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**DECLARATION OF CONDITIONS, COVENANTS, AND RESTRICTIONS
AND EASEMENT AGREEMENT**

dated as of

December 30, 2019

by and between

**SALT LAKE CITY CH, LLC,
a Delaware limited liability company**

and

**SALT LAKE COUNTY,
a body corporate and politic of the State of Utah**

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**DECLARATION OF CONDITIONS, COVENANTS, AND RESTRICTIONS AND
EASEMENT AGREEMENT**

(Salt Palace Convention Center and Convention Center Hotel)

THIS DECLARATION OF CONDITIONS, COVENANTS, AND RESTRICTIONS AND EASEMENT AGREEMENT (this "*Agreement*") is made and entered into as of December 30, 2019 (the "*Effective Date*"), by and between Salt Lake City CH, LLC, a Delaware limited liability company having an address at 303 Peachtree Center Avenue NE, Suite 575, Atlanta, Georgia 30303 ("*Hotel Owner*"), and Salt Lake County, a body corporate and politic of the State of Utah, having an address at 2001 South State Street, Suite N2-100, Salt Lake City, Utah 84114 (the "*County*"). Hotel Owner and the County, and each of their respective successors and assigns, are each individually referred to herein as a "*Party*" and collectively, as the "*Parties*."

RECITALS:

A. The County owns certain improved real property more particularly described and depicted on Exhibit A hereto (the "*Convention Center Parcel*"), together with the improvements comprising the Salt Palace Convention Center that are presently located thereon at 100 South West Temple in Salt Lake City, Utah (collectively, the "*Convention Center*").

B. The County has a material interest in maximizing the performance of the Convention Center and encouraging the convention and tourism business in the County. To further those goals, the County desires to facilitate the development of a full-service convention center hotel to be located within one thousand (1,000) feet of the Convention Center.

C. In further support of the County's goals, and pursuant to Utah Code Ann. §§ 63N-2-501 et seq., of the Utah Code Annotated, as amended and now in effect and entitled "New Convention Facility Development Incentives" (the "*Act*"), the State of Utah through the Governor's Office of Economic Development has made available certain tax incentives to a "qualified hotel owner" for the development of a "qualified hotel" that, among other things, is located within one thousand (1,000) feet of a convention center and includes at least eighty-five (85) square feet of convention, exhibit, and meeting space per guest room.

D. In furtherance of the development, construction, and operation of the Hotel Project, the Parties entered into that certain Development and Funding Agreement, with an effective date of January 29, 2019, under which the County agreed to convey the Hotel Site (as defined below) to Hotel Owner and under which Hotel Owner agreed to develop the Hotel Project as a full-service convention center hotel on the Hotel Site that is physically and programmatically integrated with the Convention Center (the "*Development Agreement*"). Pursuant to the Development Agreement, the County conveyed that certain parcel of real property located immediately adjacent and contiguous to the Convention Center more particularly described and depicted on Exhibit B hereto (the "*Hotel Site*") to Hotel Owner for the development of the Hotel Project.

E. As a condition to the effectiveness of the Development Agreement, the Parties also entered into: (a) that certain Incremental Property Tax Agreement, dated January 28, 2019, with respect to the property tax portion of the Convention Incentive (the "*County Property Tax*").

Agreement"); and (b) that certain Incentive Agreement, dated January 28, 2019, between the Governor's Office of Economic Development, as an agency of the State of Utah, Hotel Owner, and joined by the County, with respect to the tax incentive under the Act (the "*Incentive Agreement*").

F. Additionally, the Parties have entered into the following agreements contemplated by the Development Agreement in connection with the conveyance of the Hotel Site and the development of the Hotel Project, each of which is dated as of the Effective Date: (a) that certain Room Block Agreement, a memorandum of which will be recorded in the Official Records following the recording of this Agreement, under which Hotel Owner has agreed to provide certain services with respect to the Hotel Project as more particularly described therein in exchange for the obligations of the County hereunder and under the Development Agreement (the "*Room Block Agreement*"); (b) that certain Garage and Parking Easement Agreement, which will be recorded in the Official Records following the recording of this Agreement, under which the County has granted a parking easement and certain other rights to Hotel Owner for the use of parking spaces in the Convention Center Parking Garage in support of the Hotel Project (the "*Parking Agreement*"); and (c) that certain Special Warranty Deed from the County to Hotel Owner, under which the County has conveyed the Hotel Site to Hotel Owner subject to the restrictions set forth therein and the terms of this Agreement (the "*Deed*").

G. The Development Agreement contemplates and requires that the Parties enter into and cause this Agreement to be recorded against both the Convention Center and the Hotel Project in order to impose certain covenants, conditions, and restrictions on, and to grant certain easements for the benefit of, the Convention Center and the Hotel Project on the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 RECITALS/DEFINITIONS

The foregoing recitals and all exhibits hereto are hereby incorporated into and made a part of this Agreement for all purposes. Unless and except as otherwise defined in this Agreement, the capitalized terms set forth in this Agreement shall have the meaning ascribed to them in Section 63N-2-502 of the Utah Code. In addition, the following terms shall have the following meanings in this Agreement:

"*200 South Access Drive*" means the private access drive adjacent to 200 South that will be constructed on the Hotel Site and the Convention Center Parcel, as depicted on the Site Plan.

"*200 South Access Drive Maintenance Costs*" has the meaning set forth in Article 7 hereof.

"*ADA*" means the Americans with Disabilities Act.

"*ADA Parking Stall*" means any parking space within a Parking Garage that meets the requirements of the ADA for, and is designated as, accessible parking.

"*Act*" has the meaning set forth in the Recitals.

"*Action or Proceeding*" means any lawsuit, proceeding, arbitration, or other alternative dispute resolution process (including the processes described in Article 13 hereof), hearing, audit, appeal, administrative proceeding, or judicial proceeding.

"*Accessways*" means walkways, passageways, elevators, escalators, hallways, ramps, corridors, stairways, roadways, and other openings and means for pedestrian use. Accessways shall not include any Secured Areas.

"*Accounting Period*" means each calendar quarter during each annual period, except that the first Accounting Period shall commence on the date hereof and shall end on the following December 31, and the last Accounting Period shall end on the Termination Date.

"*Adjacent Parcel*" means any Parcel that shares a common boundary with any other Parcel.

"*Adjacent Owner*" has the meaning set forth in Section 2.4(a).

"*Affiliate*" of a Person means any other Person that directly, or indirectly through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such Person.

"*Agreement*" has the meaning set forth in the introductory paragraph.

"*Applicable Bankruptcy Law*" has the meaning set forth in Section 11.1(f) hereof.

"*Applicable Law*" or "*Applicable Laws*" means all applicable foreign and domestic laws (including Environmental Laws), rules, building codes, regulations, orders, directives, codes, ordinances, statutes, treaties, licenses, requirements and permits of any Governmental Authority, and applicable judgments, decrees, injunctions, writs, orders or like action of any court, arbitrator or other administrative, judicial or quasi-judicial tribunal, or Governmental Authority of competent jurisdiction (including those pertaining to health, safety or the environment (including wetlands)) relating to the operation, use, and maintenance of the Hotel Project and the Convention Center.

"*Approval, Approve, or Approved*" means the approval or consent of a Party, which, unless otherwise qualified or specified herein by reference to "sole discretion" or words of similar effect, shall be made in good faith and with due diligence, shall not be unreasonably withheld, conditioned, or delayed, and shall be given (or withheld) in accordance with the standards and procedures set forth in Section 12.1 hereof. In each instance where a Party disapproves of, or does not consent to, a given matter under this Agreement, the notice to the other Party where such disapproval is provided, or consent is denied shall state the reasons therefor with reasonable specificity.

"*Approved Brand*" means: (i) each of the following national hotel operators or hotel brands, *provided* that after the fifth (5th) anniversary of the Opening, such operator's reputation for quality and quality of operation, at the time Hotel Owner engages such operator, is generally known and recognized by the hotel industry as not having substantially declined, as of the time in question, in comparison to their reputation for quality and quality of operation as of the Effective Date: Marriott (e.g., the Marriott, Marriott Marquis, JW Marriott, or Westin brand), Omni, Hyatt

(e.g., the Grand Hyatt and Hyatt Regency brands), Sheraton (comparable in finish and quality to the Chicago Sheraton or the Overland Park Sheraton), Hilton or InterContinental; or (ii) from and after the twentieth (20th) anniversary of the Opening, any other “upper upscale” brand as then rated by Smith Travel Research and generally recognized in the hospitality industry as an experienced convention center hotel brand; or (iii) any other hotel brand or operator Approved by the County. Any Dispute under clauses (i) or (ii) of this definition regarding the reputation for quality and quality of operation of an operator shall be an Arbitral Dispute for purposes of Article 13 hereof.

“*Arbitral Dispute*” has the meaning set forth in Section 13.1(a) hereof.

“*Arbitration Notice*” has the meaning set forth in Section 13.1(b).

“*Attorneys’ Fees*” shall mean, with respect to any Suit or arbitration proceeding, the fees of outside counsel and costs allocable to in-house counsel (including, in each instance, fees and charges attributable to services performed by legal assistants or other attorney personnel performing services under the supervision of an attorney) incurred in connection with such Suit or arbitration proceeding or in connection with a Party’s other enforcement of this Agreement against the other Party.

“*Building*” shall mean the Convention Center and the Hotel (excluding any Parking Garage).

“*Business Day*” means any day other than a Saturday, Sunday, federally-mandated bank holiday, state holiday in the State of Utah, and the day after Thanksgiving. If the last day specified for performance of an act falls on a day that is not a Business Day, then the last day for such performance will automatically be extended until the next Business Day.

“*City*” means Salt Lake City Corporation, a municipal corporation organized under the laws of the State of Utah.

“*City Caused Delay*” means any actual delay to the Commencement of Construction or the Completion of Construction, or the satisfaction by Hotel Owner of any Design Milestones or Construction Milestones, to the extent caused by: (a) the delay or failure of the City or its employees, agents or representatives to take any action, approve any application, or issue any permit requested or for which Hotel Owner has filed or applied; or (b) any act or neglect of the City, or of an employee, agent, or representative of the City, or of a separate contractor employed by the City; or (c) other causes beyond Hotel Owner’s control in its applications or requests to or interactions with the City or any of its agents, representatives or employees; or (d) any other delay otherwise authorized, requested, or required by the City. The occurrence of any City Caused Delay shall be subject to Hotel Owner’s commercially reasonable efforts to obtain any City approval, to cause the issuance of any City permit, or to cause the occurrence of any other action by the City that is necessary to Commencement of Construction, the Completion of Construction, or the satisfaction by Hotel Owner of any Design Milestones and/or Construction Milestones. A City Caused Delay shall be deemed to have occurred, upon Hotel Owner’s Notice to the County of an alleged City Caused Delay within ten (10) days after the date on which Hotel Owner believes such City Caused Delay occurred and identifying the acts or omissions of the City or its employees,

agents, or representatives that Hotel Owner believes in good faith constitute such City Caused Delay. The County may contest Hotel Owner's assertion of the occurrence of a City Caused Delay, if the County delivers Notice of such contest to Hotel Owner within ten (10) days after receiving Hotel Owner's Notice of the City Caused Delay. The County's failure to respond to Hotel Owner's Notice of a City Caused Delay shall mean that the County has irrevocably waived its right to contest or dispute such asserted City Caused Delay, and such City Caused Delay shall be deemed to have occurred hereunder without further dispute from the County or any other party. Any dispute as to a City Caused Delay shall be an Arbitral Dispute under Article 13.

"Claim" has the meaning set forth in Section 18.2 hereof.

"Closing" means the consummation and closing of the County's conveyance of the Hotel Site to Hotel Owner, including the execution and delivery of such other documents and actions as are required under the Development Agreement at such closing.

"Commence Construction," "Commenced Construction," and **"Commencement of Construction"** means, with respect to the Hotel Project, the commencement of demolition and grading on the Hotel Site, and shoring for the Hotel Project Parking Garage.

"Complete Construction" and **"Completion of Construction"** means, with respect to the Hotel Project the date on which all of the following have been satisfied: (i) the Hotel Project has been completed, including punch list items, in substantial accordance with the General Construction Contract and the Design Development Drawings and substantially all of the furniture, fixtures, and furnishings for the Hotel Project required for the Opening have been purchased, delivered to, and installed (as applicable) in the Hotel Project; and (ii) all appropriate Governmental Authorities have issued applicable certificates of completion or Certificates of Occupancy, as required by Applicable Law.

"Concept Plan" means Hotel Owner's conceptual development plan of the Hotel Project attached as Exhibit A to the Development Agreement, including drawings prepared by the Project Architect, showing a scaled site layout, interiors and exteriors of the Hotel Project, and other features necessary for the County to visualize and conceive of the scope of the Hotel Project, but not including a scale model, but excluding the "Sky Bar" shown thereon.

"Constructing Owner" means an Owner performing Construction permitted by this Agreement (as contrasted with Construction permitted and contemplated by the Development Agreement).

"Construction" shall mean installing and constructing upon, performing maintenance upon, making repairs to, constructing alterations, additions and improvements on a Parcel, and/or demolishing, razing, removing, replacing and restoring the whole or any part of the Improvements located on a Parcel, including the Convention Center Demolition Work. **"Construct"** and **"Constructed"** shall have corresponding meanings.

"Construction Lender" means any lender or group of lenders selected by the Hotel owner that provides a construction loan or loans, which loan or loans shall be a part of the Project Financing, which loan or loans may be made through any agent, collateral agent, or security agent acting for or on behalf of the Construction Lender.

“Construction Loan” means the loan or loans provided by the Construction Lender to Hotel Owner at the Closing pursuant to the Construction Loan Documents for the development and construction of the Hotel Project.

“Construction Loan Documents” means the documents evidencing and securing the Construction Loan.

“Construction Milestones” means the milestones set forth in the Project Construction Schedule.

“Continuous Operating Covenant” has the meaning set forth in Section 5.3.

“Contracting Owner” has the meaning set forth in Section 3.2(f).

“Control” with respect to a Person includes the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise (and includes the correlative terms **“Controlling”** and **“Controlled”**).

“Convention Center” has the meaning set forth in the Recitals above.

“Convention Center Casualty Event” has the meaning set forth in the definition of Major Event.

“Convention Center Demolition Work” means all work to demolish, raze, and remove the Improvements located on the Hotel Site as of the Effective Date to allow for the development and Construction of the Hotel Project and all Work to restore those portions of the Convention Center located on the Convention Center Parcel in order to connect and permit the connected operation of the Hotel Project to the Convention Center, as contemplated by the Development Agreement and this Agreement.

“Convention Center Designation Failure Event” has the meaning set forth in the definition of Major Event.

“Convention Center Grand Ballroom” means the main ballroom located within the Convention Center that consists of approximately 45,000 square feet of space and is located north of the Hotel Site along West Temple Street.

“Convention Center Hotel Fee” has the meaning set forth in Section 5.5 hereof.

“Convention Center Loading Area” means the area accessed from South Temple street, which is used for loading and unloading of goods, materials, and vehicles on the Convention Center Parcel and which is identified and depicted on the Site Plan.

