Premises"). All terms and conditions of the Master Agreement shall control and supersede all inconsistent or contrary provisions in the Sublease.

2. Sublessee Assumption of Lessee's Obligations. City's consent to the Sublease is conditioned upon Sublessee's written agreement in the Sublease to assume and perform all obligations of Lessee under the Master Agreement applicable to the Sublease Premises. Sublessee's failure to perform one or more of these assumed obligations shall be a material default and breach under the Master Agreement and may subject the Master Agreement to termination by City.
3. No Effect on Master Agreement. Notwithstanding any provision of this Consent to the contrary, this Consent does not release, discharge, or modify any obligation of Lessee under the Master Agreement.
4. Subsequent Subleasing. This Consent does not constitute City's consent to any subsequent assignment, sublease, or license and does not relieve Lessee or any person claiming under or through Lessee of the obligation to obtain City's consent to any future assignment, sublease, or license pursuant to the Master Agreement.
5. Processing Fees. Lessee agrees to pay City all applicable processing and/or administrative fee(s) charged by City for processing this Consent.
6. Brokerage Commissions or Finder's Fees. Lessee acknowledges and agrees that City will not be liable for any brokerage commission or finder's fee in connection with the consummation of the Sublease. Lessee agrees to protect, defend, indemnify, and hold City harmless from any brokerage commission or finder's fee in connection with the consummation of the Sublease or this Consent, and from any cost or expense (including attorney fees) incurred by City in resisting any claim for any such brokerage commission or finder's fee. The provisions of this Section 6 shall survive the expiration or earlier termination of the Master Agreement, the Sublease, or this Consent.
7. Consideration for Sublease. Lessee represents and warrants to City that a true, correct, and complete copy of the Sublease is attached to this Consent as Exhibit "A." Lessee further represents and warrants to City that there are no additional payments of rent or any other consideration of any type that has been paid or is payable by Sublessee or any other person to Lessee in connection with the Sublease or the Sublease Premises, other than as disclosed in the Sublease.
8. Subordination. The Sublease is subject to and subordinate to the covenants and conditions of the Master Agreement. The Sublease may only be in effect while the Master Agreement is in effect. Nothing in this Consent modifies the expiration date of the Master Agreement or Sublease. Lessee represents and warrants to City that Lessee provided Sublessee a true, correct, and complete copy of the Master Agreement before Sublessee entered into the Sublease.
9. Lessee Estoppels. Lessee certifies the following to City as of the date of this Consent:
 - 9.1 Lessee has not assigned its interest in the Master Agreement or otherwise transferred its interest in the Master Agreement; City does not owe Lessee any money or other performance under the Master Agreement.
 - 9.2 City is not in default under the Master Agreement.

- 9.3 The Agreement is in full force and effect, there have been no amendments, modifications, changes, or additions to the Master Agreement since its execution; and
- 9.4 Lessee is not in default under the Master Agreement and no event has occurred that would constitute a default under the Master Agreement by Lessee, without regard for any requirement to give notice and/or for the passage of time.
10. No Fee Title Encumbrance. Nothing in this Consent or any document referenced in this Consent is intended to create or authorize the creation of any transfer, lien, or encumbrance affecting the fee title to the Premises.

IN WITNESS WHEREOF, this Consent is executed by City acting by and through its Mayor, or his designee.

THE CITY OF SAN DIEGO, a California
municipal corporation

Date: 9-27-21

BY: [Signature]
Penny Maus, Director
Real Estate Assets Department

Approved as to form this 28th day
of September 2021.

MARA W. ELLIOT, City Attorney

BY: [Signature]
Name: Julie Gough Inman
Title: Deputy City Attorney

CHSP TRS MISSION BAY LLC, a
Delaware limited liability company,
d.b.a. Hyatt Regency Mission Bay Spa
and Marina

Date: 9/7/2021

By: [Signature]
Name: CHAD EDIWS
Title: GM

ACKNOWLEDGMENT OF RECEIPT OF CONSENT TO SUBLEASE

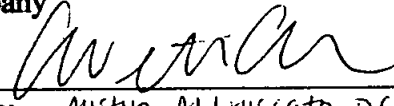
(CHSP TRS Mission Bay LLC: Wellness Lounge Mission Bay LLC)

Wellness Lounge Mission Bay LLC dba Wellness Lounge, a California limited liability company ("Sublessee"), makes the following acknowledgments for the benefit of the City of San Diego, a California municipal corporation ("Master Landlord"), as "Lessor" under that certain the City of San Diego Lease Agreement, filed as Document No. RR-300863, on October 4, 2005, in the Office of the San Diego City Clerk ("Agreement") relating to City-owned real property located at 1441 Quivira Road, San Diego, California 92109, commonly known as "Hyatt Regency Mission Bay Spa and Marina," and more particularly described in the Agreement ("Master Premises"), which was assigned to CHSP Mission Bay LLC, a Delaware limited liability company d.b.a. Hyatt Regency Mission Bay Spa and Marina, and the Master Premises was subleased to CHSP TRS Mission Bay LLC, a Delaware limited liability company d.b.a. Hyatt Regency Mission Bay Spa and Marina ("Lessee"), under the City of San Diego Consent to Assignment dated September 6, 2012 ("Assignment") (the Agreement and Assignment are hereafter jointly referred to as the "Master Agreement"):

1. Sublessee acknowledges entering into that certain Lease Agreement for Lessee to sublease the portion of the Master Premises identified in the Sublease as the "Premises" to Sublessee.
2. Sublessee acknowledges receipt of a copy of that certain Consent to Sublease (CHSP TRS Mission Bay LLC: Wellness Lounge Mission Bay LLC), dated 9/7/2021, between Master Landlord and Lessee relating to the Sublease ("Consent").
3. Sublessee further acknowledges receipt of a copy of the Master Agreement prior to entering into the Sublease.
4. Sublessee further acknowledges that a true and correct copy of the Sublease is attached as Exhibit "A" to the Consent.

Wellness Lounge Mission Bay LLC dba
Wellness Lounge, a California limited liability
company

Date: 9/7/2021

By: 
Name: Austin Abbruscato DC
Title: Co-Owner / Chiropractor

LEASE AGREEMENT

This **Lease Agreement** ("Lease") is dated as of the ____ day of June, 2021, between the Landlord and Tenant named below. For good and valuable consideration, the parties to this Lease hereby agree with each other as follows:

Article 1. DEFINITIONS AND ATTACHMENTS

Section 1.01 Basic Information and Definitions.

Each reference in this Lease to any of the following subjects shall incorporate the data or definition specified below:

(a) Landlord:	Hyatt Corporation, as agent of CHSP TRS MISSION BAY LLC, d/b/a/ Hyatt Regency Mission Bay Spa and Marina
(b) Landlord's Address:	1441 Quivira Road, San Diego, California 92109 With a copy to: Hyatt Corporation, 150 North Riverside Plaza, Chicago, Illinois 60606 Attention: General Counsel
(c) Managing Agent:	Hyatt Corporation, a Delaware corporation Tenant is allowed to rely on any action taken by Management Agent in the administration of this Lease as if such action was taken directly by Landlord.
(d) Hotel:	Hyatt Regency Mission Bay Spa and Marina
(e) Hotel Address:	1441 Quivira Road, San Diego, California 92109
(f) Tenant:	Wellness Lounge Mission Bay LLC
(g) Tenant Trade Name:	Wellness Lounge
(h) Tenant's Address:	1548 Quivira Way, San Diego, California 92109
(i) Guarantor(s):	None
(j) Guarantor(s) Address(es):	N/A
(k) Premises:	"Premises" shall mean the space delineated on <u>Exhibit A</u> attached hereto and by this reference made a part hereof, together with any alterations or improvements heretofore or hereafter made to or installed in the Premises.
(l) Floor Area:	Approximately 2,700 square feet of rentable retail space.
(m) Permitted Use:	The Premises shall be operated in a first-class manner and be used only for the operation of spa services, including massage, facials, body treatments, manicures, pedicures, makeup, waxing, the conduct of yoga classes, and the retail sale of customary spa-related products, and for no other purpose.
(n) Delivery Date:	Thirty (30) days after the date of this Lease.
(o) Term; Commencement Date; Expiration Date:	"Term" shall mean the period of approximately one (1) year, commencing on the earlier of: (i) the date Tenant opens for business in the Premises, or (ii) thirty (30) days after the Delivery Date ("Commencement Date") and expiring

	on the last day of the month in which the first (1 st) anniversary of the Commencement Date occurs, unless said anniversary date is the first day of a month, in which case the Term shall expire on the last day of the immediately preceding month ("Expiration Date"); subject however to the Landlord Early Termination Right (defined in Article 3 below). Provided Tenant is not in default, from and after the Expiration Date, the Term shall be automatically extended on a month-to-month basis, subject to termination at any time by either party with not less than thirty (30) days prior written notice. All of the terms and conditions of this Lease shall be applicable during such month-to-month term.
(p) Extension Term(s):	None
(q) Lease Year:	"Lease Year" shall mean (i) for the first Lease Year the period of approximately twelve (12) months commencing on the Commencement Date and ending on the last day of the month in which the first (1st) anniversary of the Commencement Date occurs, unless said anniversary date is the first day of a month, in which case the first Lease Year shall end on the last day of the immediately preceding month, and (ii) each subsequent Lease Year shall be the twelve (12) month period commencing on the first (1st) day of the month immediately following the end of the prior Lease Year.
(r) Calendar Year:	"Calendar Year" shall mean each twelve (12) month period commencing on January 1 and ending on December 31, prorated for each partial Calendar Year that spans the beginning or end of the Term.
(s) Base Rent:	None
(t) Percentage Rent Percentage:	"Percentage Rent Percentage" shall mean Eighteen Percent (18%).
(u) Percentage Rent:	"Percentage Rent" shall be the amount payable for each calendar month calculated as provided under Section 4.04 below.
(v) Rent Commencement Date:	The Commencement Date.
(w) Minimum Business Hours:	Tenant shall be open and operate for business during hours mutually agreed upon by Landlord and Tenant.

Section 1.02 Attachments.

The following documents attached hereto or delivered separately to Tenant, as well as all drawings and documents prepared pursuant thereto, are hereby made a part hereof:

- Exhibit A - The Premises
- Exhibit B - Landlord's Work
- Exhibit C - Tenant's Work
- Exhibit D - Rules and Regulations

**Article 2.
PREMISES**

Section 2.01 Demise.

- (a) Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the Premises for the

Term and at the Rent hereinafter described. The roof and perimeter walls of the Premises and the area above and outside the same and any pipes, ducts, conduits, wires and structural elements located in but passing through the Premises are not demised hereunder, and the use thereof, together with the right to install, maintain, use, repair and replace pipes, ducts, conduits, wires and structural elements leading through the Premises are hereby reserved unto Landlord.

(b) Except to the extent otherwise specified in this Section 2.01, Tenant acknowledges and agrees that Tenant has examined the Premises to its satisfaction, that Tenant accepts the same in the condition or state in which they now are, without reliance on any representation, covenant or warranty, express or implied, in fact or in law, by Landlord, and without recourse to Landlord, as to the nature, condition or usability thereof, or the use or uses to which the Premises or any part thereof may be put, and that the Premises are being leased in their presently existing "as-is" condition, and Landlord has made no promise to alter, remodel or improve the Premises (or to provide Tenant with any credit or allowance for the same), except only for Landlord's Work, if any, defined in Exhibit B.

Section 2.02 Delay in Possession.

If this Lease is executed before any portion of the Premises becomes vacant or otherwise available and ready for occupancy, or if any present tenant or occupant of any portion of the Premises holds over and Landlord is unsuccessful in acquiring possession of such portion of the Premises prior to the Commencement Date, Landlord shall not be deemed to be in default hereunder nor in any way liable to Tenant and Tenant agrees to accept possession of such portion of the Premises at such time that Landlord is able to tender the same. Accordingly, in such event, the Commencement Date shall be the date that Landlord tenders possession of the Premises to Tenant. If Landlord is performing any Landlord's Work, then the Commencement Date and the Expiration Date are subject to modification as is provided in Exhibit B attached hereto.

**Article 3.
TERM**

The Term of the Lease shall commence on the Commencement Date and expire on the Expiration Date, each as set forth in Section 1.01(o) above, subject to the Landlord Early Termination Right (defined below). Landlord and Tenant hereby agree to execute a confirmation notice, in a form provided by Landlord, to confirm the actual Delivery Date, the Commencement Date, the Rent Commencement Date, the Expiration Date, and the other matters listed thereon. Failure to execute said Declaration shall not affect the commencement or expiration of the Term. All obligations of the parties hereto shall commence as of the date of execution and delivery of this Lease, notwithstanding that the Term shall not commence until the Commencement Date. Notwithstanding any provision to the contrary contained in this Lease, Landlord shall at all times have a continuing right (the "Landlord Early Termination Right"), in Landlord's sole and absolute discretion, to terminate this Lease in its entirety, by providing written notice of such termination to Tenant not later than ninety (90) days prior to the effective date of such termination.