“Convention Center Operating Covenant” means the covenant and agreement of the County to continuously operate the Convention Center during the Operating Period as a first-class convention center to the same standard that the County is presently operating the Convention

Center, consistent with the Standard of Operation defined in Section 6.01 of the Room Block Agreement, and consistent with Applicable Law and as contemplated by the Incentive Agreement.

“Convention Center Operator” means SMG, a Pennsylvania general partnership, and any successor that may be engaged by the County to oversee the day to day management of the Convention Center.

“Convention Center Parcel” has the meaning set forth in the Recitals above.

“Convention Center Parking Garage” means the existing below-grade parking garage located on the Convention Center Parcel as of the Effective Date (as the same may be reconstructed or replaced), including all incidental and interior ramps, driveways, walkways, stairways, tunnels, controlled access entries and gates, curbs and related improvements located in or attached to such facility.

“Convention Center Perimeter Improvements” has the meaning set forth in Section 2.2(g).

“Convention Center Recovery Plan” means a written plan provided to Hotel Owner by the County describing in general detail the steps that the County intends to take to restore and reopen the Convention Center following any fire or other casualty that damages the Convention Center and that results in operation of the Convention Center being materially affected.

“Convention Center Signage Easement Areas” has the meaning set forth in Section 2.2(d)(i).

“Convention Center South Access Drive” has the meaning set forth in Section 2.2(a)(ii).

“Convention Incentive” has the meaning set forth in Section 63N-2-502(9) of the Utah Code.

“Corridors” means the interior walkways and passageways of the Convention Center that provide access to and from the Convention Center Loading Area and the Hotel Parcel as identified in the Site Plan.

“County” has the meaning set forth in the introductory paragraph of this Agreement.

“County Caused Delay” means any actual delay to Commencement of Construction, the Completion of Construction, or the satisfaction by Hotel Owner of any Design Milestones or Construction Milestones, to the extent caused by: (a) the failure of the County or its employees, agents, or representatives to take any action or give any Approval or disapproval within the specific time frames for action or Approval set forth herein (or, if no such time frame is specified, in accordance with Section 10.1 of the Development Agreement or otherwise in a timely manner); or (b) any act or neglect of the County, or of an employee, agent, or representative of the County, or of a separate contractor employed by the County; or (c) other causes beyond Hotel Owner’s control in its applications or requests to or interactions with the County or any of its agents; (d) any other delay otherwise authorized, requested, or required by the County, including, for example and without limitation, any events occurring in or use of the Convention Center; or (e) any interruption

in or delay of the Construction of the Hotel Project and/or to the Completion of Construction arising in connection with a breach of Section 2.1.10 of the Development Agreement and/or in connection with a Claim arising with respect to Section 2.1.12 of the Development Agreement. A County Caused Delay shall be deemed to have occurred, upon Hotel Owner's Notice to the County of an alleged County Caused Delay within ten (10) days after Hotel Owner believes a County Caused Delay has occurred, in which Hotel Owner shall identify the acts or omissions of the County or its employees, agents, or representatives that Hotel Owner believes in good faith constitute such County Caused Delay. The County shall have the right to contest Hotel Owner's assertion of the occurrence of a County Caused Delay, if the County delivers Notice of such contest to Hotel Owner within ten (10) days after receiving Hotel Owner's Notice of the County Caused Delay. The County's failure to respond to a Notice of a County Caused Delay shall mean that the County has irrevocably waived its right to contest or dispute such asserted County Caused Delay, and such County Caused Delay shall be deemed to have occurred hereunder without dispute from the County or any other party. Any dispute as to the occurrence of a County Caused Delay shall be an Arbitral Dispute under Article 13.

"County Property Tax Agreement" has the meaning set forth in the Recitals.

"Cure" shall mean, at such time as an Owner of a Parcel is in Default and has received a Notice of Default, such Owner and its Permitted Mortgagee shall be permitted, for a monetary default, five (5) days, or for any other default, thirty (30) days or such other amount of time specified herein within which to render remedial performance sufficient to correct said Default, which correction of said Default shall be referred to herein as **"Cure."** Except as provided elsewhere in this Agreement to the contrary, whenever a non-monetary Default is capable of being Cured, but is not capable of Cure within the specified period, a Defaulting Owner (or its Permitted Mortgagee) shall be deemed to have Cured the Default if it shall have commenced such Cure within the specified time period and shall have prosecuted the Cure continuously and diligently thereafter to completion, utilizing all commercially reasonable means to effectuate and expedite the Curing of such Default, but in any event within 180 days.

"Deed" has the meaning set forth in the Recitals.

"Default" shall mean an Owner's breach of any of its covenants or obligations set forth in this Agreement with respect to its Parcel.

"Default Rate" shall mean a rate per annum equal to two percent (2%) above the prime rate from time to time published in the Wall Street Journal or its successor, or if it has no successor, a newspaper or other publication of similar stature.

"Defaulting Owner" shall mean, at any time, an Owner of a Parcel in Default hereunder at such time.

"Design Development Drawings" means preliminary plans indicating the design development aspects of the Hotel Project, including: (a) a detailed dimensional site plan of the Hotel Project drawn to scale and showing all improvements planned to be constructed on the Hotel Site, which shall include the location of all existing and proposed easements and how they will be accommodated, the location of all existing and proposed utilities, site drainage and stormwater

plans, site grading plan, grade elevations and structures, proposed site work, and site horizontal (coordinate) and vertical control drawings with a benchmark reference; (b) floor plans, elevations, and sections of all structures; (c) preliminary landscape development plans with horticulture palette; (d) preliminary artwork location plans for such items as sculptures, art objects, wall relief, murals, etc.; (e) complete outline specifications to cover all phases of the work; (f) a detailed cost estimate of all improvements with indirect costs and of all furnishings, fixtures, and equipment; and (g) interior and exterior color scheme and materials. Notwithstanding any other provisions set forth herein, the Design Development Drawings are intended to contain sufficient detail and information necessary to obtain a demolition, grading, and shoring permit from the City and to allow Hotel Owner to cause the Commencement of Construction in accordance with this Agreement and the Development Agreement.

“Design Milestone” means the milestones scheduled to occur in the Concept Plan, the Schematic Plans, and the Design Development Drawings.

“Development Agreement” has the meaning set forth in the Recitals.

“Discharge” shall mean the full relief and exoneration from any personal liability or responsibility of a Transferor, Involuntary Transferor or Permitted Mortgagee (or performance of, granting of or compliance with all easements, covenants, duties and obligations accruing and arising under this Agreement in connection with an Owner’s possession of its Parcel), which shall occur from and after the effective date of the following: (a) with respect to a Transferor, a Transfer, as more fully described in Section 9.1; (b) with respect to an Involuntary Transferor, an Involuntary Transfer, as more fully described in Section 9.2; and (c) with respect to a Permitted Mortgagee, a Transfer by such Permitted Mortgagee after acquiring fee title to a Parcel (or portion thereof), as applicable, in an Involuntary Transfer, as more fully described in Section 9.4.

“Dispute” has the meaning set forth in Section 13.1(b).

“Easement” means any easement created under this Agreement.

“Economic Force Majeure” means any economic or political condition or event that: (a) materially impairs Hotel Owner’s access to debt or equity markets for development of projects in the United States similar to the Hotel Project; (b) allows a committed debt or equity participant to terminate its debt or equity commitment. For example and not by way of limitation, an Economic Force Majeure would arise upon the occurrence of a temporary or long-term liquidity crisis that impairs projects like the Hotel Project or in the event of a recession; or (c) events that result in banks or other lending institutions (not just the particular bank or lender selected by Hotel Owner) lending only with required equity of more than 45% or with annual interest rates (non-default rates) of more than 4.5%.

“Effective Date” means the date first set forth above in the introductory paragraph of this Agreement, which is also the same date as the Closing Date, as defined in the Development Agreement.

“Expansion Joint” has the meaning set forth in Section 2.2(g).

“Expansion Joint Maintenance Budget” has the meaning set forth in Section 2.2(g).

“Event of Default” shall mean a Default for which applicable Notice for Default has been given and that has not been Cured within the applicable period for Cure.

“Excusable Delay” means any Force Majeure, Economic Force Majeure, City Caused Delay, County Caused Delay, and/or any delay caused by the Hotel Operator (so long as Hotel Owner is making commercially reasonable efforts to accomplish the event or action that has been delayed by the Hotel Operator to which any such Excusable Delay relates).

“Fair Market Value” has the meaning set forth in the Development Agreement.

“FFE” means the furniture, fixtures, and furnishings for the Hotel Project to be procured by the Hotel Owner and included in the Project Development Budget, as defined in the Development Agreement.

“Force Majeure” means the following: acts of God; strikes, lockouts, or other civil or industrial disturbances; acts of public enemies, whether actual or threatened; orders of any kind of the government of the United States, the State of Utah, the County, the City, any other Governmental Authority, or any military authority; insurrections; acts of terrorism; riots; epidemics; landslides, earthquakes, lightning, fires, hurricanes, storms, floods, washouts, and other severe weather or natural disasters; unusually adverse weather conditions; governmental regulation of the sale of materials and supplies or the transportation thereof; inability to procure or a general shortage of labor, equipment, facilities, materials, or supplies in the open market; the failure or unavailability of transportation generally; the discovery of subsurface, subsoil, or concealed conditions at, as applicable, the Hotel Site that differ materially from those ordinarily found to exist and generally recognized as inherent in the construction of projects comparable to the Hotel Project; the discovery of subsurface, subsoil, or concealed conditions at or affecting the Hotel Site that differ materially from what is represented, described, or depicted in the documents and information provided by the County concerning the Hotel Site; the discovery of subsurface, subsoil, or concealed conditions at or affecting the Hotel Site that differ materially from what is represented, described, or depicted in the Phase I and Phase II Seismic Studies; a party not receiving a governmental permit, license, approval, or inspection in time to meet a contractual time deadline or requirement imposed hereunder, *provided* that Hotel Owner acted in good faith and used commercially reasonable efforts in the application or request for and prosecution of the process to obtain that permit, license, approval, or inspection; or other causes not reasonably within the control of the Party claiming such inability. In no event shall “Force Majeure” include economic hardship or financial inability to perform specific to the Party, nor shall it include Economic Force Majeure. Any dispute as to the occurrence of Force Majeure shall be an Arbitral Dispute under Article 13 hereof.

“General Construction Contract” means the general construction contract between Hotel Owner and the General Contractor for the construction of the Hotel Project.

“General Contractor” means any general contractor(s) engaged by Hotel Owner for the construction of the Hotel Project that is Approved by the County pursuant to the Development Agreement.

“GOED” means the Utah Governor’s Office of Economic Development.

"Governmental Authority" means any and all courts, boards, agencies, commissions, offices or authorities of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, the County or otherwise), whether now or hereafter in existence. For the avoidance of doubt, Governmental Authority includes the County.

"Grantee" shall mean, with respect to any Easement granted in Article 2 of this Agreement, the Owner (and its successors and assigns) whose Parcel, or portion thereof, is the dominant tenement benefited by such Easement.

"Grantor" shall mean, with respect to any Easement granted in Article 2 of this Agreement, the Owner (and its successors and assigns) granting such Easement and whose Parcel or portion thereof is burdened by such Easement.

"Gross Revenue" has the meaning set forth in Section 5.5.

"Hazardous Substances" means and includes any: (i) hazardous, harmful, dangerous, or toxic waste, item, substance, material, or product (including, without limitation, any and all petroleum based products) as presently defined by any federal, state, or local environmental and/or health law, act, edict, directive, decree, rule, statute, ordinance, or regulation, including without limitation, (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601, et seq., (b) the Hazardous Materials Transportation Act, 49 U.S.C.A. Section 5101, et seq., (c) the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901, et seq., (d) the Toxic Substances Control Act, 15 U.S.C.A. Section 2601, et seq., (e) the Federal Water Pollution Control Act, 33 U.S.C.A. Section 1251, et seq., (f) all state or local environmental laws, and (g) all regulations related to any of the foregoing; or (ii) other item, substance, material, or product prohibited, limited, or regulated by any of the laws, acts, edicts, directives, decrees, rules, statutes, ordinances, or regulations described above or otherwise regulated by Applicable Laws.

"Hotel" means a full-service convention center hotel development containing no fewer than seven hundred (700) hotel rooms that forms a part of the Hotel Project and at least eighty-five (85) square feet per Hotel guest room of convention exhibition and meeting space and otherwise is consistent with the definition of a "qualified hotel" under the Act.

"Hotel Covered Event Recovery Plan" has the meaning set forth in Section 5.3(c).

"Hotel Loading Area" means the truck loading area located on the Hotel Site, as depicted on the Site Plan.

"Hotel Operator" means and includes the Initial Hotel Operator and, upon the expiration or sooner termination of the Management Agreement between the Initial Hotel Operator and Hotel Owner, any Approved Brand hotel operator engaged by Hotel Owner to be responsible for overseeing the day to day management of the Hotel Project (or, if at any time there is no such operator, Hotel Owner as the operator of the Hotel Project).

"Hotel Owner" is defined in the preamble to this Agreement.

"Hotel Project" means the convention center Hotel project developed, designed, and constructed on the Hotel Site, including all improvements, parking areas, and landscaping.

"Hotel Project Parking Garage" means the below-grade parking garage to be constructed on the Hotel Site as part of the Hotel Project in accordance with the Plans and Specifications, including all incidental and interior ramps, driveways, walkways, stairways, tunnels, controlled access entries and gates, curbs and related improvements located in or attached to such facility.

"Hotel Signage Easement Areas" has the meaning set forth in Section 2.2(d)(ii).

"Hotel Site" has the meaning set forth in the Recitals.

"Hotel Site Perimeter" has the meaning set forth in Section 2.2(g).

"Hotel Site South Access Drive" has the meaning set forth in Section 2.2(a)(i).

"Improvements" shall mean all building or structural components (inclusive of supporting members and enclosing elements such as walls and windows and building components ensuring stability or safety), Lines, and the improvements (including alterations or restorations) that exist or are constructed from time to time in or on a Parcel.

"Incentive Agreement" has the meaning set forth in the Recitals above.

"Indemnitee" has the meaning set forth in Section 18.2 hereof.

"Indemnitor" has the meaning set forth in Section 18.2 hereof.

"Initial Hotel Operator" means Hyatt Corporation, a Delaware corporation.

"Initial Hotel Operator Financial Commitment" means the financial commitment or role of the Initial Hotel Operator for the operation and management of the Hotel and in the Project Financing, which may be a financial commitment or the execution and delivery of a guaranty in connection with the Construction Loan.

"Involuntary Transfer" shall mean the conveyance of a Parcel (or portion thereof) from a Mortgagor (**"Involuntary Transferor"**) to a Permitted Mortgagee or to a purchaser at foreclosure of a Mortgage (**"Involuntary Transferee"**) resulting from the judicial or nonjudicial foreclosure of a Mortgage or the grant of a deed in lieu of such foreclosure. In the event of such an Involuntary Transfer, the Involuntary Transferor shall be conclusively deemed to have assigned all of its rights, powers, title and interest in such Parcel and this Agreement to the Involuntary Transferee, who shall be conclusively deemed to have assumed all of the Involuntary Transferor's covenants and obligations under this Agreement first accruing from and after such Involuntary Transfer.

"Involuntary Transferee" has the meaning set forth in the definition of Involuntary Transfer.

"Involuntary Transferor" has the meaning set forth in the definition of Involuntary Transfer.

“Liened Owner” has the meaning set forth in Section 3.2(i).

“Lines” shall mean all wires, lines, ducts, pipes, cables, chases, conduits and similar facilities and all other openings and passageways therefor, which are intended to serve or service the Utilities.

“Major Event” means any of the following occurrences:

(i) If there occurs a fire or other casualty occurs that damages the Convention Center and materially affects the operation of the Convention Center, and the County has failed to deliver a Convention Center Recovery Plan to Hotel Owner within a reasonable time (but in no event more than ninety (90) days after the occurrence of such fire or other casualty), and/or if the County fails to commence the repair and restoration of the damaged portions of the Convention Center (the **“Restoration Work”**) within twelve (12) months following the date of such fire or other casualty; *provided* that the County shall be entitled to such twelve-month period to commence the Restoration Work only if: (a) within a reasonable period of time following the occurrence of such fire or other casualty (but not more than ninety (90) days after such fire or other casualty), the County submits to Hotel Owner a Convention Center Recovery Plan; and (b) thereafter uses commercially reasonable, diligent efforts to implement and complete the Convention Center Recovery Plan. The Major Event described in this subclause is sometimes herein called a **“Convention Center Casualty Event.”**

(ii) Subject to Subsection (iii) in this defined term below, the right to repair and restore provided in Subsection (i) of this defined term above, and the notice rights and opportunity to cure in the Room Block Agreement, if at any other time after the Opening and during the Operating Period, the County ceases to operate the Convention Center as its principal convention center or otherwise breaches the Continuous Operating Covenant, as set forth in the Room Block Agreement, or if the Room Block Agreement terminates or expires because of the failure by the County to operate and maintain the Convention Center in accordance with the Standard of Operation (as defined in the Room Block Agreement) (each, a **“Convention Center Designation Failure Event”**).

(iii) Notwithstanding Subsections (i) and (ii) of this defined term above, a Convention Center Designation Failure Event or Convention Center Casualty Event shall not occur during periods of Force Majeure, maintenance, repair, reconstruction, alterations, remodeling, and renovation, whether as a result of casualty, or otherwise, or as a result of other similar activities of the Convention Center in the ordinary course of operating the Convention Center; *provided, however*, that the County is during any such period of time using commercially reasonable efforts to repair and restore the Convention Center or, as applicable, to mitigate the impact of such events.

(iv) All disputes between the County and Hotel Owner regarding the provisions of this Definition shall constitute Arbitral Disputes under Article 13 hereof.

“Major Hotel Casualty” has the meaning set forth in Section 5.3(c).

“Management Agreement” means the hotel operating or management agreement between Hotel Owner and the Hotel Operator, as it may be extended, supplemented, amended, or replaced from time to time.

“Mandatory Hotel Project Design Elements” means the following required design features, components, or other elements of the Hotel Project: (a) not less than a 700-room full-service convention hotel; (b) convention space equal or greater than eighty-five (85) square feet per guest room; (c) a full-service restaurant; and (d) the number of parking spaces required to be located on or used in connection with the Hotel Site in accordance with the Applicable Law and in accordance with the Parking Agreement.

“Minimum Hotel Operating Standard” means operating the Hotel Project with or in the name of an Approved Brand. Notwithstanding the foregoing, Hotel Owner shall be deemed to have satisfied the Minimum Hotel Operating Standards as long as it is operating the Hotel Project (or causing the Hotel Project to be operated) in a manner substantially similar to the operation of the following convention center hotels as of the Effective Date: the Hilton Americas, the Denver Hyatt, and the Marriott Marquis Atlanta. Any dispute with respect to Minimum Hotel Operating Standards or Hotel Owner’s compliance therewith, shall be an Arbitral Dispute under Article 13 hereof.

“Mortgage” has the meaning set forth in Section 15.1(a).

“Mortgagor” shall mean an Owner of a Parcel that is encumbered by a Mortgage.

“Notice” or **“notice”** means each notice required or that may be provided by one Party to the other under this Agreement. All Notices shall be given in accordance with Section 19.6.

“Notice of Default” shall mean a written notice of Default given to a Defaulting Owner which shall specify the nature of the Default and the duty or obligation under this Agreement alleged to have been breached and shall include a demand for the timely Cure of such Default.

“Notice of Dispute” has the meaning set forth in Section 13.1(b).

“Occupant” shall mean the Owners and any Person from time to time entitled to use and occupy an area within a Parcel under any lease, sublease, deed or other instrument or arrangement.

“Official Records” means the real estate records of the Salt Lake County Recorder’s Office.

“Opening” means the date following Completion of Construction of the Hotel Project and on which the Hotel Project is opened to the public for business.

“Operating Period” means the period commencing on the date on which the Opening occurs and ending on the date that is twenty-five (25) years thereafter.

“Operator” means, individually and collectively, the Hotel Operator and the Convention Center Operator.

“Outside Commencement Date” means the date that is two (2) months after the Closing Date (as defined in the Development Agreement and which is the same date as the Effective Date), subject to the effect of Force Majeure, any County Caused Delays, and any City Caused Delays so

long as Hotel Owner is making commercially reasonable efforts to achieve Commencement of Construction in accordance with the terms of the Development Agreement and this Agreement.

“Outside Completion Date” means a date thirty-six (36) months following the Closing Date (as defined in the Development Agreement and which is the same date as the Effective Date) and as extended for Force Majeure, County Caused Delays, and City Caused Delays and subject to the effect of Section 11.1(c)(i) hereof, so long as Hotel Owner is making commercially reasonable efforts to achieve Completion of Construction in accordance with the terms of the Development Agreement and this Agreement.

“Owner” shall mean each of Hotel Owner, the County, the owner of any other Parcel, and each of their respective successors and assigns.

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

“Parcel” shall mean the Hotel Site and the Convention Center Parcel; *provided* that, following the recordation of any one or more records of survey creating the boundaries of any one or more additional legal parcels within the Convention Center Parcel in accordance with Applicable Law, each resulting separate parcel identified as such on such record or records of survey shall thereafter constitute a Parcel for all purposes of this Agreement.

“Parking Agreement” has the meaning set forth in the Recitals.

“Parking Garage” shall mean each of the Hotel Project Parking Garage and the Convention Center Parking Garage.

“Parking Garage Access Improvements” has the meaning set forth in Section 2.2(c).

“Parking Garage Elevator Improvements” has the meaning set forth in Section 2.2(c).

“Parties” and **“Party”** has the meaning set forth in the introductory paragraph to this Agreement.

“Permitted Mortgagee” means the holder(s) of any Mortgage (which, in the case of a deed of trust, is the beneficiary or beneficiaries thereunder).

“Permitted Mortgagee Agent” has the meaning set forth in Section 15.1(b).

“Permittee” shall mean any Owner or Occupant and its respective officers, directors, employees, partners, members, agents, contractors, customers, visitors, invitees (including but not limited to hotel guests), licensees, and concessionaires.

“Person” means an individual, corporation, partnership, limited liability company, unincorporated organization, association, joint stock company, joint venture, trust, estate, real estate investment trust, or Governmental Authority, whether acting in an individual, fiduciary or other capacity.

“Plans and Specifications” means: (i) the Concept Plan, Schematic Plans, Design Development Drawings, and construction drawings and plans, and any changes and modifications thereto prepared by Hotel Owner for the initial Construction of the Hotel Project, including, without limitation, the Convention Center Demolition Work and the Hotel Improvements, and approved by the County pursuant to the Development Agreement and any Permitted Mortgagee having the right to approve such Plans and Specifications and/or changes and modifications thereto, or (ii) any plans and specifications prepared by any Owner in connection with any Work performed by any Party governed by Section 3.2.

“Prevailing Owner” has the meaning set forth in Section 16.1 hereof.

“Prohibited Project Changes” mean, prior to Completion of Construction, any changes to the Design Development Drawings in their final form or any actual construction of the Hotel Project that, individually or in the aggregate, subject to all prior changes to Design Development Drawings during the course of construction of the Hotel Project, results in any of the following, except and unless to the extent previously Approved in a writing by the County and stating that the County has Approved a Prohibited Project Change (which Approval may be granted or withheld in the County’s sole and absolute discretion), and except for changes required to comply with Applicable Laws: (i) a failure of the Hotel Project to materially comply with the Approved Brand, (ii) a failure of the Hotel Project to contain any of the Mandatory Hotel Project Design Elements; (iii) a substantial and material change in any of the Mandatory Hotel Project Design Elements; (iv) a substantial and material change in the massing of the development, including the orientation and general configuration of the tower structure or the size and configuration of the tower structure and podium design reflected in the Schematic Plans; or (v) any substantial change that materially affects the exterior appearance of the Hotel Project contained in the Schematic Plans or materially impairs the ability of the Hotel Project to function as a convention center hotel.

“Project Construction Schedule” means the construction schedule for the Hotel Project contained in the General Construction Contract, which Hotel Owner previously delivered to the County and which the County has previously Approved in accordance with Section 4.4.3 of the Development Agreement.

“Project Financing” means the Construction Loan, permanent loans, the Initial Hotel Operator Financial Commitment, any and all equity investments in Hotel Owner or its Affiliates, any financing and/or securitization of or related to the financial and other rights to which Hotel Owner is entitled under the Incentive Agreement, and any other financing and incentives made or entered into at Closing by and/or involving Hotel Owner or any of its Affiliates, pertaining to the Hotel Project.

“Repairing Owner” has the meaning set forth in Section 2.3(e).

“Restoration Work” has the meaning set forth in the definition of Major Event.

“Required Deed” has the meaning set forth in Section 11.2(b) hereof.

“Required Systems” has the meaning set forth in Section 7.1 hereof.

"Release" shall mean that a specified easement, covenant and/or restriction under this Agreement, as both an Owner's personal obligation and one running with a Parcel to the extent of any Owner's interest therein, shall have been terminated with respect to obligations accruing from and after those events described, and in the manner set forth, in Article 9.

"Reversion Deed" has the meaning set forth in Section 11.2(b) hereof.

"Review and Approval Rights" has the meaning set forth in Section 12.1(a) hereof.

"Reviewing Party" has the meaning set forth in Section 12.1(a) hereof.

"Right of Reversion" means the retained right of the County to retake title to the Hotel Site and to any Improvements that have been constructed thereon, as more fully set forth in Section 11.2(b).

"Room Block Agreement" has the meaning set forth in the Recitals.

"Schematic Plans" means plans prepared by an architect of record licensed in the State of Utah for the Hotel Project, including: (a) a scaled site layout of the Hotel Project with all major dimensions of the Hotel Project showing uses, buildings, parking areas, landscaping, sign design concept, existing and proposed utilities, lighting concept, and other features; (b) schematic floor plans of all structures in the Hotel Project, key elevations of buildings sufficient to indicate the proposed architectural theme, location of all existing and proposed easements on the Hotel Site, schematic grading plan, a detailed description of improvements and methods of operation, and a general outline specification indicating materials and methods of construction.

"Secured Area" means any area designated by the Owner of a Parcel and/or any Improvements thereon to which access is limited or restricted by such Owner.

"Shared Utility Area" or "Shared Utility Areas" means the areas of the Convention Center Parcel and the Hotel Site depicted on Exhibit C for use for the following Utilities: the storm water drainage system piping, lines, detention basin and related facilities and improvements. The Shared Utility Areas may also include water and sewer line stubs to the main water and sewer Lines serving the Hotel Site and to which the County may connect via submeter for the purpose of installing and operating additional bathroom facilities within the Convention Center¹, subject to the County's and Hotel Owner's review and approval of the design and location of such additional utilities.

"Signage Easement Areas" has the meaning set forth in Section 2.2(d)(ii).

"Site Plan" shall mean the general site plan for the Convention Center and the general site plan for the Hotel Site attached hereto as Exhibit D.

¹ The County and Hotel Owner intend to continue to work cooperatively together to identify a suitable location and design for such water and sewer line stubs and/or other alternatives that would allow for the construction of additional bathroom facilities within the Convention Center.

"*Submitting Party*" has the meaning set forth in Section 12.1(a) hereof.

"*Suit*" has the meaning set forth in Section 16.1.

"*Systems Required*" has the meaning set forth in Section 7.1 hereof.

"*Taking*" has the meaning set forth in Section 7.8(a).

"*Termination Date*" has the meaning set forth in Article 10.

"*Transfer*" shall mean any voluntary transaction in which a Person ("*Transferor*") shall sell, lease, transfer or assign, other than for security purposes and other than in connection with an Involuntary Transfer, all or substantially all of its interest in a Parcel, together with all of its rights under this Agreement to a Person or Persons ("*Transferee*") who, except as provided herein, shall expressly assume, by a duly executed and acknowledged written instrument in recordable form served on all Owners in accordance with Section 19.6, all of such Transferor's covenants, duties and obligations under this Agreement.

"*Transferee*" has the meaning set forth in the definition of Transfer.

"*Transferor*" has the meaning set forth in the definition of Transfer.

"*Utility*" or "*Utilities*" shall mean electrical power, heating, ventilation and air conditioning, natural gas, steam, chilled water, hot water, domestic water, fire protection water, storm drain and stormwater detention, sanitary sewer, telephone service, cable television service, other communication or telecommunication services, or similar services.

"*Utility Line*" shall mean a utility Line, connection, or facility used in connection with any Utility.

"*Utilities Maintenance Budget*" has the meaning set forth in Section 2.3(e).

"*Work*" shall mean any work of Construction, restoration, repair, rebuilding, maintenance, alterations, additions, and/or improvements.

ARTICLE 2 EASEMENTS

2.1 Rules of Construction and General Provisions Applicable to Easements. In this Article 2, each Party, as a Grantor, grants to the other Party, as a Grantee, certain easements for access, ingress and egress, construction, utilities, encroachments, connections of improvements or common improvements, and other rights, subject to the terms and conditions contained herein. As used in this Article 2, the following terms and conditions shall apply:

(a) Binding Effect. An Easement granted herein shall bind the granting Party and its successors and assigns, together with all Persons joining in, consenting to or subordinating to this Agreement, but only with respect to their respective interests in the Grantor's Parcel, or portion thereof, each of which interest or portion shall be a servient tenement burdened with the

Easement; *provided* that where only a portion of a Parcel, as applicable, or interest is bound and burdened by the Easement, only that portion shall be deemed to be the servient tenement.

(b) Benefit of Dominant Tenement. An Easement granted in this Article 2 shall benefit only the dominant tenement (*provided* that where only a portion of a Parcel is so benefited, only that portion shall be deemed to be the dominant tenement) and Grantee with respect to its interest therein, except Grantee may permit its Permittees from time to time to use such Easement; however, such permission shall in no way authorize the use of the Easement beyond or in excess of that set forth in this Agreement; *provided, however*, unless expressly stated herein or unless otherwise agreed by the affected Owners to the contrary, such Easement shall also be for the benefit of use of the burdened Parcel or portion thereof.

(c) Specific Words. The word “in” with respect to an Easement granted “in” a Parcel or portion thereof shall mean, as the context may require, “in,” “to,” “on,” “over,” “through,” “across,” “upon” and/or “under.”