**Article 4.
RENT**

Section 4.01 Rent Payable.

Commencing on the Rent Commencement Date and continuing throughout the Term, Tenant agrees to pay to Landlord as rent for the Premises, the following: (a) a monthly sum equal to the Percentage Rent as provided under Section 4.04 below; plus (b) all additional charges or amounts required to be paid by Tenant to Landlord under this Lease (such other charges or amounts are referred to as "Additional Rent"). Landlord shall have the same rights and remedies with respect to Additional Rent as with respect to Percentage Rent. All sums referred to in the preceding clauses (a) and (b) are referred to in this Lease collectively as "Rent." The acceptance by Landlord of any money paid by Tenant as rental for the Premises as shown by any statement furnished by Tenant shall not be an admission of the accuracy of such statement or the sufficiency of such rental payment. For the purpose of enabling Landlord to check the accuracy of any such statement or statements and the sufficiency of any rental payments made in accordance therewith Tenant shall, for 3 years, keep safe and intact all of its books, records, accounts and other data (including sales checks and other original sales records and cash register tapes and reports) which in any manner bear upon, or are required to establish in detail, its gross receipts and any authorized exceptions and deductions therefrom, and, upon request, shall make the same available to Landlord, its auditors, representatives or

agents, for examination at any time during such 3 year period. Each payment of or on account of Rent to be paid under this section, as well as any other sums to be paid by Tenant to Landlord hereunder, shall be paid to Landlord at its address set forth in Section 1.01(a) or at such other place as Landlord may from time to time designate in a written notice to Tenant.

Section 4.02 Intentionally Omitted

Section 4.03 Rent Tax.

Tenant shall pay to Landlord, in addition to and together with any and all installments of Percentage Rent, Additional Rent and other charges payable pursuant to this Lease, the excise, transaction, sales, privilege or other tax (other than net income and/or estate taxes) now or in the future imposed by any government or governmental agency upon Landlord and attributable or measured by Percentage Rent, Additional Rent or other charges or prorations payable by Tenant pursuant to this Lease.

Section 4.04 Percentage Rent Based Upon Gross Receipts.

Commencing on the Rent Commencement Date and by not later than the fifth (5th) day of each calendar month during the Term, Tenant shall pay to Landlord as "Percentage Rent" a sum equal to the product of: (a) Tenant's "Gross Receipts" (as hereinafter defined) for such calendar month, multiplied by (b) the Percentage Rent Percentage set forth in Section 1.01(u). Percentage Rent shall be due and payable on a monthly basis together with any and all installments of Additional Rent and other charges payable pursuant to this Lease. Percentage Rent shall be prorated for any partial calendar month. Tenant's obligation to pay Percentage Rent shall survive the expiration or earlier termination of this Lease.

Section 4.05 Gross Receipts Defined.

"Gross Receipts" shall mean the dollar value of all sales or rentals of goods or services received or generated from the Premises (including delivery of goods to the Hotel or Hotel gets from outside the Hotel) by Tenant or its licensees, concessionaires, assignees or subtenants, regardless of whether paid by check, credit card, charge account, exchange or otherwise. Gross Receipts includes all orders taken or received at the Premises or sales completed by delivery at or from the Premises, whether such orders are filled from the Premises or elsewhere, including, without limitation, all orders by means of electronic, video, computer, or other technology-based system, whether existing now or developed in the future. Gross Receipts shall not include sales taxes paid by Tenant, rebates or refunds given to customers, and the selling price of merchandise returned for an equal amount of merchandise in exchange. No deduction shall be allowed for disputed, uncollected or uncollectible credit accounts.

Section 4.06 Statements of Gross Receipts.

Tenant shall deliver to Landlord: (a) on or before the fifth (5th) day of each calendar month during the Term (including the fifth (5th) day of the calendar month following the end of the Term) a certified written statement in a form reasonably required by Landlord signed by an officer of Tenant showing the amount of Gross Receipts, itemized with authorized exceptions and deductions, for such month (including in its first report the amount of Gross Receipts of the fractional month, if any, at the commencement of the Term). Tenant shall require all its sublessees, licensees, and concessionaires, if any, to furnish similar statements.

Section 4.07 Tenant's Records.

Tenant shall keep and preserve original cash register receipts, books and records as would ordinarily be examined by an auditor to determine and verify Gross Receipts ("Tenant's Records"). All books, records, and accounts shall be made, kept, and maintained in accordance with good accounting practices. Upon five (5) business days' notice to Tenant, Landlord, its agents or accountants, shall have the right during business hours to make any examination or audit of Tenant's Records which Landlord may reasonably desire at no cost or expense to Landlord. If such audit shall disclose a liability in any calendar month for Percentage Rent in excess of the Percentage Rent previously paid for such calendar month, Tenant shall promptly pay such liability. Should any such liability for Annual Percentage Rent equal or exceed two percent (2%) of the Percentage Rent previously paid for such calendar month, Tenant shall, in addition, promptly pay the cost of audit and interest at the Default Rate on all additional Percentage Rent then payable, accruing from the date such additional Percentage Rent should have been paid.

Section 4.08 Delinquent Rent.

Tenant shall pay all Rent when due, without any setoff, deduction or prior demand therefor (except as otherwise expressly provided herein). If any payment of Rent is not made within five (5) days of when due, Tenant shall pay Landlord an amount equal to five percent (5%) of the amount due ("Late Charge"). If any Rent is not paid within ten (10) days of when due, Landlord shall have the option of collecting from Tenant, in addition to the foregoing Late Charge, interest at the Default Rate (as defined below) on all Rent (but not on the Late Charge) from the date such Rent was originally due until paid. Such Late Charge and interest on overdue Rent shall be in addition to, and not in limitation of, Landlord's other rights and remedies in the event of such payment default. For purposes of this Lease, "Default Rate" means an annual rate of interest equal to four (4) percentage points over the prime rate published from time to time in the Wall Street Journal (or its successor).

Section 4.09 Financial Statements.

Upon Landlord's written request therefore, Tenant shall furnish Landlord with the most recently prepared annual financial statements of Tenant certified to be true and correct by Tenant or Tenant's auditors.

Article 5.

USE

Section 5.01 Permitted Use.

Tenant covenants that the Premises shall be used for the Permitted Use defined in Section 1.01(m) only and for no other purpose.

Section 5.02 Prohibited Uses.

Tenant shall not use or occupy, nor permit or suffer, the Premises or any part thereof to be used or occupied for any unlawful or illegal business, use or purpose, nor for any business, use or purpose which would violate the terms, impair the coverage of any insurance policies, or increase the rate of insurance on the Premises or the Hotel, nor in such manner as to constitute a nuisance of any kind, nor for any purpose in violation of any certificate of occupancy or of any present or future governmental laws, ordinances, requirements, orders, directions, rules or regulations, or restrictive covenants affecting the Hotel. Without limitation of the foregoing, Tenant is at all times prohibited from selling perishable foods, alcohol, newspapers, magazines, periodicals, or paperback or hardcover books.

Section 5.03 Tenant's Trade Name; Hyatt Trade Names

"Tenant Trade Name" means the trade name specified in Section 1.01(g), which Tenant Trade Name, and any changes thereto, shall be subject to Landlord's prior written approval, which approval shall not be unreasonably withheld. Tenant acknowledges that the names "Hyatt," "Park Hyatt," "Andaz," "Grand Hyatt," "Hyatt Regency," "Hyatt Centric," "The Unbound Collection by Hyatt," "Hyatt Place," "Hyatt House," "Hyatt Ziva," "Hyatt Zilara," "Miraval," "Thompson Hotels," "Destination," "Alila," "Caption by Hyatt," "World of Hyatt," "Hyatt Residence Club," marks and logos for each of those brands (all collectively, "Hyatt Marks") are the exclusive property of Hyatt Corporation or its affiliates. Tenant agrees not to use any of the Hyatt Marks, "Joie de Vivre," "Ziva," "Zilara," "Unbound Collection," the name of any property within The Unbound Collection by Hyatt or Destination brands or any name or mark that is comprised of or confusingly similar to any of the foregoing without the prior written consent of Landlord. If Landlord gives its consent to any such use, then upon the termination or expiration of this Agreement, whether by lapse of time or any other reason whatsoever, Tenant shall cease any such use immediately. The provisions of this paragraph shall survive the expiration or earlier termination of the term of this Agreement.

Section 5.04 Common Areas.

Landlord shall make available from time to time such areas and facilities of common benefit ("Common Areas") to the tenants and occupants of the Hotel as Landlord shall deem appropriate. Landlord shall operate, manage, equip, light, insure, secure, repair and maintain the Common Areas for their intended purposes in such manner as Landlord shall in its sole discretion determine, and may from time to time change the size, location and nature of any Common Areas and may make installations therein and move and remove such installations. Tenant and its permitted sublessees, licensees and concessionaires, officers, employees, agents, customers and invitees shall have the nonexclusive right, in common with Landlord and all others to whom Landlord has or may hereafter grant rights, to use the Common Areas as designated from time to time by Landlord to the extent necessary and related to

the lease of the Premises, subject to such reasonable regulations as Landlord may from time to time impose including the designation of specific areas in which cars owned by Tenant, its permitted sublessees, licensees and concessionaires, officers, employees, agents, customers and invitees must be parked, includes without limitation, the Rules and Regulations set forth in Exhibit D, attached hereto and by this reference made a part hereof. Landlord may at any time close temporarily any Common Area to make repairs or changes to prevent the acquisition of public rights in such area. Tenant agrees to abide by such regulations and to use its best efforts to cause its permitted sublessees, licensees and concessionaires, officers, employees, agents, customers and invitees to conform thereto. Tenant shall not at any time interfere with the rights of Landlord and other tenants, its and their permitted sublessees, licensees and concessionaires, officers, employees, agents, customers and invitees, to use any part of the parking areas and other Common Areas. Landlord may at any time close temporarily any Common Area to make repairs or changes to prevent the acquisition of public rights in such area or to discourage noncustomer parking; and may do such other acts in and to the Common Areas as in its judgment may be desirable to improve the convenience thereof.

Section 5.05 Access through Public Areas.

Landlord grants to Tenant, and its employees, invitees, customers and contractors a non-exclusive right of ingress and egress to the Premises through the public areas of the Hotel.

Section 5.06 Compliance with Exclusives.

Tenant further covenants that Tenant shall not violate: (a) any exclusive rights restriction that Landlord has heretofore granted and which are currently in effect in favor of any other tenants of the Hotel; (b) any exclusive rights restriction that is equivalent or substantially similar to any such exclusive that Landlord may grant in the future to any replacement of or successor to an existing tenant, and (c) any future exclusive rights restriction that Landlord may grant to another tenant of the Hotel provided that such future exclusive does not purport to prevent Tenant from operating for the Permitted Use. Tenant shall be subject to all legal and equitable remedies for breach of these covenants.

Section 5.07 No Excessive Use of Hotel Systems.

Tenant's use and occupancy of the Premises shall not in any manner: (a) cause the design loads for the Hotel or the systems providing exhaust, heating, cooling, ventilation, electrical, life safety, water, sewer or other utility or safety services to the Hotel (collectively, the "Systems") to be exceeded or (b) adversely affect the Hotel or the operation of said Systems in the Premises or the Hotel or cause deterioration or damage to the Hotel or to such Systems.

**Article 6.
OPERATIONS**

Section 6.01 Continuous Operation; Hours of Operation.

Tenant covenants and agrees to keep the Premises open and actively operate for business therein on a continuous basis every day during the Term of this Lease and during the Minimum Business Hours each set forth in Section 1.01(z) of this Lease. Landlord reserves the right to change the Minimum Business Hours from time to time. In establishing the Minimum Business Hours, Landlord shall take into account the relative prospects for customer traffic during peak and off-peak seasons. Landlord shall give Tenant at least sixty (60) days' notice of any changes in the Minimum Business Hours. Tenant acknowledges and agrees that its failure to adhere to the Minimum Business Hours shall constitute a material default under this Lease.