(d) Appurtenant Easements. All Easements granted in this Agreement are appurtenant and not in gross and shall be for the benefit of the applicable Grantee’s Parcel. Unless expressly provided otherwise herein, all Easements are nonexclusive, irrevocable, and perpetual. Notwithstanding anything to the contrary contained herein, no Easement shall be deemed to be granted and/or no Easement shall be permitted to be used if and to the extent the grant or use of such Easement, as applicable, would violate any Applicable Law.

(e) No Other Documents Needed. All Easements granted under this Agreement shall exist by virtue of this Agreement, without the necessity of confirmation by any other document. Likewise, upon the termination of any Easement (in whole or in part) by expiration or Release or on the Termination Date, the same shall be deemed to have been terminated without the necessity of confirmation by any other document. However, at the request of any other Owner, each Owner shall execute and acknowledge a document memorializing the continued existence (including the location and any conditions thereon) or the termination (in whole or in part) of any Easement.

(f) Scope of Granting Language. No grant of easement pursuant to this Article 2 shall impose any greater obligation on any Owner to construct or maintain its Improvements than is expressly provided in this Agreement with respect to such Owner and such Improvements.

(g) Exercise of Easement Rights. In its sole and absolute discretion, each Grantee may elect whether to exercise its right to use any Easement granted to it. Except for Easements granted pursuant to Sections 2.2(a), 2.2(b), 2.2(c), and 2.3, prior to each Grantee’s entry onto the applicable Grantor’s Parcel in exercise of its easement rights, such Grantee shall first obtain such Grantor’s consent to such Grantee’s proposed location, methods and schedule for such exercise, which consent shall not be unreasonably withheld, conditioned, or delayed, except as otherwise provided herein. Should a Grantee elect to exercise any such easement right, such Grantee covenants to use the Easement with due care so as not to damage, injure, or disturb any Person, any Owner’s Parcel or any Owner’s operation of its business and Improvements. Further, each Grantee covenants to construct, maintain, repair, operate, and restore, and/or remove, at such

Grantee's sole cost and expense (except as provided in Section 2.10 with respect to the cost of the applicable Grantor relocating a utility easement), any facilities and Improvements such Grantee shall have installed on such Grantor's Parcel in connection with such use; *provided, however*, such Grantee may elect at any time to discontinue its use of such Easement, in which event such Grantee: (i) shall remove or, at the applicable Grantor's request, abandon all facilities and Improvements previously installed in connection with such use; (ii) shall repair any damage to such Grantor's Parcel in connection therewith; and (iii) thereafter shall be discharged from all further duties whatsoever with respect thereto unless and until any such Grantee thereafter commences the use of such Easement again.

(h) Indemnity. Each Grantee shall indemnify, hold harmless, protect, and defend, with counsel reasonably acceptable to the Person receiving such indemnity, its Grantor and shall repair at such Grantee's sole cost and expense the servient tenement in connection with such Grantee's exercise of any of its easement rights. Without limiting the foregoing, such Grantee shall repair, to such condition as existed immediately prior to such Grantee's exercise of such rights, all portions of the Parcel of the servient tenement that such Grantee or its agents may have excavated, damaged or otherwise disturbed in exercising its easement rights. Notwithstanding the foregoing, in the event any Grantee is required to undertake repairs pursuant to this Section 2.1(h), Grantor may perform such repairs at such Grantee's sole cost and expense; provided however, that before undertaking any such repairs (except in the event of an emergency or other exigent circumstance that adversely affects the operation of the Hotel), Grantor shall provide written Notice to Grantee identifying the cause of the damage to Grantor's Parcel, the nature of the damage that requires repair, and Grantor's reasonable estimate of the cost to repair such damage. Grantee shall have five (5) Business Days following receipt of such Notice in which to provide Notice to Grantor confirming whether Grantee shall complete such repairs or whether Grantee consents to Grantor's completion of such repairs. If Grantee fails to respond in writing within such 5-Business Day period, such failure shall be deemed Grantee's consent to Grantor's completion of such repairs. Except as provided herein, no repairs shall be undertaken by Grantor without the consent of Grantee for the cost of the repair, which Approval shall not be unreasonably withheld, conditioned, or delayed, except as otherwise provided herein. The County does not waive any defenses under the Governmental Immunity Act of Utah, Sections 63G-7-101 et seq. of the Utah Code and nothing contained in this Section is intended to modify the limits of liability set forth in the Governmental Immunity Act of Utah or the basis for liability as established thereunder.

(i) No Unreasonable Interruption or Interference. Each Owner covenants and agrees that its exercise of its rights under the Easements granted herein shall not unreasonably interrupt or unreasonably interfere with the Construction and/or business operations conducted by any other Owner and that its exercise of its rights under the Easements granted herein shall be in a manner so as to avoid: (i) causing any increase in the cost of Construction on any other Owner's Parcel or any part thereof; (ii) interfering unreasonably with any Construction being performed on any other Owner's Parcel, or any part thereof; (iii) interfering unreasonably with the use, occupancy or enjoyment of any other Owner's Parcel, or any part thereof; or (iv) impairing or endangering the Improvements in other Parcels or the continuing right of other Parcels to full structural support. Any use of its rights under such Easements by each Grantee, and its obligations in connection therewith, are subject to the provisions of Article 3 hereof. All rights under the easements established pursuant to this Article 2, and the use thereof, shall be limited to the extent reasonably necessary to accomplish the purposes for which such easements are granted or reserved

and shall be subject to reasonable safety precautions and rules and regulations that may be imposed from time to time as to any Parcel by the applicable Grantor at its discretion. Any unresolved disputes under this Article 2 will be subject to resolution in accordance with Articles 13 and 11 below.

(j) Closure of Parcels Related to Prescriptive Rights. Each Grantor reserves the right to close off such portions of its Parcel for such reasonable periods of time as may be legally necessary, in the reasonable opinion of such Grantor, to prevent the acquisition of prescriptive rights by any Person or a dedication for a public purpose; *provided, however*, that prior to closing off any such portion of its Parcel, as herein provided, such Grantor shall notify the other Owners of its intention so to do and shall coordinate such closing with the other Owners so that there shall be no unreasonable interference with the operation of any other Owner's Parcel.

(k) Right to Eject. Each Grantor reserves the right to eject or cause to be ejected from its Parcel any Person who is not authorized, empowered, or privileged to use such Parcel under this Agreement.

2.2 Easements: Access; Signage; Loading; Perimeter.

(a) 200 South Access Drive.

(i) Hotel Owner, as to the Hotel Site, as Grantor, hereby grants to the County, as to the Convention Center Parcel, as Grantee, for use by such Grantee and such Grantee's Permittees, a non-exclusive Easement in the portion of the 200 South Access Drive located on the Hotel Site, as depicted and identified on the Site Plan (the "***Hotel Site South Access Drive***") for pedestrian and vehicular passage (not to exceed the size and weight limitations for the Parking Garage), ingress and egress to and from the Convention Center Parcel and adjacent public rights-of-way. Such Grantee's and its Permittees' use of the pedestrian and vehicular passage, ingress, and egress Easement granted in this Section 2.2(a)(i) shall be in strict conformance with the rules and regulations governing the use of the Hotel Project, as promulgated by Hotel Owner or Hotel Operator from time to time hereafter. In no event shall the County or any of its agents or employees park or station any vehicles within any part of the Hotel Site South Access Drive or otherwise block or impair access to or across any portion of the 200 South Access Drive designated as a travel lane (except temporarily in the event of an emergency or in order to maintain or repair the 200 South Access Drive), or bring or drive buses or similar vehicles on any part of the Hotel Site South Access Drive.

(ii) The County, as to the Convention Center Parcel, as Grantor, hereby grants to Hotel Owner, as to the Hotel Site, as Grantee, for use by such Grantee and such Grantee's Permittees, a non-exclusive Easement in the portion of the 200 South Access Drive located on the Convention Center Parcel, as depicted and identified on the Site Plan (the "***Convention Center South Access Drive***") for pedestrian and vehicular passage, ingress and egress to and from the Convention Center Parking Garage, the Hotel Site and adjacent public rights-of-way. Such Grantee's and its Permittees' use of the pedestrian and vehicular passage, ingress, and egress Easement granted in this Section 2.2(a)(ii) shall be in strict conformance with the rules and regulations governing the use of the Convention Center, as promulgated by the County from time to time hereafter. In no event shall Hotel Owner or any of its Permittees park or station any

vehicles within any of the Convention Center South Access Drive or otherwise block or impair access to or across any portion of the 200 South Access Drive designated as a travel lane (except temporarily in the event of an emergency or in order to maintain or repair the 200 South Access Drive). Subject to the provisions of Section 2.2(d), Hotel Owner may post directional signage along the Convention Center South Access Drive and/or upon the exterior portions of the Convention Center and Convention Center Parking Garage within the designated Signage Easement Area to direct its Permittees to the Convention Center Parking Garage.

(iii) No Owner shall construct or place, or permit to be constructed or placed upon, its respective portion of the 200 South Access Drive any fences, curbs, barriers or other obstacles that would prevent, obstruct, or impede the passage of pedestrians or vehicles within or across the 200 South Access Drive. The foregoing provisions shall not prohibit the temporary erection of a barricade which is reasonably necessary for the construction, repair, or maintenance of any portion of an Owner's Parcel; *provided, however*, that any such work shall be conducted in a manner calculated to cause the least interference as is reasonably possible to the use of the 200 South Access Drive.

(b) Parking Garage Easements.

(i) The County, as to the Convention Center Parking Garage, as Grantor, hereby grants to Hotel Owner, as Grantee, for use by such Grantee and such Grantee's Permittees, a non-exclusive Easement in the Accessways and drive aisles of the Convention Center Parking Garage for pedestrian and vehicular ingress and egress to and from the Hotel Project Parking Garage and the Hotel Project. The County shall not construct or place, or permit to be constructed or placed upon, any barriers or other obstacles within the Convention Center Parking Garage that would prevent, obstruct, or impede the passage of pedestrians or vehicles to the Hotel Project Parking Garage (except temporarily in the event of an emergency or in order to maintain or repair the Convention Center Parking Garage). Such Grantee's and its Permittees' use of the pedestrian and vehicular ingress and egress Easement granted in this Section 2.2(b)(i) shall be in strict conformance with the reasonable rules and regulations governing the use of the Convention Center Parking Garage, as promulgated by the County from time to time hereafter, and the terms of the Parking Agreement. In the event of any conflict between the foregoing rules and regulations and this Agreement or the Parking Agreement, the terms of the Declaration or the Parking Agreement, as the case may be, shall control.

(ii) Hotel Owner, as to the Hotel Site, as Grantor, hereby grants to the County as to the Convention Center Parcel, as Grantee, for use by such Grantee and such Grantee's Permittees, a non-exclusive Easement in the Accessways located in the Hotel Project Parking Garage, including the Hotel Project Parking Garage stairwells, for pedestrian ingress and egress to the Convention Center Parking Garage and Convention Center. Hotel Owner shall not construct or place, or permit to be constructed or placed upon, any barriers or other obstacles within the Hotel Project Parking Garage that would prevent, obstruct, or impede the passage of pedestrians or vehicles to the Convention Center Parking Garage (except temporarily in the event of an emergency or in order to maintain or repair the Hotel Project Parking Garage). Such Grantee's and its Permittees' use of the pedestrian ingress and egress easement granted in this Section 2.2(b)(ii) shall be in strict conformance with the rules and regulations governing the use

of the Hotel Project, as promulgated by Hotel Owner or Hotel Operator from time to time hereafter, and the terms of the Parking Agreement.

(iii) The Parties acknowledge and agree that any easement rights relating to the use of parking spaces within the Hotel Project Parking Garage and/or the Convention Center Parking Garage are set forth in and governed by the Parking Agreement, as the same may be amended from time to time.

(c) Parking Garage Elevator, Lobby and Stairwell. Hotel Owner, as to the Hotel Site, as Grantor, hereby grants to the County, as to the Convention Center Parcel, as Grantee, for use by such Grantee and such Grantee's Permittees, a non-exclusive Easement in the portions of the Hotel Site and Improvements identified on the Site Plan as the "Parking Garage Elevator and Lobby" for use as an elevator lobby, elevator, ADA-compliant access ramp, ventilation shaft and related improvements (such Improvements are referred to herein as the "*Parking Garage Elevator Improvements*") and the "Parking Garage Stairwell G" for use as a stairwell and related improvements (together with the Parking Garage Elevator Improvements, the "*Parking Garage Access Improvements*"), together with the right of pedestrian ingress and egress by means of the Parking Garage Access Improvements to and from the first level of the Convention Center and the Convention Center Parking Garage. The County may also place directional signage upon the Parking Garage Access Improvements to direct its Permittees to the Convention Center and the Convention Center Parking Garage. Hotel Owner reserves the right, for itself and its Permittees, to use the Parking Garage Access Improvements together with the County and its Permittees. Neither Owner shall block or impede pedestrian access to any of the Parking Garage Access Improvements (except temporarily in the event of an emergency or in order to maintain or repair the Parking Garage Access Improvements) or otherwise unreasonably restrict the other Owner's use of the same. The County shall be solely responsible for maintaining the Parking Garage Access Improvements in accordance with the provisions of Sections 2.6 and 7 hereof; *provided, however*, as to the Easement for the Parking Garage Elevator Improvements, Hotel Owner shall be solely responsible for maintaining the sidewalks and other hardscaping, landscaping and exterior site features located within such Easement area that do not comprise the Parking Garage Elevator Improvements.

(d) Signage Easements.

(i) The County, as to the Convention Center Parcel, as Grantor, hereby grants to Hotel Owner, as to the Hotel Site, as Grantee, a non-exclusive Easement for purposes of installing and maintaining identification and directional signage within and around the Convention Center on the Convention Center Parcel in the locations generally identified in attached Exhibit E (the "*Convention Center Signage Easement Areas*").

(ii) Hotel Owner, as to the Hotel Site, as Grantor, hereby grants to the County, as to the Convention Center Parcel, a non-exclusive Easement for purposes of installing and maintaining identification and directional signage within and around the Hotel Project on the Hotel Site in the locations generally identified in attached Exhibit F (the "*Hotel Signage Easement Areas*," and together with the Convention Center Signage Easement Areas, the "*Signage Easement Areas*").

(iii) Each Grantor shall review and Approve any signage proposed by a Grantee hereunder prior to the installation of such signage within a Signage Easement Area. All such signage shall be compatible and generally consistent with the design of the other signage located on the Grantor's Parcel.

(e) Loading Easements.

(i) The County, as to the Convention Center Parcel, as Grantor, hereby grants to Hotel Owner, as to the Hotel Site, as Grantee, for use by such Grantee and such Grantee's Permittees, a non-exclusive Easement in the Convention Center Loading Area and Corridors for loading and unloading of goods and materials and for delivery of the same to and from the Hotel Site. Notwithstanding anything to the contrary herein, the Hotel Owner's use of the Convention Center Loading Area shall not unreasonably interfere with the County's use of the same.

(ii) Hotel Owner, as to the Hotel Site, as Grantor, hereby grants to the County, as to the Convention Center Parcel, as Grantee, for use by such Grantee and such Grantee's Permittees, a non-exclusive Easement in the Hotel Loading Area for the loading and unloading of goods and materials and for delivery of the same to the Convention Center Grand Ballroom, including access through the loading door identified on the Site Plan. Upon Completion of Construction of the Hotel, Hotel Owner shall provide to the County a portable loading ramp Approved by the County that can be placed on the stairs in the location generally identified on the Site Plan, in order to facilitate the County's delivery of goods and materials using a forklift or other similar vehicle, from the Hotel Loading Area to the Convention Center Grand Ballroom. The County shall, at its cost and expense, store, maintain, repair, place, use, remove, and replace such portable ramp, as and when needed or desired by the County. Notwithstanding anything to the contrary herein, the County's use of the Hotel Loading Area shall not unreasonably interfere with the Hotel Owner's use of the same.

(iii) Hotel Owner agrees to cause the Hotel Operator and the County agrees to cause the manager of the Convention Center to meet weekly (or at such other mutually agreeable times) to coordinate use of the Convention Center Loading Area and the Hotel Loading Area, including, without limitation, with regard to dates and times of deliveries and types of materials to be delivered, with each Party acting reasonably and in good faith. One of the purposes of such weekly meetings is for Hotel Owner and the County to provide notice to each other of their needs for use of the Convention Center Loading Area and the Hotel Loading Area, as set forth herein.

(f) Accessways and Restrooms. Each Owner, as Grantor, hereby grants to each other Owner, as Grantee, for use by such Grantee and its Permittees, a non-exclusive Easement in the portions of such Grantor's Parcel consisting of Accessways to be used by such Grantee and its Permittees for pedestrian passage from one Parcel to another Parcel. Hotel Owner, as Grantor, hereby grants to the County and its Permittees a non-exclusive Easement to use the Hotel's main floor lobby restrooms as and when such restrooms are open to Hotel guests and users.

(g) Perimeter Easement. Hotel Owner, as Grantor, hereby grants to the County, as Grantee, a non-exclusive Easement in the portion of the Hotel Site located between the Hotel Site boundary line and the exterior surface of the Hotel Improvements, as identified in attached

Exhibit C (the "**Hotel Site Perimeter**") for the Convention Center Improvements located or to be located within the Hotel Site Perimeter, including, without limitation, all expansion joints and related improvements (the "**Expansion Joints**") that connect the roof structure and other Improvements located on the Convention Center Parcel to the Improvements located on the Hotel Site (collectively, the "**Convention Center Perimeter Improvements**"). Even though the County is not the fee owner of the land where the Convention Center Perimeter Improvements are located and except as stated in this Section 2.2(g) regarding the Expansion Joints, the County shall be solely responsible for maintaining such Convention Center Perimeter Improvements following Completion of Construction in accordance with the provisions of **Sections 2.6** and **7.1**, including, without limitation, all portions of the Convention Center roof structure located within the Hotel Site Perimeter. Following Completion of Construction, the Expansion Joints shall be maintained, repaired, and restored in good condition and repair by the County, subject to reimbursement by Hotel Owner of fifty percent (50%) of the costs for such Work. Hotel Owner and the County each agree to work cooperatively together to develop and Approve by December 31st of each year an annual budget (the "**Expansion Joint Maintenance Budget**") for the following calendar year of anticipated maintenance and repair costs for the Expansion Joints. For any maintenance or repair Work that is not included in an Expansion Joint Maintenance Budget, the County shall give Hotel Owner at least thirty (30) days' written Notice prior to undertaking such Work. Notwithstanding the foregoing, in the case of an emergency or a circumstance that is reasonably expected to have an imminent adverse effect on the operation of the Expansion Joints, the County may perform or cause to be performed any such Work: (i) immediately after giving the Hotel Owner such advance written notice as is practicable under the circumstances; or (ii) immediately and without advance notice, if giving advance notice would unreasonably jeopardize persons or property; *provided, further, however,* that in the event of emergency Work permitted to be conducted without advance Notice pursuant to clause (ii) above, the County shall give the Hotel Owner Notice thereof as soon as practicable thereafter. The County shall use its commercially reasonable efforts to perform all such Work in such a manner as to cause minimal disturbance to the use and operation of the Hotel Improvements as may be practicable under the circumstances. The cost of such Work shall be payable to the County by the Hotel Owner pursuant to the provisions of **Section 4.1**. Except for the Expansion Joints, the Convention Center Perimeter Improvements do not include any interior or structural components of any Hotel Improvements. For purposes of illustration, a cross-section of an Expansion Joint is included in **Exhibit G**.

2.3 **Easements: Utilities.**

(a) **Shared Utility Areas.** Each Owner, as to its Parcel, as Grantor, grants to each other Owner, as to its Parcel, as Grantee, an Easement in any Shared Utility Areas designated by such Grantor as to such Grantor's Parcel and Improvements thereon to the extent as may be reasonably required, for the installation, operation, flow, passage, use, maintenance, repair, replacement, relocation, restoration, and/or removal of any Utility Lines within such Shared Utility Area. The Shared Utility Areas of the Hotel Site are depicted on attached **Exhibit C**. All Utility Lines, whether installed and/or relocated pursuant to the Easements granted herein, shall be placed underground or within a structure approved by the applicable Grantor.

(b) **Surface Water.**

(i) Hotel Owner, as to the Hotel Site, hereby grants and conveys to the County, as to the Convention Center Parcel, an easement to discharge surface storm drainage and/or runoff from the Convention Center roof over, upon, and across the Shared Utility Area of the Hotel Site designated by Hotel Owner for such purpose, upon the following conditions and terms:

(1) The County shall not materially increase the flow of surface water onto the Hotel Site either in the aggregate or by directing the flow of surface water to a limited area or materially decrease the purity or quality of surface water flowing onto the Hotel Site or otherwise exceed the capacity of the stormwater collection, retention, and distribution facilities installed on the Hotel Site for such purposes.

(2) The County shall indemnify, defend, and hold harmless Hotel Owner from and against any claims arising from or related to the discharge, in any amount, of any Hazardous Substances on, under, or about the Hotel Site resulting from the surface water generated by the Convention Center Parcel.

(ii) The County, as to the Convention Center Parcel, hereby grants and conveys to Hotel Owner, an easement to discharge surface storm drainage and/or runoff from the Hotel Site over, upon, and across the Shared Utility Area of the Convention Center Parcel designated by the County for such purpose, upon the following conditions and terms:

(1) Following Completion of Construction of the Hotel, Hotel Owner shall not materially increase the flow of surface water onto the Convention Center Parcel either in the aggregate or by directing the flow of surface water to a limited area or materially decrease the purity or quality of surface water flowing onto the Convention Center Parcel or otherwise exceed the capacity of the stormwater collection, detention, and distribution facilities installed on the Convention Center Parcel for such purposes.

(2) Hotel Owner shall indemnify, defend, and hold harmless the County from and against any claims arising from or related to the discharge, in any amount, of any Hazardous Substances on, under, or about the Convention Center Parcel resulting from the surface water generated by the Hotel Site.

(iii) The stormwater collection, retention, detention, and distribution facilities described herein shall be deemed Utility Lines.

(c) Installation of Utility in Shared Utility Areas; Generally. Prior to locating any Utility Line within a Shared Utility Area, the Grantee shall first provide the Grantor with a written statement describing the need for such Easement, shall identify the proposed location of the Utility Line within the Shared Utility Area, and shall furnish a certificate of insurance showing that the Grantee or its contractor has obtained the minimum insurance coverage required by Article 8 hereof. Except as otherwise agreed to by the Grantor and the Grantee of such Easements, any Owner installing a Utility Line within a Shared Utility Area pursuant to the provisions of this Subsection shall pay all costs and expenses with respect thereto and shall cause all Work in connection therewith (including general clean-up and proper surface and/or subsurface restoration) to be completed as quickly as possible, in a manner so as to minimize interference with the use of

the Shared Utility Area and in a manner so as to not unreasonably interfere with the use, occupancy, or enjoyment of Grantor's Parcel. Following such installation, the Grantee shall perform all Work to maintain, repair, restore, relocate, and/or remove such Utility Line and shall bear the entire cost of such Work. The Grantee shall give the Grantor at least thirty (30) days' written notice prior to the Grantee's maintenance, repair, restoration, relocation, and/or removal of any such Utility Lines; *provided, however*, in the case of an emergency, an imminent cessation or interruption of service, or a circumstance that is reasonably expected to have an imminent adverse effect on the operation of the Hotel Project or the Convention Center, as the case may be, the Grantee may perform or cause to be performed any such Work: (i) immediately after giving each applicable Grantor such advance written notice as is practicable under the circumstances; or (ii) immediately and without advance notice if the reasonably expected delay to be incurred by giving advance notice would unreasonably jeopardize persons or property; *provided, further, however*, that in the event of emergency Work permitted to be conducted without advance notice pursuant to clause (ii) above, the Grantee shall give the Grantor notice thereof as soon as practicable thereafter. The Grantee shall use its commercially reasonable efforts to perform all such Work in such a manner as to cause minimal disturbance to the use, operation, development, and Construction of any other Parcel as may be practicable under the circumstances.

(d) Installation of Utilities in Shared Utility Areas on Hotel Site: Maintenance.

Hotel Owner shall initially Construct and install the Utility Lines shown on the Plans and Specifications within the Shared Utility Areas of the Hotel Site at Hotel Owner's sole cost and expense. Thereafter, all such Utility Lines that are used solely by the County and located on the Hotel Site shall be maintained, repaired, and restored by Hotel Owner in good condition and repair at the County's sole cost and expense; *provided, however*, that prior to undertaking any such Work, Hotel Owner shall provide written Notice to the County identifying the nature of the Work, and Hotel Owner's reasonable estimate of the cost to complete such Work. The County shall have ten (10) days following receipt of such Notice in which to provide Notice to Hotel Owner confirming whether the County Approves of such Work. If the County fails to respond in writing to Hotel Owner's written Notice within such 10-day period, the provisions of Section 12.1 shall apply. Notwithstanding the foregoing, in the case of an emergency, an imminent cessation or interruption of service, or a circumstance that is reasonably expected to have an imminent adverse effect on the operation of the Hotel, Hotel Owner may perform or cause to be performed any such Work: (i) immediately after giving the County such advance written notice as is practicable under the circumstances; or (ii) immediately and without advance notice, if giving advance notice would unreasonably jeopardize persons or property; *provided, further, however*, that in the event of emergency Work permitted to be conducted without advance Notice pursuant to clause (ii) above, Hotel Owner shall give the County Notice thereof as soon as practicable thereafter. Hotel Owner shall use its commercially reasonable efforts to perform all such Work in such a manner as to cause minimal disturbance to the use and operation, of the Convention Center Improvements as may be practicable under the circumstances.

(e) Maintenance and Repair of Shared Utility Lines. All Utility Lines that are used jointly by the County and Hotel Owner shall be maintained, repaired, and restored in good condition and repair by the Owner of the Parcel on which such Utility Line is located, subject to reimbursement by the other Owner of its proportionate share of such costs based on each Owner's capacity usage of such shared Utility Lines. Hotel Owner and the County each agree to work cooperatively together to develop and Approve by December 31st of each year an annual budget

(the "**Utilities Maintenance Budget**") for the following calendar year of anticipated maintenance and repair costs for all Utility Lines that are used jointly by the County and Hotel Owner. For any maintenance or repair Work that is not included in an Approved Utilities Maintenance Budget, each Owner who is responsible for making such repairs hereunder (in such case, the "**Repairing Owner**") shall give each other affected Owner at least thirty (30) days' written Notice prior to the Repairing Owner's maintenance or repair of such Utility Lines if such Work may result in the temporary cessation of service or would reasonably be expected to have an adverse effect on the operation of the other Owner's Improvements. Notice provided by the Repairing Owner shall identify the nature of the Work and the Repairing Owner's reasonable estimate of the cost to complete such Work. The affected Owner shall have ten (10) days following receipt of such Notice in which to provide Notice to the Repairing Owner confirming whether affected Owner Approves of such Work. If the affected Owner fails to respond in writing to the Repairing Owner's written Notice within such 10-day period, the provisions of Section 12.1 shall apply. Notwithstanding the foregoing, in the case of an emergency, an imminent cessation or interruption of service, or a circumstance that is reasonably expected to have an imminent adverse effect on the operation of the Repairing Owner's Improvements, the Repairing Owner may perform or cause to be performed any such Work: (i) immediately after giving each other affected Owners such advance written notice as is practicable under the circumstances; or (ii) immediately and without advance notice, if giving advance notice would unreasonably jeopardize persons or property; *provided, further, however*, that in the event of emergency Work permitted to be conducted without advance Notice pursuant to clause (ii) above, the Repairing Owner shall give the other affected Owners Notice thereof as soon as practicable thereafter. The Repairing Owner shall use its commercially reasonable efforts to perform all such Work in such a manner as to cause minimal disturbance to the use and operation of the other Owner's Improvements as may be practicable under the circumstances. The cost of such Work shall be payable to the Repairing Owner by the other affected Owners pursuant to the provisions of Section 4.1.

(f) Relocation of Utility Easements. Each Grantor of any Utility Easement granted under this Section 2.3 shall have the right to relocate the same on its Parcel at any time; *provided* that such Grantor shall give each applicable Grantee sixty (60) days' prior written notice thereof; and *provided, further*, that such relocation: (i) shall not interfere with or diminish the Utility services to such Grantee; (ii) shall not reduce or unreasonably impair the usefulness or function of such Easements or the business conducted by such Grantee on its Parcel; (iii) shall not result in any facilities being relocated other than underground or within a structure reasonably approved by such Grantee; and (iv) shall be performed at such Grantor's sole cost and expense and without cost or expense to such Grantee, including any increased cost of maintenance caused by such relocation. Notwithstanding clauses (i) and (ii) above, temporary interferences with and diminution in such services shall be permitted, if they occur upon prior written notice and if such Grantor promptly reimburses such Grantee for all of such Grantee's direct costs and for any expense and loss (excluding, in the absence of such Grantor's gross negligence or willful misconduct, any consequential damages) resulting from such interferences and/or diminution in such services. Notwithstanding anything to the contrary set forth in this Section 2.3(e), any relocation of any Utility Easement permitted to be effected by a Grantor shall be subject to the reasonable Approval of any other Owner benefitted by such Utility Easement; *provided, however*, that such Approval will be in such other Owner's sole and absolute discretion if said relocation would have a material and detrimental effect on such other Owner's ownership, Construction, leasing, financing, operation or restoration of its Parcel.

2.4 **Easement: Common Structural Elements.**

(a) **Grant of Easement Generally.** Each Owner, as to its Parcel, as Grantor, hereby grants to each other Owner of an Adjacent Parcel (as to such Parcel) (the "***Adjacent Owner***"), as Grantee, an Easement in such Grantor's Parcel (to the extent reasonably necessary for such Grantee's enjoyment, preservation and/or use of such Grantee's Improvements located on such Grantor's Parcel), for use of the following: (i) subject to the provisions of **Section 2.4(b)** below, separate or common footings, girders, columns, braces, foundations, and other standard support elements, as set forth in the Plans and Specifications, for the purpose of supporting the Improvements of such walls shared by such Grantor and such Grantee as may be necessary for the structural integrity and enclosure of adjacent or subjacent Improvements; (ii) with respect to the County, as Grantor, to and for the benefit of Hotel Owner, as Grantee, canopies, roof and building overhangs, roof flashings, wing walls, awnings, signs, lights and lighting devices and other similar appurtenances. Subject to **Article 6** and **Section 7.4**, each Grantor of any Easement in this **Section 2.4** covenants to each Grantee with respect to such Easement that it shall at all times, as applicable, operate, maintain, restore, repair, and replace and keep and maintain in good order, condition, and repair, and in a neat and attractive condition, all common structural support elements related to each such Easement.