Tenant agrees to keep on hand for sale during all hours that it is open for business sufficient inventory and a sufficient number of qualified employees to properly serve all customers so as to maximize the receipts generated by Tenant's operations in the Premises. It is understood, however, that the provisions of this Section shall not apply if the Premises shall be temporarily closed on account of casualty, strikes, lockouts, or acts of god. Tenant covenants and agrees that it shall be liable for double Rent during any period that Tenant is in breach of the covenants and conditions set forth in this Section.

Section 6.02 Operations by Tenant.

With regard to the use and occupancy of the Premises and the Hotel, Tenant shall, at its expense: (i) keep and maintain the Premises in a clean, orderly, sanitary and attractive condition; (ii) comply with all governmental

requirements now or hereafter in force and with the requirements of Landlord's fire insurance rating organization now or hereafter in effect, in each case applicable to use or occupancy of the Premises by Tenant; (iii) operate in a manner at least equal in quality and condition to Tenant's other stores and the other stores in the Hotel; and (iv) not commit, or suffer to be committed, any waste upon the Premises or any public or private nuisance or other act or thing which may disturb the quiet enjoyment of any other tenant or guest or occupant of the Hotel, or use the Premises for any unlawful purpose or for activity which is not appropriate for a premium retail establishment. Prices charged for services rendered and merchandise sold in the Premises shall be competitive with prices charged by other first-class establishments conducting the Permitted Use in the local market area in which the Hotel is located.

Section 6.03 Rules and Regulations.

Tenant covenants and agrees to comply with the rules and regulations attached to this Lease as Exhibit D, which rules and regulations Landlord shall have the sole discretion to amend and/or modify from time to time. Said rules and regulations shall be deemed to be covenants and conditions of this Lease having equal weight as the covenants and conditions set forth in the body of this Lease.

Section 6.04 Signage.

Tenant shall not place or suffer to be placed or maintained on the exterior of the Premises any sign, awning, advertising matter or any other thing of any kind and shall not place or maintain any decoration, lettering, or advertising matter on the glass of any window or door of the Premises or within the interior of the Premises such that the same shall be visible from outside the Premises, unless the same shall be approved in writing by Landlord in advance.

Section 6.05 Hazardous Materials.

Without limiting the generality of their other covenants hereunder, Tenant agrees in regard to the use and occupancy of the Premises, and Landlord agrees in regard to the remainder of the Hotel to comply with all environmental laws, rules, regulations, statutes and ordinances, including, without limitation, those applicable to "Hazardous Substances."

Section 6.06 Charges to Guest Accounts.

Tenant shall permit guests of the Hotel to charge purchases from the Premises to said guest's room account at the Hotel provided that the following steps shall have taken place:

- (a) Tenant shall examine the guest's Hotel passport;
- (b) Tenant shall obtain telephone verification from the front office cashier of the Hotel that the guest is then registered at the Hotel and authorization that the guest may charge purchases from the Premises to the guest's room charge account;
- (c) After proper verification and authorization obtained as provided above, Tenant shall record sales transactions on the Premises' standard sales checks and shall submit copies of said sales checks to the front desk or cashier's office of the Hotel, as designated by Landlord, from time-to-time during the day on a same-day basis, and if required by Landlord when said sale transactions take place, and in any case as and when required by Landlord, Tenant's standard sales checks shall include the name and room number of the Hotel guest and the total amount of all purchases;
- (d) Once each month during the term of the Lease, Tenant shall submit to Landlord a statement describing all purchases made by Landlord's guests that have been submitted to Landlord to be charged to the room charge accounts of guests for the preceding month. Upon verification of the accuracy of such statement, Landlord shall pay to Tenant the verified amount of such statement less a bookkeeping charge of four percent (4%) of the verified amount of such statement; and
- (e) Tenant agrees that any amount that is disputed by a guest of the Hotel or any amount deemed by the controller of the Hotel to be uncollectible from a guest or purported guest shall be deducted by Landlord from the payment otherwise owing to Tenant for the following month or months. Landlord agrees to pursue the collection of all unpaid amounts (except disputed amounts) in accordance with the Hotel's usual and normal collection procedures and any amounts thus collected shall be applied to Landlord and Tenant's outstanding

balances on a prorated basis.

Section 6.07 Permits and Certificates.

If any governmental license or permit including, without limitation, any use permit and/or certificate of occupancy for Tenant's lease of the Premises, shall be required for the proper and lawful conduct of Tenant's business or other activity carried on in the Premises or if a failure to procure such a license or permit might or would in any way affect the operations of the Hotel, then Tenant, at its expense, shall duly procure and thereafter maintain such license or permit and submit the same to inspection by Landlord. Tenant, at its sole cost and expense, shall at all times comply with the requirements of each such license or permit.

Section 6.08 Data Privacy and Protection.

(a) **Requirements for Data Processor:** In the event Tenant or its agents Process ("Process" and its variants for purposes of this Section 6.08 includes, without limitation, access, collect, record, organize, use, store, adapt, alter, retrieve, consult, transfer, disclose or destroy) any information relating to an identified or identifiable natural person on behalf of Hyatt Corporation or its affiliates (collectively, "Personal Information"), Tenant in connection with this Agreement shall and shall cause its agents and personnel that Process such Personal Information to:

(i) comply with all data protection and privacy laws and regulations in any relevant jurisdiction from time to time that are applicable to Tenant's Processing of Personal Information in accordance with this Agreement (together, the "Data Protection Laws"), including, but not limited to, European Union law, the law of any current Member State of the European Union and the law of any state that subsequently becomes a Member State of the European Union ("EU Law");

(ii) Process the Personal Information in accordance with this Agreement;

(iii) agree that, as between the Parties, all such Personal Information shall be deemed to be Hyatt's Confidential Information and, as between Tenant and Hyatt, shall be owned by Hyatt;

(iv) Process that Personal Information only on the prior written instructions of Hyatt, including, but not limited to, this Agreement, and only to the extent reasonably necessary for performance of the Service, unless required to Process that Personal Information for other purposes by EU Law;

(v) provide prior notice to Hyatt where a requirement is placed on Tenant under EU Law to Process Personal Information other than in accordance with Hyatt's written instructions, unless the relevant law prohibits the giving of notice on important grounds of public interest;

(vi) inform Hyatt immediately if, in its opinion, Hyatt's instructions would be in breach of the Data Protection Laws;

(vii) not disclose Personal Information to any person except:

(1) as required or permitted by this Agreement;

(2) with Hyatt's prior written consent; or

(3) pursuant to an order or requirement of a court of law, administrative agency, or other governmental body, provided that Tenant gives reasonable notice to Hyatt to contest such order or requirement;

(viii) promptly notify Hyatt of:

(1) requests for information or complaints about the Processing of Personal Information;

- (2) requests for access to or transfer of the Personal Information; or
- (3) requests for Personal Information to be deleted or corrected or its processing to be restricted.

(ix) fully cooperate with Hyatt regarding any of the items referred in Clause 8 and provide Hyatt with information Hyatt reasonably requires to respond to requests or complaints of that or a similar nature (whether made to Hyatt, Tenant or a third party);

(x) inform Hyatt immediately if the Personal Information may be at risk from seizure (including, without limitation, for purposes of satisfying a debt or responding to an order of a court or regulator), insolvency or bankruptcy measures or any other activities of third parties. Tenant shall in such cases inform all third parties that the Personal Information is the sole property of Hyatt;

(xi) provide reasonable assistance to Hyatt to conduct privacy impact assessments relating to Personal Information (and any related consultations) where required under the Data Protection Laws. If this requires Contractor to take additional steps beyond those directly imposed on Tenant by Data Protection Laws, Hyatt shall pay Tenant for the reasonable costs of taking those additional steps;

(xii) upon termination of this Agreement promptly return Personal Information or, at Hyatt's request, destroy the Personal information and certify in writing that it has done so. Tenant may retain a copy of Personal Information only to the extent it is obliged to do so by data privacy laws of the location where the Personal Information is derived;

(xiii) not transfer Personal Information across a national border (other than to Hyatt or to a Hyatt affiliate), except:

- (1) with Hyatt's prior written consent; and
- (2) subject to any additional requirements of Hyatt (which may, for the avoidance of doubt, require Hyatt to ensure such parties as are reasonably specified by Hyatt enter into the appropriate standard contractual clauses in the form approved by the European Commission).

(b) Use of Sub-Processors:

(i) Hyatt provides a general authorization to Tenant to engage further processors to Process Personal Information which are either affiliates of Tenant or processors engaged by Tenant as at the date of this Agreement ("Sub-Processor"). Tenant shall provide Hyatt with a list of those Sub-Processors. Tenant shall give Hyatt prior notice of any intended addition to or replacement of those Sub-Processors. If Hyatt objects to that change, Tenant shall refrain from making that addition or replacement.

(ii) Tenant shall ensure that it has a written contract with any further Sub-Processors it engages to process Personal Information. That contract must impose obligations on the Sub-Processor equivalent to those set out in this Clause B, and Tenant shall ensure the Sub-Processor complies with those obligations.

(c) Security of Personal Information: Tenant shall also:

(i) implement appropriate technical and organizational measures to protect that Personal Information against accidental or unlawful destruction, loss, alteration, unauthorized disclosure, or access, and against all other unlawful forms of Processing;

(ii) ensure the reliability of personnel who have access to the Personal Information, including, without limitation, ensuring that such personnel have received appropriate training, and requiring such personnel to keep Personal Information confidential;

(iii) notify Hyatt promptly should it be aware that, any breach of Clauses A(1) to A(13), B(1) to B(3) or C(1) to C(2) or any other breach of security or unauthorized disclosure of or access to any Personal Information has occurred (a "Breach") and:

(1) provide Hyatt with the following information:

(I) a description of the nature of the Breach, including the volume and type of Personal Information affected and the categories and approximate number of individuals concerned;

(II) the likely consequences of the Breach; and

(III) a description of the measures taken or proposed to be taken to address the Breach including, where appropriate, measures to mitigate its possible adverse effects;

(2) perform an investigation to learn the cause of the Breach; and

(3) promptly take any proposed steps communicated in accordance with Clause C(3)(a)(iii) above and all further steps necessary to remedy the event and prevent the Breach's reoccurrence; and

(4) fully cooperate with Hyatt to comply with any notification requirements that may result from such Breach. Tenant shall document and maintain adequate retention process and policies for all Breaches in accordance with all applicable legal and regulatory requirements.

(d) Audit Rights.

(i) Tenant shall permit Hyatt or its designated representative (the "Auditor") to access any of the Tenant's or its agents' or Sub-Processors' premises, personnel and relevant records as may be reasonably required in order to:

(1) fulfil any legally enforceable request by any government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled by any applicable law to supervise, regulate, investigate or influence the matters dealt with in this Agreement or any other affairs of Hyatt; and/or

(2) undertake verification that Tenant is complying with this Section.

(ii) Hyatt shall use its reasonable endeavors to ensure that the conduct of each audit does not unreasonably disrupt Tenant or delay the provision of services by Tenant and that, where possible, individual audits are coordinated with each other to minimize any disruption. Subject to Hyatt's obligations of confidentiality, Tenant shall provide Hyatt or Auditor with all reasonable co-operation, access and assistance in relation to each audit. Hyatt shall provide at least five (5) business days' notice of its intention to conduct an audit unless such audit is conducted in respect of a suspected fraud, in which event no notice shall be required. The parties shall bear their own costs and expenses incurred in respect of compliance with their obligations under this Clause D, unless the audit identifies a material default of Tenant in complying with its obligations under this Section 6.08, in which case Tenant shall reimburse Hyatt for all its reasonable costs incurred in the course of the audit.

(iii) If an audit identifies that that Tenant is failing to comply with any of its obligations under this Section 6.08, without prejudice to the other rights and remedies of Hyatt, Tenant shall take the necessary steps to comply with its obligations at no additional cost to Hyatt.

- (iv) The parties may agree in writing that a third-party report or certification (e.g., a SSAE 16-Type II report) provided by Tenant will satisfy the above audit requirements.

Article 7.
PUBLIC AREAS OF HOTEL

Section 7.01 Landlord's Repair and Maintenance of Hotel and Public Areas.

Landlord shall keep the Hotel in good order, condition and repair, including the public areas.

Section 7.02 Alteration of Public Areas and Hotel.

Landlord reserves the right, without the same constituting a breach of Landlord's covenant of quiet enjoyment (express or implied) or constituting an actual or constructive eviction, to make such temporary or permanent changes, alterations, repairs or replacements in or to the Hotel, including the public areas of the Hotel and to any other retail stores, and the fixtures and equipment thereof, as Landlord may deem necessary or desirable in connection with the remodeling, reconstruction, redevelopment, contraction or expansion of the Hotel.

Section 7.03 Security.

Landlord shall not be liable to Tenant for losses to Tenant's property or bodily or personal injury caused by criminal acts or entry by unauthorized persons into the Premises or the Hotel. Tenant hereby releases Landlord of and from any liability for criminal acts or entry by unauthorized persons into the Premises or the Hotel regardless of any actions or precautions that Landlord may have taken to prevent the acts or entry of any such persons.

Article 8.
IMPROVEMENTS

Section 8.01 Initial Tenant's Work.

Tenant shall, promptly after the Delivery Date, and at its sole cost and expense, complete all Tenant's Work required to be performed by Tenant as described in the Work Letter attached hereto as Exhibit C, if any.

Section 8.02 Alterations by Tenant.

Tenant shall not make any alterations, renovations, improvements or other installations in, on, or to the Premises or any part thereof (including, without limitation, any alterations of the storefront or any cutting or drilling into any structural element of the Hotel) unless Tenant shall have received Landlord's written approval, which approval Landlord agrees shall not be unreasonably withheld or delayed. Any work conducted by Tenant shall be completed in compliance with the requirements of Exhibit C and work shall be completed at Tenant's expense. Upon written request by Landlord, all parts of the interior of the Premises shall be painted or otherwise redecorated at Tenant's own expense at least once during the Term.

Section 8.03 Mechanic's Liens.

No work which Landlord permits Tenant to do or which Tenant is obligated to perform pursuant to this Lease, whether in the nature of erection, construction, alteration or repair, shall be deemed to be for the immediate use and benefit of Landlord so that no mechanics' liens, materialmen's liens or other liens shall be allowed against the estate of Landlord by reason of any consent given by Landlord to Tenant to improve the Premises. Tenant shall pay promptly all persons furnishing labor or materials with respect to any work performed by Tenant or its contractor on or about the Premises. Tenant shall procure unconditional waivers and releases of lien claims from all persons furnishing labor or materials on behalf of Tenant in the Premises. In the event any mechanics' liens, materialmen's liens or other liens shall at any time be filed against the Premises and/or the Hotel by reason of work, labor, services or materials performed or furnished, or alleged to be performed or furnished, to Tenant or to any one holding the Premises through or under Tenant, Tenant, within thirty (30) days of filing, shall cause the same to be discharged of record or if Tenant desires to contest any such claim of lien, Tenant shall furnish Landlord adequate security in the amount of the claim, plus estimated costs and interest, or at Landlord's request, Tenant shall procure and record a bond issued by a responsible corporate surety in such amount as is required by statute for the discharge of the lien. Tenant may utilize a title indemnity in connection with any liens, in order to allow Tenant to contest the claim. If a final judgment establishing the validity or existence of a lien for any amount is entered, Tenant shall immediately pay and satisfy the same. If Tenant shall fail to timely cause such lien to be so discharged or bonded, then, in addition to any other right or remedy of Landlord, Landlord may discharge the same by paying the amount

claimed to be due or may cause the same to be bonded, and the amount so paid by Landlord, including reasonable attorney fees incurred by Landlord in either defending against such lien or procuring the discharge or bonding of such lien, shall be due and payable by Tenant to Landlord, as Additional Rent, within thirty (30) days after demand.

Section 8.04 Landlord's Lien

As additional security for the payment of all rent due or to become due hereunder and the faithful of performance of all of the other covenants contained in this Lease to be performed by Tenant, Tenant hereby grants to Landlord an express contract lien on and a security interest in the following described property (collectively, the "Tenant's Property"): (i) all fixtures, goods, wares, furniture, equipment, leasehold improvements and personal property, now owned or hereafter acquired, of whatever kind and nature, tangible and intangible, owned or leased by Tenant, or in which Tenant has an interest, and used in connection with Tenant's business at or occupancy of the Premises; and (ii) all proceeds of any insurance which may accrue to Tenant by reason of damage to or destruction of any such fixtures, goods, wares, furniture, equipment, leasehold improvements and/or personal property; and (iii) Tenant's proprietary interest, if any, in all trade or service names and all trade or service marks and telephone numbers used by Tenant at the Premises; provided, the right to utilize such trade or service name and trade or service mark, if acquired by foreclosure of the security interest granted to Landlord hereunder, shall be limited to the right to utilize the same at the Premises only; provided further, however, that Tenant shall not, after the occurrence of an Event of Default hereunder, commence utilization of any trade or service name and/or trade or service mark then being used at the Premises, or used at the Premises within six (6) months prior to the occurrence of such Event of Default, at any other location within three (3) miles of the Premises so long as such trade or service name and/or trade or service mark shall continue to be utilized at the Premises (provided, such use at the Premises shall not be deemed abandoned or discontinued by reason of the business at the Premises being closed unless such business at the Premises shall remain closed for a continuous period of one hundred eighty (180) days). This restriction shall be deemed supported by independent consideration and shall survive termination of this Lease by reason of Tenant's default hereunder and shall survive foreclosure of Landlord's lien and security interest set forth in this Section 8.4. The parties acknowledge that this Lease shall additionally be deemed a "Security Agreement" within the meaning of the Uniform Commercial Code as adopted in the State of California. Tenant covenants that the Tenant's Property shall not be removed from the Premises during the Term or any extension or renewal hereof without the prior written consent of Landlord. However, Tenant is hereby granted the full and absolute right to remove and replace the Tenant's Property at Tenant's sole discretion and cost provided Tenant shall make reasonable, comparably valued substitutions thereof in order to carry out Tenant's business upon the Premises. In the event of the occurrence of an Event of Default, the Tenant's Property may be sold at public or private sale after service of notice of such sale upon Tenant by the method provided herein for notice, served at least fifteen (15) days prior to the date of such public or private sale; Tenant agreeing that such notice shall constitute commercially reasonable notice of such sale as required by the Uniform Commercial Code. Landlord shall have the right to become the purchaser of part or all of the Tenant's Property upon being the highest bidder at any such sale. The proceeds of such sale, after payment of Landlord's expenses, may be applied to payment of any amount secured by the Tenant's Property as provided herein. The lien and security interest hereby granted are in addition to Landlord's statutory liens, if any, and shall be cumulative thereto. Tenant further agrees that upon request of Landlord, Tenant shall execute and deliver one or more Uniform Commercial Code Financing Statements and such other documents as may be necessary or desirable to perfect Landlord's security interest as granted herein, all in such form as Landlord may reasonably require. Tenant hereby appoints Landlord as Tenant's duly authorized agent and attorney-in-fact for the purpose of executing and filing, in Tenant's name and behalf, any and all Uniform Commercial Code Financing Statements and Continuation Statements as may be necessary or appropriate to perfect Landlord's security interest as granted herein, and such appointment shall be deemed coupled with an interest and shall be irrevocable throughout the duration of this Lease and any period of continued occupancy of the Premises by Tenant, and for a period of sixty (60) days thereafter. Any and all expenses reasonably incurred by Landlord in perfecting its security interest in the Tenant's Property, as granted herein, shall be immediately due and payable by Tenant to Landlord and shall be deemed an additional indebtedness secured by the security interest granted pursuant to this provision.

Section 8.05 Surrender; Removal of Tenant's Trade Fixtures and Improvements.

Upon termination, Tenant shall surrender the Premises in the same condition as the date Tenant opened for business, reasonable wear and tear and loss due to casualty and condemnation excepted, and shall surrender all keys for the Premises to Landlord. All furniture, trade fixtures, business equipment, inventory and other personal property owned by Tenant and located in the Premises upon expiration or termination of the Lease shall remain the property of Tenant (subject to the lien and security interest in favor of Landlord provided for under this Lease) and shall be

removed by Tenant at its expense upon the expiration of the Term. Tenant shall repair any damage to the Premises caused by the removal of said fixtures or other items to the reasonable satisfaction of Landlord, or pay the costs incurred by Landlord in repairing any damage that Tenant fails to repair or the cost incurred by Landlord as a result of Tenant's failure to remove such property. Upon expiration or earlier termination of the Lease, Landlord shall have the option of requiring Tenant to return the Premises to the same condition as on the Delivery Date, reasonable wear and tear and loss due to casualty and condemnation excepted. Any personal property of Tenant not removed within five (5) days following such expiration or termination shall, at Landlord's option, become the property of Landlord.

Article 9.
REPAIRS AND ALTERATIONS

Section 9.01 Repairs to be Made By Landlord.

Landlord shall keep in good order, condition and repair all load-bearing walls, structural columns, structural elements of the floor and structural elements of the ceiling of the Premises, and structural elements of the storefront (excluding, however, all doors, door frames, windows and glass, or other non-structural elements of the storefront, repairs to which are the responsibility of Tenant). The responsibility for the repair and maintenance of the heating, ventilation and air-conditioning equipment serving the Premises shall be allocated as set forth in Section 9.03 below.

Section 9.02 Repairs To Be Made By Tenant.

All repairs to the Premises or any installations, equipment or facilities therein, other than those repairs expressly required to be made by Landlord pursuant to Section 9.01 hereof or Article 12 hereof, or those required as the result of the gross negligence or willful misconduct of Landlord, its agents, employees, or contractors, shall be made by Tenant at its expense. Without limiting the generality of the foregoing, Tenant shall keep the interior of the Premises, together with all plate glass windows, doors, door frames and non-structural elements of the storefront, in good order, condition and repair and in accordance with all applicable laws, ordinances, rules, or regulations of all governmental authorities and officials having jurisdiction therein, and shall make all replacements thereto from time to time required at its expense; and shall surrender the Premises at the expiration of the Term or at such other time as it may vacate the Premises in as good condition as when received, excepting only ordinary wear and tear, damage by casualty and any damage caused by the failure of Landlord to perform its obligations under Section 9.01. Tenant shall bear the cost of any future non-structural repairs or alterations to the Premises required by a change in governmental requirements and hereby waive all rights to make repairs at the expense of Landlord as provided in any applicable statute now or hereafter in force.

Section 9.03 Repair and Maintenance of HVAC System.

Landlord shall, at its expense, keep in good order, condition and repair the heating, ventilation, and air-conditioning units and systems serving the Premises ("HVAC System"), except Tenant shall be responsible for the repair and maintenance of any ductwork, thermostat or controls located within the Premises. The cost of the gas and electrical service necessary to operate the HVAC System shall be paid by the party and in the manner designated in Article 10 below.

Article 10.
UTILITIES AND SERVICES

Section 10.01 Utility and Other Services.

(a) Landlord shall furnish without additional cost to Tenant the following utility and other services: Electric, gas, water, sewer, telephone, data and fire/security monitoring. Tenant shall be responsible for janitorial and scavenger services.

(b) The cost of the gas and electrical service necessary to operate the HVAC System serving the Premises shall be paid by Landlord.

Section 10.02 Discontinuance and Interruptions of Services.

Except as otherwise expressly provided herein Landlord shall not be liable to Tenant for damages or otherwise (a) if any utility or service, including the supply of electricity or chilled water, shall become unavailable from any public utility company, public authority or any other person or entity supplying or distributing such utility,

or (b) for any interruption in any service hereunder (including, without limitation, any heating, ventilation or air-conditioning) caused by the making of any necessary repairs or improvements or by any cause beyond Landlord's reasonable control, and the same shall not constitute a termination of this Lease or an eviction of Tenant. In no event shall Landlord be liable to Tenant for indirect or consequential damages.

Article 11. **INDEMNITY AND INSURANCE**

Section 11.01 Tenant's Indemnity.

To the maximum extent permitted by law, in each case to the extent the same are related to Tenant's use and occupancy of the Premises, including any acts or omissions occurring outside the Premises, and excluding any claims resulting from the gross negligence or willful misconduct of Landlord, its agents or employers shall protect, defend, save, indemnify and hold harmless Hyatt Corporation, CHSP Mission Bay LLC and CHSP TRS Mission Bay LLC and each of their respective beneficiaries, members, partners, directors, officers, agents, invitees and employees of Landlord and Management Agent for, from and against any claims, demands, liabilities, fines, suits, actions, proceedings, orders, decrees, judgments, losses, damages, costs and expenses (including, without limitation, reasonable attorney's fees) for death, bodily injury, personal injury and damage to property of whatever nature: (a) arising from any default, act, omission or negligence of Tenant, or Tenant's contractors, licensees, agents, servants or employees, or the failure of Tenant or such persons to comply with any rule, order, regulation or lawful direction now or hereafter in force of any public authority, (b) arising, directly or indirectly, from any accident, injury or damage, however caused, to any person including employees of Tenant or property on or about the Premises; or (c) arising, directly or indirectly, out of breach or default by Tenant under any of the terms or covenants of this Lease.

Section 11.02 Landlord Not Responsible for Acts of Others.