(b) **No Common or Party Walls.** Nothing herein shall be deemed to create or establish a "common" or "party" wall to be shared by Buildings constructed along the common boundary line between the Parcels.

2.5 **Easement: Encroachments.** Each Owner, as to its Parcel, as Grantor, grants to each other Owner, as to its Parcel, as Grantee, an Easement for encroachments and maintenance thereof, if and to the extent that:

(a) there are minor variations from the Plans and Specifications in the Construction of any of the Improvements occurring due to Construction accuracy, methods and/or techniques;

(b) there is minor settlement or shifting of any Improvements over time so that any part of the Improvements on any Parcel encroaches upon a part of any adjacent Parcel; or

(c) there are canopies, roof and building overhangs, door swings, signs, light standards, or other similar encroachments as contemplated by the Plans and Specifications, or as may otherwise be approved by such Grantor, together with their replacements as such replacements may be reasonably modified.

2.6 **Easement: General Integration, Maintenance, and Development.** Each Owner, as to its Parcel, as Grantor, grants to each other Owner of an Adjacent Parcel (as to such Parcel), as Grantee, Easements at any level above or below the ground, including, without limitation, over and across roof areas, to the extent to which such easements may be required to comply with any provision of Applicable Law with respect to ingress or egress in the event of fire or other emergency, construction or maintenance of such Grantee's Improvements, or as otherwise may be reasonably necessary to carry out the construction, maintenance, repair, operation, and restoration

of such Grantee's Improvements. Notwithstanding the foregoing, no Owner shall be required to grant an easement under this Section 2.6, if such easement is in any way adverse to that Owner or if the Owner requesting the easement can comply with Applicable Laws or accomplish its purpose in another reasonable manner.

2.7 **No Dedication of Easements.** Nothing contained in this Article 2, including the grant of any or all Easements hereunder, shall be deemed to constitute a dedication of any Parcel or any portion or portions thereof or any roadway referred to on the Site Plan(s) attached hereto as Exhibit D to any other governmental body, agency, or entity or to the general public, or be construed to create any rights in or for the benefit of any Person not an Owner, it being intended that this Agreement shall be strictly limited to and for the purposes herein expressed.

2.8 **Abandonment of Easements.** Subject to the requirements of Section 2.1(g), the Easements granted in this Article 2 and any Improvements constructed in the exercise thereof may be: (a) abandoned by the Grantee at any time by such Grantee's notice given to its Grantor (together with the written joinder in such abandonment by the fee owner and any ground lessee and any Permitted Mortgagee of such Grantee's Parcel); or (b) terminated by the applicable Grantor after the Termination Date of this Agreement, if such Easements have not been terminated by their own terms, because the use thereof, including the use of facilities therein, shall have ceased for a period of at least two (2) years, and prior to the resumption of use: (i) such Grantor shall have notified the then-record owner of the fee or leasehold estate constituting the dominant tenement and all Permitted Mortgagees thereof that such Easement has been abandoned; (ii) such Grantor shall have caused to be recorded in the Recorder's Office an affidavit that such abandonment has taken place and that such notice has been properly given; and (iii) within ninety (90) days after such notice, any such record owner (or any Permitted Mortgagee holding a Mortgage encumbering such Owner's Parcel) shall have failed to record in the Recorder's Office an affidavit that a Grantee has, in fact, used such Easement within such two (2)-year period. Any Person at any time acquiring an interest in any Parcel after the first such affidavit described above has been filed of record (*provided* such affidavit and recording shall have been made after the Termination Date as provided in Subsection 2.8(b) above) shall be entitled to rely on such failure to record an affidavit of use within such ninety (90)-day period as final, conclusive evidence that such Easement has been abandoned and terminated.

2.9 **Granting of Easements to Utility Companies.** If reasonably requested by an Owner, any other Owner agrees to convey one or more utility easements to public utility companies or to any municipal or other similar governmental agency requesting the execution and delivery of a written easement agreement and to execute any documents necessary in connection with such conveyance.

2.10 **Relocation of Easements.** With respect to any Easements granted under this Article 2 (other than Utility easements granted in Section 2.3(e), the relocation of which is governed by the provisions specifically relating thereto), each Grantor of an Easement under this Article 2 may relocate any Easement on its Parcel at any time; *provided* that such Grantor shall give each applicable Grantee fifteen (15) days' prior written notice thereof; and *provided, further*, that such relocation: (a) shall not reduce or unreasonably impair the usefulness or function of such Easements; (b) shall be performed at such Grantor's sole cost and expense and without cost or expense to such Grantee, including any increased cost of maintenance caused by such relocation,

and (c) shall not interrupt or interfere with the Construction and/or business operations of the Grantee of such Easement. Notwithstanding clauses (a) through (c) above, temporary interferences with and diminution in such use shall be permitted, if they occur upon prior written notice and if such Grantor promptly reimburses such Grantee for all of such Grantee's direct costs, expense and loss (excluding, in the absence of such Grantor's gross negligence or willful misconduct, any consequential damages) resulting from such interferences and/or diminution in the use of such Easement. Notwithstanding anything to the contrary set forth in this Section 2.10, any relocation of any Easement permitted to be effected by a Grantor shall be subject to the reasonable Approval of any other Owner; provided, however, that such Approval will be in such other Owner's sole and absolute discretion if said relocation would have a material and detrimental effect on such other Owner's ownership, Construction, leasing, financing, operation, or restoration of its Parcel.

ARTICLE 3 CONSTRUCTION MATTERS

3.1 Construction of Hotel Project. After Closing, Hotel Owner and the County hereby agree as follows:

(a) Construction Governed by Development Agreement. The construction of the Hotel Project shall be governed by the terms and conditions of the Development Agreement, in addition to those provisions set forth herein.

(b) Survival of Development Agreement. The Parties agree that all terms and conditions of the Development Agreement that, by their context, apply post-Closing shall remain effective after Closing and are not affected by this Agreement.

3.2 Work Performed After Completion of Construction. Except as otherwise provided herein, the following provisions apply to any Work performed by Hotel Owner after Completion of Construction and any Work performed by the County at any time:

(a) Temporary Construction License. Subject to each provision of this Section 3.2, each Owner hereby grants and conveys to each other Owner and to its respective contractors, materialmen, and laborers a temporary license for access and passage over and across such Grantor's Parcel as is reasonably necessary for the Grantee to Construct and/or maintain Improvements located on the Grantee's Parcel; *provided, however*, that such license shall be in effect only during periods when actual construction and/or maintenance is being performed and *provided, further*, that the use of such license shall not unreasonably interfere with the use, operation, and enjoyment of such Grantor's Parcel. At least thirty (30) days prior to exercising the rights granted herein, the Grantee shall provide the Grantor with a written statement describing the need for such license, the area to be affected by such Work, and the anticipated length of time for which such license is needed, and shall furnish a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by Article 8 hereof. Within ten (10) days of receipt of Grantee's written statement, Grantor shall respond to Grantee in writing to either approve or disapprove of the temporary license described in such statement. Grantor may only disapprove of such temporary license if the Work to be performed would unreasonably interfere with the use, operation, or enjoyment of the Grantor's Parcel, as determined by Grantor acting

reasonably and in good faith. If such written response is provided by Grantor, no temporary license shall be granted until the Parties have resolved to each Party's reasonable satisfaction the issues raised by Grantor. If Grantor fails to respond in writing to Grantee's written statement within such 10-day period, the provisions of Section 12.1 shall apply. Any Owner availing itself of the temporary license shall promptly pay all costs and expenses associated with such work, shall diligently complete such work as quickly as possible, and shall promptly clean the area, and restore and/or repair the affected portion of any Parcel to a condition which is equal to or better than the condition which existed prior to the commencement of such work. Notwithstanding the foregoing, all storage of materials and the parking of construction vehicles, including vehicles of workers, shall occur only on the Constructing Owner's Parcel, and all laborers, suppliers, contractors, and others connected with such construction activities shall use only the access points located upon the Constructing Owner's Parcel. At all times during Construction on a Parcel, adequate measures shall be taken for dust control. All streets, sidewalks, and driveways, including, without limitation, the 200 South Access Drive following completion of its Construction, shall be kept free of debris and other materials.

(b) Approval Rights – County. Prior to the Completion of Construction, Hotel Owner shall not make any Prohibited Project Changes without the written consent of the County as required under the Development Agreement. Following Completion of Construction, Hotel Owner shall not, without the County's Approval, make: (i) any substantial and material change to any Mandatory Hotel Project Design Elements; (ii) any substantial and material change in the massing of the development, including the orientation and general configuration of the tower structure or the size and confirmation of the tower structure and podium design reflected the Schematic Plans; or (iii) any substantial change that materially affects the exterior appearance of the Hotel Project contained in the Schematic Plans or materially impairs the ability of the Hotel Project to function as a convention center hotel. No other Owner shall be entitled to object to any changes approved by the County with respect to such matters. The County shall not unreasonably withhold, delay, or condition its approval required under this Section 3.2(b). For the avoidance of doubt, the County's Approval rights required in this Section 3.2(b)(iii) shall not apply to, without limitation, interior colors or materials and interior or exterior lighting. Any request for Approval submitted to the County shall be accompanied by one (1) full set of detailed plans and specifications for the proposed changes. Hotel Owner shall promptly submit to the County any additional information or materials reasonably requested by the County for the purpose of aiding in its review of the request for Approval. The County's Approval rights shall be governed by Article 12 hereof. The Approval rights granted in this Section 3.2 are solely for the benefit of the County, and no other Owner or party, or any employees, agents or representatives of any other Owner or party, shall have any Approval rights with respect thereto.

(c) Approval Rights – Hotel Owner. The County shall not, without Hotel Owner's prior Approval (which Approval may be withheld in Hotel Owner's sole, but reasonable discretion, notwithstanding any other provision set forth herein), make any change to the Convention Center that will prevent the County's compliance with the Convention Center Operating Covenant. Any request for Approval submitted to Hotel Owner shall be accompanied by one (1) full set of detailed plans and specifications for the proposed changes. The County shall promptly submit to Hotel Owner any additional information or materials reasonably requested by Hotel Owner for the purpose of aiding in its review of the request for Approval. Hotel Owner's Approval rights shall be governed by Article 12 hereof. The Approval rights granted in this

Section 3.2 are solely for the benefit of Hotel Owner (and its successors as to the Hotel Site), and no other Owner, or any employees, agents or representatives of any other Owner, shall have any rights with respect thereto. This provision is not intended to relieve the County of its obligation to comply with the Convention Center Operating Covenant in Section 5.1 hereof.

(d) Construction – General Requirements. Following Completion of Construction of the Hotel Project, each Owner agrees that all Construction activities and other Work performed by it within its Parcel shall be performed in compliance with Applicable Laws and that its Construction activities and other Work shall not: (i) cause any unreasonable increase in the cost of Construction of Improvements upon another Owner's Parcel; (ii) unreasonably interfere with Construction being performed by any other Owner; (iii) unreasonably interfere with the use, occupancy, or enjoyment of any part of any Parcel by any other Owner or its Permittees; (iv) impede or impair any ADA-compliant access or ramps (unless an alternative ADA-compliant access is provided); or (v) cause any Building located on another Parcel to be in violation of Applicable Laws.

(e) Limitations on Modifications.

(i) Change to 200 South Access Drive. No Owner shall make changes to the portion of the 200 South Access Drive located on its Parcel without the approval of the Adjacent Owner, which approval shall not be unreasonably withheld, conditioned, or delayed, except that each Owner hereby reserves the right, from time to time, without obtaining the consent or approval of any other Owner, to make at its own expense any insignificant change, modification or alteration in its portion of the 200 South Access Drive so long as:

(1) the accessibility of the 200 South Access Drive for pedestrian and vehicular traffic is not restricted or hindered, and all parking stalls and rows and vehicular traffic lanes shall generally remain as shown on the Site Plan;

(2) no Applicable Law shall be violated as a result of such action, and such action shall not result in any other Owner being in violation of any Applicable Law; and

(3) no change shall be made in the access points between the 200 South Access Drive and any public streets; *provided, however*, that additional access points may be created with the approval of the Adjacent Owner, such approval not to be unreasonably withheld.

(f) Workmanship; Costs. Each Owner of a Parcel agrees that all Construction to be performed hereunder by such Owner during the term of this Agreement shall be done in a good and workmanlike manner and in accordance with good construction practice, with new, first-class materials and in compliance with all Applicable Laws and in substantial compliance with the Plans and Specifications which have been approved to the extent required by Section 3.2. Each Owner of a Parcel shall pay all costs, expenses, liabilities, and liens arising out of or in any way connected with its Construction, including, without limitation, all costs to repair any Improvements or property of any other Owner damaged as a result of such Construction. Upon request by any Owner, each Owner shall deliver to the requesting Owner copies of those items submitted to such

Owner's Permitted Mortgagee evidencing: (i) completion of such Owner's Construction hereunder in compliance with the approved Plans and Specifications for such Owner's Improvements, if applicable, and with Applicable Laws; (ii) payment of all costs, expenses, liabilities and liens arising out of or in any way connected with such Construction; and (iii) discharge of all liens of record, or contested and bonded, in which event any judgment or other process issued to such contest shall be paid and discharged before execution thereof. Nothing contained herein shall be deemed to prohibit a lien created by a Mortgage or Mortgages on a Parcel, or any portion thereof or interest therein, or to restrict the right of Hotel Owner to Complete Construction of the Hotel Project in accordance with the requirements of any Mortgage(s) encumbering the Hotel Site.

(g) Coordination. Each Owner shall use all reasonable efforts to cause its architects, engineers, and contractors to cooperate and coordinate such Owner's Construction with the architects, engineers, and contractors and Construction of the other Owner(s) to the extent reasonably practicable in order to achieve the objectives set forth in Article 3.

(h) Interference During Construction. Each Owner agrees to perform its respective Work (and to cause such Owner's Permittees to perform such Work) subject to this Article 3 in a manner so as to avoid: (i) causing any increase in the cost of Construction on any other Owner's Parcel or any part thereof; (ii) interfering unreasonably with any Work being performed on any other Owner's Parcel, or any part thereof; (iii) interfering unreasonably with the use, occupancy or enjoyment of any other Owner's Parcel, or any part thereof, by any other Permittee (including, without limitation, causing noise in violation of Applicable Laws); or (iv) impairing or endangering the Improvements in other Parcels or the continuing right of such other Parcels to full structural support. In furtherance of the obligation set forth in Subsection 3.2(f)(iii), the Constructing Owner and its Permittees shall exercise commercially reasonable efforts to: (a) minimize the amount of debris and dust caused by its Construction activities and; (b) to the extent feasible, utilize methods and procedures for all deliveries of Construction equipment and supplies to minimize disruption to the other Owners' business operations.