Except to the extent any such loss or damage results from the gross negligence or willful misconduct of Landlord, its agents, employees or contractors, Landlord shall not be responsible or liable to Tenant, or to those claiming by, through or under Tenant, for any loss or damage which may be occasioned by or through the acts or omissions of persons occupying space adjoining the Premises or any other part of the Hotel of which the Premises are a part, or, to the maximum extent permitted by law, for any loss or damage resulting to Tenant, or those claiming by, through or under Tenant, or its or their property, including, without limitation, from the breaking, bursting, stoppage or leaking of electrical cable and wires, and water, gas, sewer or steam pipes.

Section 11.03 Tenant's Insurance.

Tenant agrees to maintain during the Term, at Tenant's sole expense, with financially responsible insurance carriers authorized to do business in the state where the Hotel is located and approved by Landlord (such approval not to be unreasonably withheld) the following insurance coverages in the respective minimum amounts indicated:

(a) All Risk coverage insurance or Special Risk coverage insurance on all Fixtures and Equipment used in connection with the operation of the Premises, Betterments and Improvements and other Personal Property of Tenant including merchandise and stock for the full insurable value thereof existing from time to time.

(b) Comprehensive general and automotive liability insurance against damages and liability (including attorneys' fees) on account of its leasing or use of the Premises, or any property damage, or any injuries to or the death of any persons however occasioned in or about the Premises (and as respects Tenant's employees working at the Premises and occupants of all portions of the Hotel) in the minimum amount of five million dollars (\$5,000,000.00) for injuries to or the death of any one or more persons in any one accident and/or for damage to property. Such comprehensive general liability and automobile insurance shall be endorsed to include every aspect of Tenant's business operation, including liquor liability, and shall insure the performance by Tenant of the indemnity agreement set forth in Section 11.01 of this Lease and shall include hazards of premises, operations, independent contractors, contractual liability, products liability and personal injury.

(c) Workers' compensation in statutory amounts and employer's liability or similar insurance as required by law.

Section 11.04 Tenant's Contractor's Insurance.

Tenant shall require any contractor of Tenant performing work on the Premises (or Tenant shall maintain such additional equivalent coverage in lieu of said contractors doing so) to take out and keep in force, at no expense to Landlord, such insurance as is required in Exhibit C attached hereto.

Section 11.05 Policy Requirements.

The company or companies writing any insurance which Tenant, Tenant's contractor's or Landlord is required to take out and maintain or cause to be taken out or maintained pursuant to this Article 11 hereof, as well as the form of such insurance, shall at all times be subject to Landlord's reasonable approval and any such company or companies shall be licensed to do business in the state in which the Premises are located and have and maintain Best's Ratings of A: VII or better in each category. Each such policy shall also contain a provision by which the insurer agrees that such policy shall not be canceled except after thirty (30) days' written notice to Landlord. Each such policy, or acceptable certificate or evidence of insurance thereof, shall be deposited with Landlord by Tenant promptly upon commencement of Tenant's obligation or Tenant's contractors to procure the same from time to time upon request. If Tenant shall fail to perform any of its obligations under this Article, then in addition to any other right or remedy of Landlord, after notice to Tenant, Landlord may perform the same and the cost thereof shall be deemed Additional Rent and shall be payable upon Landlord's demand. Tenant shall observe and comply with the requirements of all policies of insurance of Landlord and Tenant at any time in force with respect to the Premises or any part thereof. All policies required to be carried hereunder (except Workers' Compensation insurance) shall name Hyatt Corporation, CHSP Mission Bay LLC and CHSP TRS Mission Bay LLC and any other parties as requested by Landlord as additional insureds; such insurance shall be primary and not contributory with Landlord's insurance. All such policies of insurance, to the extent obtainable, shall provide that the same shall not be cancelled or changed without prior written notice thereof to Landlord at least thirty (30) days prior to the effective date of such cancellation or change. Prior to the commencement of the term hereunder, and from time to time during the term hereof, Tenant shall furnish to Landlord certificates of insurance evidencing continuously current compliance with the provisions of this paragraph. Article 11 shall survive the termination or expiration of the Lease.

Section 11.06 Waiver of Subrogation.

In the event the Premises or its contents are damaged or destroyed by fire or other insured casualty: (a) Landlord, to the extent of the coverage of Landlord's policies of All Risk coverage insurance or Special Risk coverage insurance (and to the extent such casualty should have been covered by insurance required to be maintained under the terms of this Lease), hereby waives its rights, if any, against Tenant with respect to such damage or destruction, even if said damage or destruction shall have been caused, in whole or in part, by the negligence of Tenant, its agents, servants, employees or contractors; and (b) Tenant to the extent of coverage of Tenant's policies of All Risk coverage insurance or Special Risk coverage insurance (and to the extent such casualty should have been covered by insurance required to be maintained under the terms of this Lease), hereby waives its right, if any, against Landlord or Management Agent with respect to such damage or destruction, even if said fire or other casualty shall have been caused, in whole or in part, by the negligence of Landlord, Management Agent, their agents, servants, employees, or contractors.

Section 11.07 Compliance with Laws.

Tenant understands and agrees that Tenant's performance of any and all services performed pursuant to this Lease shall, at Tenant's expense, fully comply with all federal, state and/or local laws, rules, regulations and ordinances which may govern or regulate such services. Tenant further agrees, at Tenant's own expense, to be solely responsible for compliance with all federal, state, and local laws, rules, regulations, and ordinances that apply to Tenant's employment status or Tenant's employment relationship with others.

Section 11.08 Violation and Non-Compliance.

Tenant shall pay all costs, expenses, claims, fines, penalties and damages (including reasonable attorneys' fees) that may in any manner arise out of or be imposed because of the failure of Tenant to comply with the applicable sections herein, and in any event agrees to indemnify Landlord against all such liability. Tenant shall promptly give notice to Landlord of any notice of violation received by Tenant. This section shall survive the earlier termination or expiration of the Lease.

Article 12.
DAMAGE AND DESTRUCTION

Section 12.01 Damage to the Hotel or Premises.

(a) If during the Term there shall be damage to the Hotel or the Premises by fire, the elements, accident or other casualty whether or not covered by insurance (any such causes are referred to herein as a "Casualty"), to the extent that, in the sole judgment of Landlord, restoration of the Hotel or the Premises and its continued operation could be uneconomical, or if such damage occurs during the last twelve (12) calendar months of the Term (taking into account any options to extend that have been exercised before the date of the Casualty), then Landlord may elect to terminate this Lease by giving Tenant notice of such election within thirty (30) days after the occurrence of such event. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice, and Rent (other than any Additional Rent due Landlord by reason of Tenant's failure to perform any of its obligations hereunder) shall be prorated as of the date of such termination.

(b) Notwithstanding the foregoing, in the event that the Premises or the Hotel are partially damaged by a Casualty, Landlord agrees to repair the same provided that such damage does not occur in the last 12 months of the Term; and provided that the damage can reasonably be repaired within one hundred eighty (180) days; and provided further that the damage is an insured casualty for which insurance proceeds are available to Landlord sufficient to pay for said repairs. During the period from the damage until repairs are completed, the Lease shall remain in full force and effect. If the damage cannot be repaired within one hundred eighty (180) days, or the damage occurs during the last twelve (12) months of the Term, or the casualty is uninsured or insurance proceeds are unavailable or insufficient to pay the costs of repair and restoration, then Landlord and Tenant shall each be entitled to terminate the Lease upon thirty (30) days' notice to the other party. If Landlord does not terminate the Lease, then Landlord shall use due diligence to repair the damage as soon as practicable.

Article 13.
CONDEMNATION

Section 13.01 Rights of Termination for Taking.

(a) If a portion of the Hotel or the Premises shall be taken by condemnation or right of eminent domain to the extent that, in the sole judgment of Landlord, restoration of the Hotel or the Premises and its continued operation could be uneconomical, then Landlord may elect to terminate this Lease by giving Tenant notice of such election within thirty (30) days after the occurrence of such event. If such notice is given, the rights and obligations of the parties shall cease as of the date of such notice, and Rent (other than any Additional Rent due Landlord by reason of Tenant's failure to perform any of its obligations hereunder) shall be prorated as of the date of such termination.

(b) Notwithstanding the foregoing, in the event that a portion of the Premises or the Hotel are taken by condemnation or right of eminent domain, Landlord agrees to repair or restore any damage caused by such partial taking provided that such damage does not occur in the last twelve (12) months of the Term; and provided that the damage can reasonably be repaired within one hundred eighty (180) days; and provided further that Landlord is awarded proceeds sufficient to pay for said repairs. During the period from the damage until repairs are completed, the Lease shall remain in full force and effect. If the damage cannot be repaired within 180 days, or the damage occurs during the last twelve (12) months of the Term, or award proceeds are unavailable or insufficient to pay the costs of repair and restoration, then Landlord shall be entitled to terminate the Lease. If Landlord does not terminate the Lease, then Landlord shall use due diligence to repair the damage as soon as practicable.

Section 13.02 Payment of Award.

Landlord shall have and hereby reserves and excepts, and Tenant hereby grants and assigns to Landlord, all rights to recover for damages to the Hotel, the land on which the Hotel is located, the Premises, and the leasehold interest hereby created, and the compensation accrued or hereafter to accrue by reason of such taking or damage, as aforesaid. Nothing contained herein shall be construed to prevent Tenant from prosecuting in any condemnation proceedings a claim for the value of any of Tenant's trade fixtures installed in the Premises by Tenant at Tenant's expense, the unamortized cost of Tenant's improvements and for relocation expenses, provided that such action shall

not affect the amount of compensation otherwise recoverable from the taking authority by Landlord or the owner of the fee simple estate in the Hotel and the land on which the Hotel is located.

Article 14.

ASSIGNMENT AND SUBLETTING; SUBORDINATION

Section 14.01 Landlord's Consent Required to Assign or Sublease.

Tenant acknowledges that due to the close association of Tenant's operations with Landlord's operation of the Hotel, Landlord has sound and legitimate business reasons for requiring a high degree of discretion in rendering its consent and approval of the assignment of the Lease or subletting of the Premises. Accordingly, Tenant shall not assign this Lease, in whole or in part, nor sublet all or any part of the Premises, nor license concessions or lease departments therein, nor grant leasehold mortgages or collateral assignments affecting this Lease, without first obtaining the written consent of Landlord, which consent may be granted or withheld in Landlord's sole discretion, exercised in good faith. Landlord's election to accept any assignee, subtenant or transferee as the tenant hereunder and to collect rent from such assignee, subtenant or transferee shall not release Tenant or any subsequent tenant from any covenant or obligation under this Lease. Landlord's consent to any assignment, subletting or transfer shall not constitute a waiver of Landlord's right to withhold its consent to any future assignment, subletting, or transfer. If Landlord shall consent to an assignment, the assignee of Tenant shall, in writing, assume the obligations of Tenant hereunder, so as to become directly liable to Landlord for all such obligations. Such assumption shall be incorporated in the instrument of assignment, a copy of which shall be delivered to Landlord. For purposes hereof, the direct or indirect sale or assignment of a controlling ownership interest in Tenant shall be deemed an assignment of the Lease for purposes of this Section. Landlord, at any time, and from time to time, may make an assignment of its interest in this Lease, and, in the event of such assignment and the assumption by the assignee of the covenants and agreements to be performed by Landlord herein, Landlord and its successors and assigns (other than the assignee of this Lease) shall be released from any and all liability hereunder.

Section 14.02 Recapture of Premises.

In addition to withholding its consent to any proposed assignment of this Lease or sublease of the Premises, Landlord shall have the right and discretion to terminate the Lease and recapture the entire Premises regardless of whether Landlord has reasonable grounds for withholding its consent to the requested assignment of the Lease or subletting of the Premises. Landlord may exercise such right to terminate by giving written notice to Tenant at any time prior to Landlord's written consent to such assignment or sublease. In the event that Landlord exercises such right to terminate, Landlord shall be entitled to recover possession of and Tenant shall surrender the Premises to Landlord on the later of (i) the proposed date for possession by such assignee or subtenant, or (ii) ninety (90) days after the date of Landlord's notice of termination to Tenant.

Section 14.03 Attorneys' Fees.

In the event that Tenant shall request Landlord to consent to any assignment or subletting, Tenant shall reimburse Landlord, on demand, for all of Landlord's reasonable costs and expenses in connection therewith, but not to exceed Two Thousand Five Hundred Dollars (\$2,500.00), including, without limitation, reasonable attorneys' fees incurred by Landlord.

Section 14.04 Tenant's Remedies.

Tenant agrees that in the event Landlord withholds its consent to any assignment or subletting contrary to the provisions of this Article, Tenant's sole remedy shall be to seek an injunction in equity or compel performance by Landlord to give its consent and Tenant expressly waives any right to damages in the event of such withholding by Landlord of its consent.

Section 14.05 Subordination.

Tenant agrees that this Lease is and shall be automatically subject and subordinate to any ground lease or mortgage now or hereafter placed upon the land of which the Hotel and Premises are a part and to all advances made or hereafter to be made upon the security thereto and to all amendment, modifications and replacements thereof. Upon ten (10) business days prior request of Landlord, Tenant shall evidence in writing the subordination of its rights hereunder to any ground lease or to the lien of any mortgage now or hereafter in force. In the event any proceedings are brought for foreclosure, or in the event of the exercise of the power of sale under any mortgage, or delivery of a deed-in-lieu of foreclosure, or in the event of termination of any ground lease, made by Landlord

covering the Premises, Tenant shall attorn to the purchaser or ground lessor upon any such foreclosure sale, conveyance or termination and recognize such purchaser, grantee or ground lessor, or their successors or assigns, as Landlord under this Lease.

Section 14.06 Estoppel Certificate/Tenant's Statement.

Tenant shall, at any time within ten (10) business days of Landlord's written request, execute and deliver to Landlord and Landlord's proposed mortgagee or purchaser, a certificate: (a) certifying that this Lease is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Lease as so modified is in full force and effect), and the date to which the rental and other charges are paid in advance, if any; (b) acknowledging that there are not, to Tenant's knowledge, any uncured defaults on the part of Landlord or Tenant hereunder, or specifying such defaults if any are claimed or known; (c) setting forth the date of commencement of rents and expiration of the Term hereof; (d) acknowledging that Tenant has accepted and is in possession of the Premises and that all tenant improvement work has been completed in accordance with the terms of this Lease, or specifying any contrary facts; (e) confirming the rental terms under this Lease; (f) confirming that Tenant has no valid counterclaims, offsets or claims against the enforcement of any of the provisions of this Lease, or specifying any contrary claims; (g) acknowledging that the certificate is made to induce the proposed purchaser or a lender to consummate a transaction and that such purchaser and/or lender shall rely upon the truth of the statements made therein; (h) confirming that the person executing the certificate is the duly authorized signatory for or on behalf of Tenant; and (i) any other matters which such mortgagee or purchaser shall reasonably require.

Section 14.07 No Levy.

This Lease shall create the relationship of landlord and tenant between Landlord and Tenant; no estate shall pass out of Landlord; Tenant's interest in the Premises shall not be subject to levy, sale or other involuntary assignment.

**Article 15.
DEFAULT**

Section 15.01 "Event of Default" Defined.

Any one or more of the following events shall constitute an "Event of Default":

(a) Tenant shall fail to pay the Rent or other charges on or before the same become due hereunder, and provided that Tenant has received notice of failure to pay Rent less than three (3) times within a Calendar Year, such failure continues for five (5) days after notice from Landlord thereof;

(b) Tenant shall fail to deliver an executed subordination and attornment agreement in accordance with Section 14.05 of this Lease;

(c) Tenant shall fail to deliver an estoppel certificate in accordance with Section 14.06 of this Lease;

(d) Tenant shall breach its covenant to operate in the Premises for the Permitted Use during the Minimum Business Hours or shall vacate or abandon the Premises;

(e) The levy of a writ of attachment or execution or other judicial seizure of substantially all of Tenant's assets or its interest in this Lease, such attachment, execution or other seizure remaining undismissed, unstayed or discharged for a period of sixty (60) days after the levy thereof;

(f) The filing of any petition by or against Tenant to declare Tenant bankrupt or to delay, reduce or modify Tenant's debts or obligations, which petition is not discharged or stayed within sixty (60) days after the date of filing;

(g) The filing of any petition or other action taken to reorganize or modify Tenant's capital structure, which petition is not discharged or stayed within sixty (60) days after the date of filing;

(h) If Tenant shall be declared insolvent according to law;

- (i) A general assignment by Tenant for the benefit of creditors;
- (j) The appointment of a receiver or trustee for Tenant or all or any of Tenant's property, which appointment is not discharged or stayed within sixty (60) days after the date of filing;
- (k) The filing by Tenant of a voluntary petition pursuant to the Bankruptcy Code or any successor thereto or the filing of an involuntary petition against Tenant pursuant to the Bankruptcy Code or any successor legislation, which petition is not discharged or stayed within sixty (60) days after the date of filing; or
- (l) Tenant shall fail to perform or observe any other term or condition contained in this Lease for thirty (30) days after notice from Landlord thereof unless such default is of such nature that it cannot be cured within such 30-day period, in which event no Event of Default shall occur so long as Tenant shall commence the curing of the default promptly within such 30-day period and shall thereafter promptly and diligently prosecute and complete the curing of the same.

Section 15.02 Remedies.

Upon the occurrence of an Event of Default under this Lease by Tenant, Landlord may, without prejudice to any other rights and remedies available to a landlord at law, in equity or by statute, but in each case in accordance with applicable legal process, exercise one or more of the following remedies, all of which shall be construed and held to be cumulative and non-exclusive:

- (a) Terminate this Lease and re-enter and take possession of the Premises, in which event, Landlord is authorized to make such repairs, redecorating, refurbishments or improvements to the Premises as may be necessary in the reasonable opinion of Landlord acting in good faith for the purposes of reletting the Premises and the costs and expenses incurred in respect of such repairs, redecorating and refurbishments and the expenses of such reletting (including brokerage commissions and storage fees) shall be paid by Tenant to Landlord within five (5) days after receipt of Landlord's statement;
- (b) Without terminating this Lease, re-enter and take possession of the Premises;
- (c) Without such re-entry, recover possession of the Premises in the manner prescribed by any statute relating to summary process, and any demand for rent, re-entry for condition broken, and any and all notices to quit, or other formalities of any nature to which Tenant may be entitled, are hereby specifically waived to the extent permitted by law;
- (d) Without terminating this Lease, Landlord may relet the Premises as Landlord may see fit without thereby avoiding or terminating this Lease, and for the purposes of such reletting, Landlord is authorized to make such repairs, redecorating, refurbishments or improvements to the Premises as may be necessary in the reasonable opinion of Landlord acting in good faith for the purpose of such reletting, and if a sufficient sum is not realized from such reletting (after payment of all costs and expenses of such repairs, redecorating and refurbishments and expenses of such reletting (including brokerage commissions) and the collection of rent accruing therefrom) each month to equal the Percentage Rent and Additional Rent payable hereunder, then Tenant shall pay such deficiency each month within fifteen (15) days after receipt of Landlord's statement;
- (e) Landlord may declare immediately due and payable all the remaining installments of Percentage Rent and Additional Rent, and such amount, less the net proceeds of any reletting, after deducting all of Landlord's reasonable expenses in connection with such reletting, including without limitation, all reasonable repossession costs, brokerage commissions, legal expenses, attorneys' fees, alteration, storage, and repair costs and expenses of preparation for such reletting; or
- (f) In the event of any default by Tenant hereunder, Tenant shall reimburse Landlord for all reasonable expenses and reasonable attorneys' fees incurred by Landlord in enforcing any to Landlord's rights and remedies under this Lease, or in collecting any amount due from Tenant, or in enforcing any obligation of Tenant hereunder, or in curing any default of Tenant, or in obtaining possession of the Premises, or in negotiation of any replacement lease for the reletting of the Premises.

Section 15.03 Express Termination Required.

Landlord shall not by re-entry or any other act, be deemed to have terminated this Lease, or the liability of Tenant for the total Percentage Rent and Additional Rent reserved hereunder or for any installment thereof then due or thereafter accruing, or for damages, unless Landlord notifies Tenant in writing that Landlord has so elected to terminate this Lease. Tenant further covenants that the service by Landlord of any notice pursuant to the unlawful detainer statutes of the State where the Premises is situated and the surrender of possession pursuant to such notice shall not (unless Landlord elects to the contrary at the time of or at any time subsequent to the serving of such notices and such election is evidenced by a written notice to Tenant) be deemed to be a termination of this Lease. After the occurrence of an Event of Default, the acceptance of Percentage Rent or Additional Rent, or the failure to re-enter by Landlord shall not be deemed to be a waiver of Landlord's right to thereafter terminate this Lease and exercise any other rights and remedies available to it, and Landlord may re-enter and take possession of the Premises as if no Percentage Rent or Additional Rent had been accepted after the occurrence of an Event of Default.

Section 15.04 Additional Remedies.

All of the remedies given to Landlord in this Lease in the event Tenant commits an Event of Default are in addition to all other rights or remedies available to a landlord at law, in equity or by statute, including, without limitation, the right to seize and sell all goods, equipment and personal property of Tenant located in the Premises and apply the proceeds thereof to all due and unpaid Percentage Rent, Additional Rent and other amounts owing under the Lease. All rights, options and remedies available to Landlord shall be construed and held to be cumulative, and no one of them shall be exclusive of the other. Upon the occurrence of an Event of Default, all rights, privileges and contingencies which may be exercised by Tenant under the Lease, including, without limitation, options to renew, extend and expand, as well as relocation rights, contraction rights and any other rights which may be exercised by Tenant during the Term, shall be void and of no further force and effect.

Section 15.05 Self-Help.

Landlord shall have the right, but shall not be required, to pay such sums or do any act which requires the expenditure of moneys which may be necessary or appropriate by reason of the failure or neglect of Tenant to perform any of the provisions of this Lease following notice, and in the event of the exercise of such right by Landlord, Tenant agrees to pay to Landlord forthwith within thirty (30) days of demand all such reasonable sums, with interest thereon from the date Landlord pays such sums at the Default Rate; and if Tenant shall default in such payment, Landlord shall have the same rights and remedies as Landlord has hereunder for the failure of Tenant to pay the Rent.

Section 15.06 Acceptance of Rent/No Waiver.

Tenant's obligation to pay Rent during the Term of this Lease shall continue and shall not be waived, released or terminated by the service of a five-day or other statutory notice, demand for possession, the filing of a forcible entry and detainer action or judgment for possession or any other act resulting in the termination of Tenant's right to possession. No receipt of moneys by Landlord from Tenant after termination of this Lease or Tenant's right to possession, or after the giving of any notice of termination of this Lease or Tenant's right to possession, shall reinstate, continue or extend the Term of this Lease or affect any notice theretofore given to Tenant, or operate as a waiver of the right of Landlord to enforce the payment of Rent and any other sum or sums of money and other charges herein reserved and agreed to be paid by Tenant then due or thereafter falling due, or operate as a waiver of the right of Landlord to recover possession of the Premises by proper remedy. Further, no payment by Tenant or receipt by Landlord of an amount less than the required payment set forth in this Lease, shall be considered as anything other than a partial payment of the amount due. No endorsement or statement to the contrary on any check shall be deemed an accord and satisfaction and such endorsement or statement shall be given no effect.

Section 15.07 Bankruptcy.

Adequate assurance of performance shall include, without limitation, adequate assurance (a) of the source of Rent reserved hereunder (b) that any Percentage Rent due hereunder shall not decline from the levels anticipated, and (c) that the assumption of this Lease shall not breach any provision hereunder, including any use restriction or covenant to honor other exclusive rights granted to other owners or tenants of the Hotel. All amounts payable by Tenant to or on behalf of Landlord under this Lease, whether or not expressly denominated as "Rent" or "rent" shall constitute "rent" for all purposes of Section 502(b)(7) of the Federal Bankruptcy Code, including without limitation reasonable attorneys' fees incurred by Landlord by reason of Tenant's bankruptcy. The Premises and the other retail spaces located in the Hotel shall be deemed a shopping center and this Lease shall be deemed a shopping center

lease for all purposes under the Federal Bankruptcy Code.

Section 15.08 Landlord's Default.

Landlord shall, in no event be in default in the performance of any of Landlord's obligations hereunder, unless and until Landlord shall have failed to perform such obligations within thirty (30) days after written notice from Tenant to Landlord, or such additional time as is reasonably required to correct any such default (provided Landlord has commenced such cure within such 30-day period and is diligently prosecuting the same to completion), properly specifying the obligations that Landlord has failed to perform hereunder. Notwithstanding the above, Landlord agrees to promptly respond to emergency situations, and failure to promptly respond shall constitute Landlord default to the extent Landlord was obligated otherwise. With regard to any default of Landlord under this Lease, Tenant shall not have the right to terminate this Lease absent a judicial determination that an action for damages, specific performance, injunctive relief or other legal or equitable remedy is inadequate. In no event or circumstance shall Landlord be liable to Tenant for lost business or profits or indirect or consequential damages.