(i) Mechanic's Liens. If any mechanic's lien is filed against the Parcel of any Owner (referred to in this Section 3.2(g) as the "*Liened Owner*"), the Owner who ordered or contracted for the Work or materials on account of which the lien was filed (referred to in this Section 3.2(g) as the "*Contracting Owner*") hereby covenants for the benefit of the Liened Owner either to pay the same and have it promptly discharged of record or to take such action as may be required reasonably and legally to object to such lien or to have such lien removed from such Parcel but in all events to have such lien discharged prior to its foreclosure. Upon request of the Liened Owner, the Contracting Owner covenants to bond against and to indemnify, hold harmless, protect and defend, with counsel reasonably acceptable to the Person receiving such indemnity, the Liened Owner, its Permitted Mortgagee, and the title insurer of the Liened Owner's Parcel from such lien or furnish such security as may be required by law, or by any Permitted Mortgagee of the Liened Owner, to remove, release and discharge such lien of record.

(j) Construction Bonds. If any Owner is required by its Permitted Mortgagee to obtain, or otherwise elects to require its contractor to obtain, payment, performance, and/or completion bonds, in connection with any Construction with respect to its Parcel, then such Owner shall request that the other Owners and their respective Permitted Mortgagee(s) be named as

additional obligees under such bonds, except that the rights of said additional obligees shall be subordinate to the Permitted Mortgagee(s)' rights and the rights of the Owner obtaining such bonds; *provided, however*, that naming such other Owners as obligees under such bonds shall be at reasonable cost to the Owner obtaining such bond and is permitted by said Owner's Permitted Mortgagee(s).

(k) Temporary Cessation of Fire Service or Life Safety Systems. If: (a) an Owner is to perform any Construction or repair Work with respect to its Building, including but not limited to the installation, modification or relocation of Utility Lines pursuant to Article 2; and (b) as a result thereof or incident thereto any Owner's Improvements in its Parcel shall experience a temporary loss of operation of fire service or life safety systems, the Constructing Owner, as a condition precedent to the commencement and continuation of such Construction, shall:

(i) notify the other Owners that such fire service or other life safety systems will be temporarily suspended at least forty-eight (48) hours prior thereto, which notice shall specify the Owner is performing such Construction and the date or dates and hours such service shall be lost;

(ii) obtain the prior written consent of the Owners in whose Parcel(s) such service shall be lost, which consent shall not be unreasonably withheld;

(iii) perform all such Construction during non-peak business hours of (or such other hours as may be approved by) the Owners so affected;

(iv) cause a fire/safety watch to be posted and provide substitute fire protection and life safety measures reasonably acceptable to the other Owners, at the Constructing Owner's cost, during all periods when such fire service or life safety system is not in operation; and

(v) comply with all Applicable Laws.

(l) Indemnity. As to Work or materials ordered or contracted for by or on behalf of each Owner of a Parcel or its agents, such Owner covenants to indemnify, hold harmless, protect, and defend, with counsel reasonably acceptable to the Person receiving such indemnity, the other Owners of Parcels, and the Parcels of the other Owners from: (a) claims of lien of laborers, materialmen and others arising from such Work performed or materials furnished pursuant to such order or contract; and (b) all claims arising from or as a result of the death of, or any accident, bodily injury, loss or damage whatsoever caused to any natural Person, or to the property of any Person, as shall occur by reason of the performance of any Work to be constructed or caused to be constructed by such Owner. The County does not waive any defenses under the Governmental Immunity Act of Utah, Sections 63G-7-101 et seq. of the Utah Code and nothing contained in this Section is intended to modify the limits of liability set forth in the Governmental Immunity Act of Utah or the basis for liability as established thereunder.

**ARTICLE 4
COST REIMBURSEMENT PROVISIONS**

4.1 **Reimbursements.** If an Owner is owed any amounts from another Owner pursuant to the terms of this Agreement, such Owner (the "***Invoicing Owner***") shall submit a written invoice to such other Owner (each, an "***Invoice***") and shall include reasonable documentation of the costs included in the Invoice. Each Invoice shall be paid within thirty (30) days of receipt thereof. If an Invoicing Owner has not received full payment of the invoiced amount within such 30-day period, in addition to pursuing any and all remedies available at law or in equity, the Invoicing Owner may also charge the defaulting Owner a late fee of 5% of all outstanding amounts, together with interest accruing thereon from the date paid until the date reimbursed at the Default Rate.

**ARTICLE 5
COVENANTS, CONDITIONS, AND RESTRICTIONS**

5.1 **Convention Center Operating Covenant.** The County agrees to and shall continuously operate the Convention Center during the Operating Period in accordance with the Convention Center Operating Covenant.

5.2 **Exclusive Right to Hotel Project.** The County shall not permit any other party to develop, construct, or operate the Hotel Project, and the County hereby agrees that Hotel Owner shall have the exclusive right to develop, design, construct, and operate the Hotel Project. In addition, the County shall not incentivize another hotel to be constructed on the County-owned or leased property located within an area bounded by Interstate 15 to the West, 1700 South to the south, Foothill Drive to the East and 600 North to the north for a period of twenty-five (25) years from the date on which the Opening occurs.

5.3 **Continuous Operating Covenant – Hotel Project.**

(a) Hotel Owner will continuously operate not fewer than seven hundred (700) rooms in the Hotel Project on the Hotel Site (as such number of rooms may be reduced due to a condemnation affecting the Hotel Project) during the Operating Period and in accordance with the Minimum Hotel Operating Standards (the "***Continuous Operating Covenant***") (subject to Force Majeure maintenance, repair, reconstruction, alterations, remodeling, and renovation, whether as a result of casualty, condemnation or otherwise, or as a result of other similar activities of Hotel Owner in the ordinary course of operating the Hotel Project, or otherwise as a result of disputes with, or defaults by, the Hotel Operator, *provided* that Hotel Owner is using commercially reasonable efforts to repair and restore the Hotel Project or, as applicable, to mitigate the impact of such disputes, defaults, and other events that interrupt Hotel Owner's continuous operation of the Hotel Project in accordance with the Continuous Operating Covenant) until the earlier of: (i) the date on which the County ceases to operate the Convention Center in accordance with the Convention Center Operating Covenant; or (ii) after the expiration of the Operating Period, the date on which Hotel Owner ceases to operate the Hotel Project in accordance with the Minimum Hotel Operating Standards, and on which Hotel Owner pays the County the Fair Market Value of the real property constituting the Hotel Site in an unimproved state.

(b) Notwithstanding Section 5.3(a) hereof, but subject to Section 5.3(c) below, Hotel Owner will not be deemed to have violated the Continuous Operating Covenant for failure to operate the Hotel Project during periods of Force Majeure, maintenance, repair, reconstruction, alterations, remodeling, and renovation, whether as a result of casualty, condemnation or otherwise, or as a result of other similar maintenance, repair, reconstruction, alteration, remodeling or renovation activities of Hotel Owner in the ordinary course of operating the Hotel Project.

(c) If at any time when the term of the Continuous Operating Covenant is in effect, a Major Hotel Casualty occurs that causes the Hotel Operator to suspend operation of the Hotel, or to operate fewer than the number of hotel rooms required under the Continuous Operating Covenant, then Hotel Owner shall not be in violation or default of the Continuous Operating Covenant, but the Continuous Operating Covenant will be suspended for a period of up to three (3) years from the date of the Major Hotel Casualty until the date on which Hotel Owner restores the Hotel to operations that comply with the Continuous Operating Covenant. Hotel Owner shall be entitled to a period of up to three (3) years after the occurrence of a Major Hotel Casualty to commence rebuilding, restoring, and reopening the Hotel to the public, if within a reasonable period of time following the occurrence of the Major Hotel Casualty (which shall not be less than ninety (90) days), Hotel Owner submits a plan to the County generally describing in the steps Hotel Owner intends to take to reopen the Hotel to the public and to recommence operating the Hotel in accordance with the Continuous Operating Covenant (a "**Hotel Covered Event Recovery Plan**") and thereafter uses commercially reasonable efforts to implement the Hotel Covered Event Recovery Plan as follows:

(i) Upon the occurrence of a Major Hotel Casualty, the Operating Period will be extended, on a day-for-day basis, by the number of days that the Hotel is not being operated in accordance with the Continuous Operating Covenant (i.e., if the Hotel is closed for a period of six (6) months by reason of a Major Hotel Casualty, then six (6) months will be added to the Operating Period).

(ii) If Hotel Owner fails to deliver a Hotel Covered Event Recovery Plan within a reasonable time following the occurrence of a Major Hotel Casualty (which shall not be less than ninety (90) days), or if Hotel Owner thereafter fails to use reasonable efforts to implement such Hotel Covered Event Recovery Plan, Hotel Owner will not be deemed to have breached the Continuous Operating Covenant unless Hotel Owner fails to commence cure within a reasonable time after written notice from the County (which shall not be less than ninety (90) days) or thereafter fails to use commercially reasonable efforts to pursue such cure.

(iii) "**Major Hotel Casualty**" means fire, windstorm, or other casualty to the Hotel Project that: (A) renders more than 20% of the rooms of the Hotel unusable; or (B) destroys or substantially damages 20% or more of the Hotel Project.

(d) Only after expiration of the Operating Period, and without limiting Hotel Owner's rights under this Section 5.3, upon the occurrence of a Major Hotel Casualty, Hotel Owner will have the right to terminate the Continuous Operating Covenant by paying to the County an amount equal to the Fair Market Value of the Hotel Site in its unimproved condition. For the avoidance of doubt, the remaining provisions of this Agreement will remain in effect

notwithstanding the termination of the Continuous Operating Covenant pursuant to this Section 5.3(d).

(e) All disputes between the County and Hotel Owner regarding the provisions of this Section 5.3 (including disputes as to the violation by Hotel Owner of the Continuous Operating Covenant) shall constitute Arbitral Disputes under Article 13 hereof.

5.4 **Incentive Agreement.** Hotel Owner shall comply in all material respects with the terms and conditions of the Incentive Agreement.

5.5 **Convention Center Hotel Fee.** For a period of twenty-five (25) years from the date on which the Opening occurs, Hotel Owner shall charge customers and pay to the County an amount equal to one percent (1%) of Gross Revenue generated by the Hotel Project (the "**Convention Center Hotel Fee**"). For purposes of this Agreement, "**Gross Revenue**" means and includes all revenue from rooms, food, beverage, and goods that are purchased and sold upon the Hotel Project, including all restaurants, banquet facilities, cafes, and bars, regardless of whether operated by Hotel Owner or leased to a third party. In no event shall the Gross Revenue be less than the revenue used to calculate new tax revenue from onsite revenue and offsite revenue. For clarity, the Convention Center Hotel Fee will be used by the County as follows and in the following order of priority: (1) first, to reimburse the County for any payments it was required to make to the Hotel Impact Mitigation Fund (meaning the fund created by and described in Section 63N-2-512 of the Utah Code), including reasonable interest; (2) second, to pay any administrative expenses owed to the County and GOED in relation to the Hotel Project in connection with the Convention Incentive; and (3) third, for other County uses related to the Hotel Project and Convention Center, including sales, marketing, and infrastructure expenses, as determined by the County, in its sole discretion. Payment of the Convention Center Hotel Fee shall be made within thirty (30) days after the end of each calendar month during which Gross Revenue was earned. After the Opening and for the period during which the Convention Center Hotel Fee is assessed under this Section 5.5, Hotel Owner shall deliver, not less than monthly, statements identifying the amount of Gross Revenue for purposes of calculating the Convention Center Fee.

5.6 **Assignment of Development Agreement/Conveyance of Hotel Site Prior to Completion of Construction.** After Closing and prior to Completion of Construction, Hotel Owner shall not assign (including, without limitation, by transfer of direct or indirect ownership interests in the Hotel Owner or any owner of interests in Hotel Owner, which transfers shall be deemed an assignment), transfer, mortgage, pledge, or hypothecate all or any interest in the Development Agreement and this Agreement or sell the Hotel Site without the prior Approval of the County, except for an assignment of the Development Agreement and this Agreement and/or the conveyance of the Hotel Site to an Affiliate of Hotel Owner. Further, without the Approval of the County: (a) upon not less than ten (10) Business Days' prior Notice to the County and at Closing without Notice to the County, Hotel Owner may collaterally assign, all (but not part) of its interest in the Development Agreement to the Construction Lender and thereafter to each other Institutional Lender (as defined in the Development Agreement) that has provided Hotel Owner with a loan secured by a deed of trust lien or mortgage upon the Hotel Site, subject, however, to Hotel Owner's and each Permitted Mortgagee's rights under Article 15 hereof; and (b) pledges of direct or indirect interests in the Hotel Owner shall be permitted in connection with the Project Financing, subject to the effect of Article 15 hereof. In addition, the interests and rights in Hotel

Owner may be assigned or transferred without the County's consent in connection with obtaining some or all of the Project Financing and in connection with monetizing the Convention Incentive.

5.7 **Non-Interference.** Each Owner covenants and agrees that it shall not unreasonably interrupt or unreasonably interfere with the business operations conducted by any other Owner and that its exercise of its rights under this Agreement (including with respect to the Easements granted herein) shall be in a manner so as to avoid interfering unreasonably with the use, occupancy or enjoyment of any other Owner's Parcel, or any part thereof, by any other Permittee, including, without limitation, each Owner's obligation to comply with Applicable Laws with respect to noise. No Owner may block, unreasonably restrict or interfere with access to such other Owner's Parcel at any time (except temporarily in the event of an emergency or in order to maintain or repair such Owner's Parcel).

5.8 **Conveyance of the Hotel Site by County.**

(a) IT IS UNDERSTOOD AND AGREED THAT EXCEPT AS SET FORTH IN THIS AGREEMENT AND IN THE DEED, AND EXCEPT FOR ANY OTHER REPRESENTATIONS AND WARRANTIES CONTAINED IN THE DEVELOPMENT AGREEMENT, THE PARKING AGREEMENT, AND THE COUNTY PROPERTY TAX AGREEMENT, THE HOTEL SITE WAS CONVEYED "AS IS", "WHERE IS" WITH ANY AND ALL FAULTS AND LATENT AND PATENT DEFECTS AND WITHOUT ANY EXPRESS OR IMPLIED REPRESENTATION OR WARRANTY BY THE COUNTY. EXCEPT FOR THE WARRANTIES CONTAINED IN SECTION 2.1 OF THE DEVELOPMENT AGREEMENT, THE COUNTY HAS NOT MADE AND DOES NOT HEREBY MAKE AND HEREBY SPECIFICALLY DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR CHARACTER WHATSOEVER, EXPRESS OR IMPLIED, WITH RESPECT TO THE HOTEL SITE, ITS CONDITION (INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY REGARDING SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE), ITS COMPLIANCE WITH ENVIRONMENTAL LAWS OR OTHER LAWS, OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE HOTEL SITE, AND THE COUNTY HEREBY DISCLAIMS AND RENOUNCES ANY AND ALL OTHER REPRESENTATIONS OR WARRANTIES. HOTEL OWNER ACKNOWLEDGES AND AGREES THAT OTHER THAN THE WARRANTIES CONTAINED IN SECTION 2.1 OF THE DEVELOPMENT AGREEMENT AND IN THE DEED, AND EXCEPT FOR ANY REPRESENTATIONS SET FORTH HEREIN AND IN THE PARKING AGREEMENT, AND THE COUNTY PROPERTY TAX AGREEMENT, IT IS ENTERING INTO THIS AGREEMENT WITHOUT RELYING UPON ANY SUCH REPRESENTATION, WARRANTY, STATEMENT OR OTHER ASSERTION, ORAL OR WRITTEN, MADE BY THE COUNTY OR ANY REPRESENTATIVE OF THE COUNTY OR ANY OTHER PERSON ACTING OR PURPORTING TO ACT FOR OR ON BEHALF OF THE COUNTY WITH RESPECT TO THE HOTEL SITE AND IS RELYING UPON ITS OWN EXAMINATION AND INSPECTION OF THE HOTEL SITE. HOTEL OWNER REPRESENTS THAT IT IS A KNOWLEDGEABLE PURCHASER OF REAL ESTATE SIMILAR TO AND THAT IT RELIED SOLELY ON ITS OWN EXPERTISE AND THAT OF ITS CONSULTANTS IN ELECTING TO ACCEPT TITLE TO AND DEVELOP THE HOTEL SITE, EXCEPT FOR THE WARRANTIES CONTAINED IN SECTION 2.1 OF THE DEVELOPMENT AGREEMENT AND IN THE DEED, AND

EXCEPT FOR ANY OTHER WARRANTIES SET FORTH HEREIN AND IN THE PARKING AGREEMENT AND THE COUNTY PROPERTY TAX AGREEMENT. HOTEL OWNER FURTHER ACKNOWLEDGES AND AGREES THAT THE PROVISIONS OF THIS SECTION ARE A MATERIAL FACTOR IN THE COUNTY'S DETERMINATION OF THE CONSIDERATION FOR THE TRANSFER OF THE HOTEL SITE TO HOTEL OWNER.