Article 16.
MISCELLANEOUS

Section 16.01 Waiver.

Failure on the part of Landlord or Tenant to complain of any action or nonaction on the part of the other shall never be a waiver by Landlord or Tenant of its rights hereunder. Further, no waiver at any time of any of the provisions hereof by Landlord or Tenant shall be construed as a waiver of any of the other provisions hereof, and a waiver at any time of any of the provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions.

Section 16.02 Landlord's Right of Access.

Upon reasonable prior oral notice (except in the event of an emergency, in which case no prior notice shall be necessary), Landlord shall have the right to enter the Premises at all reasonable hours for the purpose of inspecting the Premises, showing the Premises to prospective lenders, tenants and purchasers, or for making repairs, alterations or additions to the Premises or the Hotel. Landlord shall limit the showing of the Premises to prospective tenants to the final six (6) months prior to expiration of the Term.

Section 16.03 Landlord's Rights to Rearrange Hotel; Landlord's Rights to Relocate Tenant.

Landlord shall have the right, from time to time, to make changes, alterations or improvements (including rearrangements of space) in the Hotel or any part thereof, including the Hotel lobby and the Hotel shop area so long as the Premises or the entrances thereto and exits therefrom are not materially and adversely affected thereby. Landlord reserves the right to impose reasonable restrictions as to the loading and unloading of merchandise, supplies or equipment by Tenant. In the event that during the Term, the Hotel is closed for a major renovation, Landlord shall have the right to terminate this Lease upon at least 60 days prior notice to Tenant.

During the Term, upon reasonable, advance notice to Tenant and at Landlord's cost, Landlord shall have the right to relocate Tenant to a substantially similar area of the Hotel.

Section 16.04 Covenant of Quiet Enjoyment.

Subject to the terms and provisions of this Lease and on payment of the Rent and compliance with all of the terms and provisions of this Lease, Tenant shall lawfully and peaceably and quietly have, hold, occupy and enjoy the Premises during the Term hereof, without hindrance or ejection by Landlord or by any persons lawfully claiming by, through or under Landlord; the foregoing covenant of quiet enjoyment is in lieu of any other covenant, express or implied.

Section 16.05 Definitions.

"Landlord," as used in this Lease, shall include the original Landlord and its assigns or other successors in interest with respect to the Premises. "Tenant," as used in this Lease, shall include the original Tenant, and, if the original Tenant's interest in this Lease shall be validly assigned, shall also include Tenant's assignees.

Section 16.06 Brokerage.

Tenant warrants and represents that they have not dealt with any other broker(s) in connection with the consummation of this Lease, and, in the event of any claim for a broker's commission or finder's fee or other compensation made by any parties, other than the brokers so disclosed, against the indemnified party predicated upon dealings with the indemnifying party, the indemnifying party agrees to defend the same and indemnify the other against any such claim. Tenant agrees to indemnify, defend and hold Hyatt Corporation, CHSP Mission Bay LLC and CHSP TRS Mission Bay LLC harmless from and against any and all expenses or costs (including, without limitation, attorneys' fees) caused by any broker claiming to have dealt with Tenant.

Section 16.07 Invalidity of Particular Provisions; Survival of Particular Provisions.

If any term or provision of this Lease, or the application thereof, to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Lease, or the application of such term or provisions to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law. The provisions herein that by their nature, survive the termination of this Lease, shall not expire at the end of the Term and instead, shall survive the Expiration Date.

Section 16.08 Provisions Binding, Etc.

Except as herein otherwise expressly provided, the terms hereof shall be binding upon and shall inure to the benefit of the successors and assigns, respectively, of Landlord and Tenant. Each term and each provision of this Lease to be performed by Tenant shall be construed to be both a covenant and a condition.

Section 16.09 Recording.

Tenant agrees not to record this Lease or any memorandum thereof.

Section 16.10 Notices.

Any notice, demand, request, approval, consent or other instrument which may be or is required to be given under this Lease shall be (i) in writing and shall be deemed to have been given three (3) days after having been mailed by United States registered or certified mail, return receipt requested, postage prepaid, or when received or refused, if sent by overnight courier or delivery service, or (ii) by facsimile with proof of transmission kept by the sender to verify transmission and receipt; provided, however, any notice delivered by facsimile transmission after 5:00PM on any business day or delivered on any non-business day shall be deemed delivered on the next business day. Such notice, demand, request, approval, consent or other instrument shall be addressed to Landlord or Tenant at the respective addresses set forth in Section 1.01(b) and (h) of this Lease or such other address or addresses as either party may designate by notice to the other in accordance with this Section.

Section 16.11 Integration.

All negotiations, consideration, representations and understandings between Landlord and Tenant are incorporated herein and may be modified or altered only by written agreement signed by both Landlord and Tenant, and no oral representation, prior negotiation, act or omission of any employee or agent of Landlord or course of prior dealings between the parties, shall alter, change or modify any of the provisions hereof.

Section 16.12 Applicable Law; Jury Trial Waiver.

The laws of the state in which the Premises are located shall govern the validity, performance and enforcement of this Lease. Landlord and Tenant hereby waives trial by jury in any action, proceeding or counterclaim brought by either party against the other or any matter whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant created hereby, Tenant's use or occupancy of the Premises, and/or any claim for injury or damage.

Section 16.13 Representations and Warranties.

Tenant represents and warrants that Tenant is duly organized, validly existing, in good standing in the state of its incorporation or organization, and has all requisite power and authority to own and lease property and conduct business in the state where the Premises are located, and that each individual executing this Lease on behalf of Tenant is duly authorized to execute and deliver this Lease on behalf of Tenant. Furthermore, Tenant has no knowledge of any threatened, pending, or ongoing claims or litigation which may materially and adversely affect its ability to perform its obligations under the lease. By executing this Lease and by the operation of the Premises

under this Lease, Tenant is not violating, has not violated and will not be violating any restrictive covenant or agreement contained in any other lease or contract affecting the Tenant or any affiliate, associate or any other person or entity with whom or with which Tenant is related or connected financially or otherwise. Tenant also represents and warrants that to neither Tenant nor to Tenant's knowledge, any of its affiliates, nor to Tenant's knowledge any of their respective partners, members, shareholders or other equity owners, and none of its respective employees, officers, directors, representatives or agents is, nor will they knowingly become, (a) a person or entity with whom U.S. Persons or entities are restricted from doing business under regulations of the OFAC of the Department of the Treasury (including those name on OFAC's Specially Designated and Blocked Persons List) or under any statute, executive order (including the September 24, 2001, Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), regulation, or other governmental action, as the same has been, and may hereafter be, from time to time updated and amend, and is not and will not engage in any dealings or transactions or be otherwise associated with such persons or entities, (b) a "specially designated global terrorist" or other person listed in Appendix A to Chapter V of 31 C.F.R., as the same has been, and may hereafter be, from time to time updated and amended, or (c) a person either (i) included within the term "designated national" as defined in the Cuban Assets Control Regulations, 31 C.F.R. Part 515 or (ii) designated under Sections 1(a), 1(b), 1(c) or 1(d) of Executive Order No. 13224, 66 Fed. Reg. 49079 (published September 25, 2001) or a person similarly designated under any related enabling legislation or any other similar executive order. Landlord represents and warrants that it has all requisite power and authority to execute this Lease as Landlord.

Notwithstanding any provision to the contrary contained in this Lease, neither Landlord nor Managing Agent nor any of the other Landlord Related Parties (defined below) has made any representations or warranties, direct or indirect, oral or written, express or implied, to Tenant with respect to the condition of the Premises, its fitness for any particular purpose or its compliance with any laws, and Tenant is not aware of and does not rely upon any such representation to any other party. Tenant acknowledges that it either has had or will have before the date of this Lease the opportunity to make such inspections as it desires of the Premises and all factors relevant to its use, including but not limited to, the interior, exterior, and structure of all improvements, and whether the Permitted Use is a permitted use within the municipal zoning district in which the Premises are located. Without limitation, Tenant acknowledges that no representation as to the condition and repair of the Premises or the uses permitted within the municipal zoning district in which the Premises are located have been made by or on behalf of Landlord prior to or at the execution of this Lease. Tenant's taking possession shall be conclusive evidence that the Premises were suitable for Tenant's intended purpose in all respects, and that Tenant has waived all claims relating to the condition of the Premises and the suitability of same (including, without limitation, all matters relating to zoning and the uses permitted within the municipal zoning district in which the Premises are located) for the lawful operation of the Permitted Use therein.

Section 16.14 Limitation of Liability; Waiver of Claims.

Tenant specifically agrees to look solely to Landlord's interest in the Premises and the Hotel, including without limitation, income, rents and proceeds, for recovery of any judgment from Landlord; it being specifically agreed that Landlord shall never otherwise be personally liable, nor shall any of Landlord's assets other than its interest in the Premises be liable, for any such judgment.

Tenant hereby waives all claims against and releases Landlord and its trustees, members, principals, beneficiaries, partners, officers, directors, employees, Landlord's lenders and agents (the "Landlord Related Parties") from all claims for any injury to or death of persons, damage to property or business loss in any manner related to (a) Force Majeure, (b) acts of third parties, (c) the bursting or leaking of any tank, water closet, drain or other pipe, (d) the inadequacy or failure of any security or protective services, personnel or equipment, or (e) any matter not within the reasonable control of Landlord.

The parties hereto acknowledge and agree that Hyatt Corporation is executing this Lease solely as agent for Landlord and that it is expressly agreed by the parties hereto and by all persons claiming by, through or under them that no personal liability is assumed by or shall at any time arise or be asserted or enforced against Hyatt Corporation, its officers, directors, shareholders, or employees on account of this Lease or on account of the covenants herein contained, either expressed or implied, all such liability, if any, being expressly waived and released by Tenant and by any persons claiming by, through or under Tenant.

Section 16.15 Sale of Hotel by Landlord.

The word "Landlord" as used herein means the entity that is the owner at the time in question of Landlord's interest in this Lease. In the event of any sale or transfer of the Hotel and Premises by Landlord, Landlord shall be and is hereby entirely released and relieved of all liability under for any covenants and obligations contained in or derived from this Lease arising or accruing from and after the consummation of such sale or transfer; and the purchaser or transferee, at such sale or transfer or any subsequent sale or transfer of the Hotel and Premises shall be deemed, without any further agreement between the parties or their successors in interest or between the parties and any such purchaser or transferee, to have assumed and agreed to carry out any and all of the covenants and obligations of Landlord under this Lease.

Section 16.16 Holdover By Tenant.

Tenant shall not remain in possession of the Premises after the expiration or earlier termination of the Lease without the express written consent of Landlord. No acceptance of Percentage Rent, Additional Rent or other sum and no act or statement by any employee, servant or agent of Landlord shall constitute the consent of Landlord to Tenant's holding over. Should Tenant holdover without the express written consent of Landlord, such tenancy shall be at the sufferance of Landlord and not a renewal of the Lease, and in such case, Percentage Rent at two (2) times the Percentage Rent Percentage payable during the last year or month, as applicable, of the Lease and one hundred percent (100%) of Additional Rent and other charges due pursuant to this Lease shall be payable and such tenancy at sufferance shall be subject to every other term, covenant and provision of this Lease. In the event Tenant holds over, Tenant shall be liable for all of Landlord's direct and consequential damages, including costs, fees, expenses, damages and attorneys' fees incurred by Landlord as a result of Tenant's holding over, including but not limited to, damages and expenses incurred by Landlord for its inability to deliver possession of the Premises to a new tenant.

Section 16.17 Force Majeure.

Whenever a period of time is prescribed for the taking of an action by Landlord or Tenant (other than the payment of Rent), the period of time for the performance of such action shall be extended by the number of days that the performance is actually delayed due to strikes, acts of God, shortages of labor or materials, war, terrorist acts, civil disturbances and other causes beyond the reasonable control of the performing party ("Force Majeure").

Section 16.18 Time of the Essence.

Time is of the essence under this Lease as to all matters for which time limits or time periods are specified.

Section 16.19 Counterparts.

This Lease may be executed in more than one counterparts, which taken together shall constitute one duly executed and delivered original document.

Section 16.20 Attorney's Fees.

In case suit shall be brought for an unlawful detainer of the Premises, for the recovery of any rent due under the provisions of this Lease, or because of the breach of any other covenant herein contained on the part of Landlord or Tenant to be kept or performed, the party prevailing in such suit shall be entitled to reasonable attorneys' fees to be paid by the unsuccessful party, which fees shall be fixed by the court.

Section 16.21 EEOC.

Hyatt Corporation is an equal opportunity employer and federal contractor or subcontractor. Consequently, the parties agree that, as applicable, they will abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a) and that these laws are incorporated herein by reference. These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. These regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability. The parties to this Lease also agree that, as applicable, they will abide by the requirements of Executive Order 13496 (29 CFR Part 471, Appendix A to Subpart A), relating to the notice of employee rights under federal labor laws.

Section 16.22 Headings.

The Headings used in this Lease are inserted only as a matter of convenience and for reference and in no

way define, limit, or describe the scope of this Lease nor the intent of any provision thereof.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Lease to be executed and delivered as of the date previously set forth.

LANDLORD:

Hyatt Corporation, as agent of CHSP TRS MISSION BAY LLC,
d/b/a/ Hyatt Regency Mission Bay Spa and Marina

By: _____

Name: _____

Title: _____

TENANT:

Wellness Lounge Mission Bay LLC

By: _____

Name: _____

Title: _____

EXHIBIT A

THE PREMISES

[ATTACHED]

EXHIBIT B

LANDLORD'S WORK

Tenant shall accept the Premises in their "as-is" condition, and Landlord is not obligated to complete any further construction or improvements to the Premises.

EXHIBIT C

TENANT'S WORK

A. The term "Tenant's Work" shall mean and include all work required to complete the Premises for occupancy and operation by Tenant for the Permitted Use which is not specifically included in Landlord's work as defined in Exhibit B and which is not currently existing in the Premises or currently serving the Premises. Tenant shall, at its sole cost and expense, promptly prepare, or cause to be prepared by an architect or designer approved by Landlord, and submit to Landlord for its approval, Drawings and Final Drawings and Specifications for Tenant's work, which Drawings and Final Drawings and Specifications shall conform to Landlord's design criteria for the entire Hotel. Tenant shall bear the cost of all such construction of leasehold improvements and the installation of furniture, fixtures and equipment, including the interior decoration. Tenant will also be responsible for the interior and exterior design and exterior and interior construction. The plans and specifications will be prepared by Tenant's architect. The following terms and conditions shall apply to any Tenant's Work, whether at the commencement of the Lease or during the Term of the Lease. Landlord agrees not to withhold unreasonably its approval of Tenant's architect or designer. Landlord, however, reserves the right to withhold its approval of such Drawings and Final Drawings and Specifications submitted by Tenant if, in Landlord's sole opinion, such Drawings and Final Drawings and Specifications do not conform to the design criteria and style of the Hotel as determined by reference to the design, drawings, specifications, construction and decor of the Hotel. Tenant, at its sole cost and expense, shall obtain all permits required for the performance of Tenant's work and shall perform, or cause to be performed, such work in a first-class manner, in accordance with such Final Drawings and Specifications approved by Landlord prior to the commencement of such work; in compliance with Tenant's customary and usual insurance and other requirements therefore; and free from any liens imposed upon the Hotel or any part thereof, and in such manner as to cause no interference with the operations of the Hotel. The Tenant's work shall be completed and the Premises shall be opened for business to the public not later than ninety (90) days from the date when the Premises shall be available to Tenant for the performance of Tenant's work.

B. In connection with any Tenant's Work, and prior to commencement of Tenant's Work, Tenant shall be required to furnish to Landlord for Landlord's approval, all of the following: (1) evidence of all necessary governmental approvals; (2) a list of contractors and subcontractors supplying labor and materials in connection with such work; (3) a construction budget for the work; (4) evidence of customary and appropriate liability insurance, workers compensation, auto liability, and other standard insurance coverages (naming Landlord, Management Agent, its agents and lenders as additional insureds) from the contractor(s); and (5) evidence of Tenant's source of payment for the contemplated work sufficient to assure Landlord that said work will be fully paid for without risk of any liens being filed for non-payment. Landlord shall have the right to require that the work be conducted in such manner and in accordance with such construction rules and regulations as Landlord may reasonably require. After completion of the work, and no later than thirty (30) days following Tenant's opening, Tenant shall furnish to Landlord a copy of the final "as-built" plans for said work.

C. Tenant shall have the right to enter the Premises prior to the commencement of the term for the purpose of fixturing and otherwise preparing the Premises for the conduct of Tenant's business therein. Such entry by Tenant on the Premises shall be subject to all the terms, covenants and conditions of this Lease, except, however, the covenants relating to payment of rent and other charges and must be coordinated with Landlord and Landlord's contractors and agents, and all work done by Tenant on the Premises must be done in such a manner as not to unreasonably interfere with Tenant's use of and work on the Hotel.

D. Compliance with Laws and Insurance. Tenant's construction plans and all Tenant's Work shall comply with applicable statutes, orders, ordinances, regulations and codes, and the requirements of all governmental bodies, the rules and regulations applicable to the Premises and Hotel, and with the requirements of Landlord's insurance company. All required governmental permits and licenses must be secured by Tenant and posted in a prominent place within the Premises. No consent or approval by Landlord of such plans or specifications shall create any responsibility or liability on the part of landlord for their completeness, design sufficiency, safety or compliance with any or all environmental or other laws, ordinances, rules, regulations, guidelines and orders of governmental and public bodies and agencies now or hereafter in effect from time to time.

E. Completion of Tenant's Work. Tenant's Work shall be done in a good and workmanlike manner with the use of new first-class materials and shall be free from faults and defects. Tenant will verify conditions pertaining to the Premises prior to commencement of construction of its Premises.

F. Tenant shall reimburse Landlord for the reasonable costs, which shall not exceed \$2,500.00, incurred by Landlord, if any, in hiring an architect or engineer to review any plans and specifications for substantial improvements proposed by Tenant.

G. Tenant is responsible for trash removal in connection with the completion of Tenant's Work. All dumpsters or debris containers must be properly maintained and kept clean, be of an acceptable appearance. The area around any dumpster or debris container shall be kept clean at all times. Landlord, at its option, shall have the right to have the area cleaned at Tenant's expense. Existing dumpsters or debris containers within or outside the Hotel shall not be used by Tenant unless expressly allowed by Landlord.

H. General – Landlord, Landlord's agent, contractor, invitees or an authorized utility company, as the case may be, shall have the right, subject to Landlord's written approval, to run utility lines, pipes or conduits where necessary or desirable, through attic space or other parts of the Premises, and to repair, alter, replace or remove the same, all in a manner that does not interfere unnecessarily with Tenant's use thereof.

I. Hazardous Materials/General Indemnity/Compliance with All Laws. Tenant hereby expressly acknowledge and agrees that in performing Tenant's Work and Tenant's obligations under the Exhibits, to this Lease Agreement, Tenant (including Tenant for and on behalf of Tenant's contractor and any and all persons performing any Tenant's Work in the Premises) shall comply with all laws, ordinances, regulations and requirements which are then in effect related to any and all Hazardous Materials and shall indemnify Landlord from any and all claims relating to such materials.

J. Tenant shall not enter the Premises nor perform any work therein without prior receipt of Landlord's written approval.

EXHIBIT D

RULES AND REGULATIONS

Tenant shall faithfully observe and comply with the following outline of rules and regulations, which rules and regulations Landlord may from time-to-time amend and/or modify. These rules and regulations and any amendments and modifications thereto shall have the same force and effect as any covenants or conditions set forth in the body of the Lease and the failure to Tenant to perform or adhere to same shall constitute a breach of and default under the Lease.

- (a) All garbage and refuse shall be kept in such kind of container and at such location as specified from time-to-time by Landlord and shall be prepared for collection in the manner and at the times and places specified from time-to-time by Landlord.
- (b) All delivery and unloading of goods and merchandise shall be done only at such times and at such dock or delivery location and through such passage to the Premises as may be designated or directed from time-to-time by Landlord.
- (c) No loudspeakers, televisions, phonographs, radios, flashing, moving or rotating lights, machinery, or other devices shall be used in a manner so as to be heard or seen nor shall any noxious odors or other nuisances be experienced outside of the Premises without the prior written consent of Landlord.
- (d) No auction, fire, bankruptcy or selling-out sales or sidewalk sales shall be conducted on or about the leased premises without the prior written consent of Landlord.
- (e) The outside areas immediately adjoining the Premises including the hallways, sidewalks and walkways shall be kept clear at all times by Tenant, and Tenant shall not permit any obstructions, garbage, refuse, improvements, merchandise or displays in such areas.
- (f) No signs, antennas or equipment shall be attached or placed on the roof or exterior walls of the Premises.
- (g) All personnel of Tenant, whether they are employees or independent contractors whose services have been obtained by Tenant shall be suitably dressed in attire befitting the general motif of the Hotel at any time they are on or about the Hotel grounds. Landlord shall have the right to require particular styles or modes of dress and/or to require a uniform and consistent appearance and/or to require that Tenant's personnel wear name tags or patch type emblems.
- (h) Given the high standards of conduct and appearance necessary to maintain the luxury and resort atmosphere of the Hotel, Landlord shall have the right, on a reasonable, non-discriminatory basis, to require Tenant to discipline and counsel any of Tenant's personnel or employees whose appearance or behavior is objectionable to Landlord based on complaints or criticisms communicated to Landlord or based on observations by Landlord's employees or management. In the event discipline and advise do not rectify such objections, Landlord shall have the right to require termination of such personnel or employee under appropriate circumstances.
- (i) Tenant shall perform a multi-state criminal background check on behalf of each employee of Tenant. Such background check shall be performed by a company satisfactory to Hotel and which shall include a search of sex-offender registries as well as felony and misdemeanor convictions for the previous seven years. The verification must be based on the addresses where the Tenant employee has established credit. Tenant will contact the Hotel's General Manager or Human Resource Director should any potential Tenant employee's background check include any felonies or misdemeanors during the previous 7 years or should the potential Tenant employee's name appear on any sex-offender registry prior to being allowed on the Hotel Premises.

- (j) Tenant shall use, at Tenant's expense, such pest extermination contractor as Landlord may direct and at such intervals as Landlord may require, and Tenant shall not keep or permit any live animals of any kind in, upon or above the Premises.
- (k) Tenant, its employees and/or its agents, shall not solicit business in the parking or other public areas, nor shall Tenant, its employees and/or its agents, distribute any handbills or other advertising matter in the public areas or attach the same to automobiles parked in the parking or other public areas.
- (l) Tenant shall not carry on any trade or occupation or operate any instrument or apparatus or equipment which emits an odor or causes a noise discernible outside of the Premises and which may be deemed offensive in nature.
- (m) Tenant shall store or stock in the Premises such and only such goods, wares, merchandise or other property as shall be reasonably required for the conduct of Tenant's business in the Premises, and in accordance with any advertising or other representation of Tenant.
- (n) Tenant shall not use the plumbing facilities for any purpose other than for that which they are constructed, and no grease, paints, solvents or foreign objects or substance of any kind shall be thrown therein, and no inappropriate items or substances of any kind shall be discarded therein, and the expense of any breakage, stoppage or damage (whether on or off the Premises) resulting therefrom shall be borne by Tenant.
- (o) Tenant, at its expense, shall install and maintain fire extinguishers and other fire protection devices (except the sprinkler system) as may be required from time to time by any agency having jurisdiction or the underwriters insuring the building in which the Premises is located.
- (p) Tenant agrees to abide by Landlord's reasonable move-in/move-out rules.
- (q) Tenant shall not maintain armed security in or about the Premises nor possess any weapons, explosives, combustibles or other hazardous devices in or about the Shopping Center and/or Premises.
- (r) Upon Landlord's request, Tenant shall advise Landlord of any policies or procedures that Tenant has adopted and has instructed its employees to use in dealing with suspected shoplifters. Landlord shall have the right, but shall not be obligated, to modify the methods intended to be used by Tenant in dealing with shoplifters after they have exited the Premises.
- (s) Tenant and Tenant's employees, delivery services and contractors shall not park their motor vehicles in any location except as designated or directed from time-to-time by Landlord. Tenant shall furnish Landlord the state automobile license numbers assigned to Tenant's motor vehicle or vehicles and the vehicles of Tenant's employees within five (5) days after request by Landlord, and Tenant shall be responsible for requiring its employees to notify Tenant and Landlord of any changes thereto. Landlord may at any time institute a system requiring Tenant's or its employee's vehicles to display a parking sticker or permit authorizing parking within designated areas. Landlord reserves the right to have any vehicle owned by Tenant or any of its employees that fails to display such permit or sticker or which parks in an unauthorized area to be towed at Tenant's expense, or alternatively in such case, Landlord may impose a fine and charge Tenant up to twenty-five and no/100 dollars (\$25.00) per day for each day or partial day per vehicle that such vehicle is in violation of the foregoing rules.