(b) FURTHER AND NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN (OTHER THAN THE WARRANTIES CONTAINED IN SECTION 2.1 OF THE DEVELOPMENT AGREEMENT AND IN THE DEED, AND EXCEPT FOR ANY OTHER REPRESENTATIONS SET FORTH HEREIN AND IN THE PARKING AGREEMENT AND THE COUNTY TAX AGREEMENT), THE COUNTY HAS NOT MADE, AND HOTEL OWNER AGREES THAT THE COUNTY HAS NOT MADE, ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER WITH REGARD TO THE FINANCIAL PERFORMANCE OF THE HOTEL PROJECT, ITS VALUE OR ANY OTHER ECONOMIC BENEFIT THAT CAN BE REALIZED OR EXPECTED THEREFROM. HOTEL OWNER REPRESENTS TO THE COUNTY THAT HOTEL OWNER IS EXPERIENCED IN THE DEVELOPMENT, CONSTRUCTION, OWNERSHIP, AND OPERATION OF HOTEL PROPERTIES GENERALLY, THAT HOTEL OWNER HAS INDEPENDENTLY DETERMINED THE MERITS AND RISKS OF ELECTING TO PROCEED WITH THE DEVELOPMENT OF THE HOTEL PROJECT AND IS NOT AND, OTHER THAN THE WARRANTIES CONTAINED IN SECTION 2.1 OF THE DEVELOPMENT AGREEMENT AND IN THE DEED, AND EXCEPT FOR ANY OTHER REPRESENTATIONS SET FORTH HEREIN AND IN THE PARKING AGREEMENT AND THE COUNTY TAX AGREEMENT, WILL NOT BE RELYING UPON ANY INFORMATION THAT MAY HAVE BEEN OR MAY HEREAFTER BE PROVIDED TO HOTEL OWNER WITH RESPECT TO OR RELATING TO THE FINANCIAL RESULTS DERIVED FROM, FINANCIAL MERITS OF INVESTING IN, OR OTHER ECONOMIC BENEFITS THAT MAY BE REALIZED FROM THE DEVELOPMENT, OWNERSHIP, OPERATION, OR SALE OF THE HOTEL PROJECT.

ARTICLE 6 USES; WASTE; HAZARDOUS SUBSTANCES

6.1 **Use.** Each Owner agrees to operate its Parcel in a manner consistent with all Applicable Laws and that no use or operation shall be made, conducted or permitted in any part of any Parcel that materially impairs or obstructs the development or operation of the Hotel Project or the Convention Center (or in each case any material portion thereof).

6.2 **Waste.** Each Owner covenants to each other Owner that it shall not commit or suffer any waste or damage to, or impairment of the value of, any such Owner's Parcel in the use of any Easement or otherwise.

6.3 **Hazardous Substances.** Each Owner covenants to each other Owner that it, its Operator, and the employees, agents, contractors and subcontractors of such Owner and such Operator shall not keep, use or store, or allow to be kept, used or stored, or discharge in any amount, any Hazardous Substances or any other hazardous or toxic substances on or in its Parcel in violation of any Applicable Laws; *provided, however,* any such Owner, its Operator, and the

employees, agents, contractors and subcontractors of such Owner and such Operator may use Hazardous Substances (in quantities necessary for the activities conducted) as reasonably necessary or convenient in the business of operating each such Owner's Parcel or the space leased to any tenant occupying space in such Owner's Parcel to the extent such use is in compliance with Applicable Laws and prudent Hazardous Substance handling procedures, and any such Hazardous Substances to the extent not fully used are properly and lawfully disposed of, without materially violating Applicable Laws. Each Owner indemnifies each other Owner with respect to any claims arising out of the breach of the foregoing sentence.

ARTICLE 7 REPAIR, MAINTENANCE, ALTERATIONS AND RESTORATION

7.1 **Maintenance of Parcels.** Except as to the Parking Garage Access Improvements and the Convention Center Improvements located within the Hotel Site Perimeter, each Owner shall keep and maintain, or cause to be kept and maintained, in accordance with all Applicable Law, all completed portions of such Owner's Parcel. The Owners acknowledge that each Parcel uses or may use building elements in common with other Parcels that are required by applicable fire and building codes. These building elements may be categorized non-exclusively as life safety systems, building structure systems, and drainage systems (collectively, the "***Required Systems***"). Elements of the life safety systems include, without limitation, electrical, plumbing, heating, ventilating, air conditioning, emergency lighting, audio and visual signals, fire sprinklers, smoke detectors, area separation walls and exits. Elements of the building structure systems include, without limitation, foundations, walls and roof structures. Elements of the drainage systems include, without limitation, site drainage and roof drainage. Without limiting the generality of the foregoing (and to assure that the Required Systems are maintained for the benefit of each Parcel individually and for such Parcels jointly), each Owner shall, with respect to such Owner's Parcel within such Building:

- (a) maintain in good operating condition and repair (and not impede access to or from) any and all elements of the Required Systems within its Parcel;
- (b) not obstruct or impact any element of the Required Systems at any time;
and
- (c) not in any way intrude into or modify the common walls between Adjacent Parcels.

7.2 **Costs to Install Required Systems.** Except as otherwise provided in Article 7, the Required Systems to be installed in the Hotel Project shall be paid for by Hotel Owner, and the life safety systems to be installed in the Convention Center shall be paid for by the County.

7.3 **General Obligations.** Notwithstanding the foregoing obligations to operate, maintain, repair and replace, if any Owner, or those claiming under it, abuses, misuses or fails to operate, maintain, repair or replace in the manner provided in this Agreement any item for which it is responsible under this Agreement or otherwise creates a situation in any portion of any Parcel or Building with respect to which non-exclusive easements or licenses have been granted by this Agreement such that said areas require operation, maintenance, repair or replacement in excess of

what would be required by normal use of said areas for their intended purposes (and assuming performance by each other Owner of its obligations with respect thereto under this Agreement), the Owner causing the excess use shall be responsible for the excess costs of operating, maintaining, repairing and replacing said areas. Each Owner shall maintain and promptly upon request, from time to time, make available to each other Owner complete maintenance records for all portions its Parcel with respect to which easement rights exist under this Agreement. As to any items affecting Parcels that require coordination or cooperation as to timing, materials, payment or the like, the Owners of such Parcels shall be reasonable in so cooperating and coordinating.

7.4 **Specific Maintenance Obligations.**

(a) **Parking Garage Access Improvements and Convention Center Perimeter Improvements.** Except as provided in Section 2.2(g), the County, at the County's sole cost and expense, shall maintain and keep in good order, condition and repair the Parking Garage Access Improvements and the Convention Center Perimeter Improvements and in substantially the same condition in which they exist upon Completion of Construction of the Hotel Project.

(b) **200 South Access Drive.** Each Owner will maintain and keep the portion of the 200 South Access Drive located on such Owner's Parcel in good order and repair, and in substantially the same condition in which they exist upon completion of construction of the Hotel Project. Each Owner shall be solely responsible for the costs incurred to maintain the portion of the 200 South Access Drive located on such Owner's Parcel in accordance with the terms of this Agreement.

7.5 **Damage or Destruction.** If, in connection with any Grantee's use of an Easement or exercise of rights under this Agreement, any hardscape, landscape, street, road, sidewalk or other improvements of Grantor are damaged or destroyed, such Grantee shall be responsible for the cost and expense to repair or replace such damage or destroyed improvements in accordance with the provisions of this Agreement. Following any such damage, Grantor shall provide written notice to Grantee of any such damage for which such Grantee is responsible and Grantor may, at Grantor's option, elect to repair or replace such damaged or destroyed improvements, subject to reimbursement by Grantee of all costs and expenses therefor. If Grantor elects not to complete such work, Grantee shall, within one hundred eighty (180) days of receipt of written notice from Grantor (or such additional reasonable time as may be required by the circumstances, not to exceed, subject to Force Majeure, two hundred seventy (270) days, so long as Grantee shall commence any such repair or replacement within such 180-day period and prosecute the same with reasonable due diligence), repair or replace any and all such damaged or destroyed improvements in accordance with the provisions of this Agreement to a condition substantially identical to that existing before any such damage or destruction.

7.6 **Alterations – Buildings.**

(a) **Right to Alter.** Any alterations to a Parcel requested by the Owner of such Parcel which involve physical changes to another Owner's Parcel, other than *de minimis* changes which have no adverse effect, or which have a direct adverse effect on another Owner's Parcel, must be approved by the Owner whose Parcel is so affected, in each such Owner's sole discretion, subject, however, to each Owner's rights set forth in this Agreement. If any affected Owner shall

disapprove any requested alterations, the requesting and affected Owners shall attempt to resolve any disagreements by consulting each other and their respective architects, engineers or consultants as soon as reasonably possible, and if such Owners are unable to resolve any such disagreements, such dispute shall be an Arbitral Dispute under Article 13 hereof.

(b) Right to Re-Open Access. In the event that an Easement or Accessway to and/or through any Owner's Parcel is temporarily closed or impaired (other than *de minimis* closures or impairments that do not create any material, continuing threat to the safety of Owners, Occupants or Permittees of any such Parcel), the Owner responsible for creating the impaired access shall cause such impaired access to be opened or shall provide alternate access to and/or through such Parcel, if necessary, in order for such Owner that created such impaired access to comply with the provisions of Sections 2.2 and 5.7. If any Owner fails to provide adequate access as set forth in the preceding sentence, any other Owner may at any time give a written notice to the Owner thus failing, setting forth the impaired access. If such access is not re-opened within three (3) days after receipt of such notice, or if such access cannot be reopened within such time, then if such Owner fails to commence activities to re-open the access within such three (3)-day period and diligently prosecute the same to completion thereafter (and reasonably expects to re-open the access within ten (10) days of the original notice), then, in either such event, the Owner giving such notice shall have the right, upon prior written notice, to re-open the access, including the right and temporary license to enter upon the other Owner's Parcel to perform same, and such Owner which has failed to perform shall pay the performing Owner's reasonable costs thereof; *provided, however*, these provisions shall be without prejudice to such non-performing Owner to contest the right of the other Owner to re-open such access or expend such monies. Notwithstanding anything herein to the contrary, in the event that any Owner in good faith deems that there is an emergency situation which threatens immediate injury to Persons or immediate damage to property, or material interference with access to or parking for an Owner's Parcel, such Owner shall have the right, without the notice required above, but with such notice as is reasonable under the circumstances, to re-open such access.

7.7 Standards of Construction. An Owner performing any Work with respect to its Parcel shall, to the extent applicable, strictly comply with the requirements set forth in Article 3 hereof and the following requirements:

(a) No Work shall be commenced unless the Owner desiring to perform the same has in each instance complied with the appropriate provisions of this Agreement.

(b) If the Work could reasonably be deemed to constitute a hazardous condition for Permittees of a Parcel, then during the performance of the Work, an adequate and attractive construction barricade or other protective device shall be placed around the structure being restored, repaired and/or rebuilt.

(c) All Work shall be performed in a good and workmanlike manner in accordance with good construction practice, strictly conforming to and complying with:

(i) all Applicable Laws, subject to the right of any Owner to contest the validity or application thereof at its sole cost and expense; and

(ii) as applicable, the requirements of any Permitted Mortgagee.

(d) Except as herein provided to the contrary, all Work shall be completed at the sole cost and expense of the Owner performing the same, and with due diligence.

7.8 Condemnation.

(a) Taking of Less Than Substantially All of Parcel. If less than substantially all of any Parcel is permanently taken by any public or quasi-public authority, or private entity or individual having the power of condemnation, under any statute or by right of eminent domain or purchased under threat or in lieu of such taking (collectively, a "*Taking*"), then the Owner whose Parcel was the subject of such Taking shall, subject to the provisions of its Mortgage, if applicable, promptly restore its Parcel as nearly as reasonably possible to its condition and aesthetic appeal at the time of the Taking less the portion subject to such Taking.

(b) General. All restorations undertaken by any Owner pursuant to this Section 7.8 shall be in accordance with Applicable Laws and the requirements of any Mortgage on the applicable Parcel in favor of one or more Permitted Mortgagees. The obligations of the Owners to restore their respective Parcels pursuant to Section 7.8(a) shall not apply to an Owner that acquired title to its Parcel as a result of an Involuntary Transfer with respect to a Mortgage held by a Permitted Mortgagee.

ARTICLE 8 INSURANCE

8.1 Types of Insurance. Each Owner shall maintain, or cause to be maintained, at all times while this Agreement remains in effect, at its cost, the following:

(a) "all-risk" commercial property insurance on any Parcel owned by it or with respect to which it has exclusive easement rights or exclusive operation, maintenance, repair and/or replacement obligations (even though not owned by it) against all risks of physical loss or damage (including windstorm, flood, and earthquake) that are covered by such policy of property insurance in an amount not less than 100% of full replacement cost (excluding excavation, foundations and footings), with an agreed amount endorsement if coverage is by way of a blanket policy; *provided, however,* in lieu of insuring 100% of full replacement cost for flood and earthquake damage, any Owner may obtain, at least once every ten (10) years, an evaluation of probable maximum loss ("*PML*") estimating the highest maximum claim that such Owner will likely file for damages resulting from a flood or an earthquake event and obtain insurance for such events in an amount not less than two times (2x) PML. If an Owner obtains a PML evaluation, the PML evaluation shall be shared with the other Owners to Approve the coverage amount obtained thereby. Any policy under this Section 8.1(a) shall include business interruption, demolition and debris removal coverage;

(b) commercial general liability insurance (including blanket contractual liability, personal injury and advertising injury) covering any Parcel owned by it and all items with respect to which it has exclusive rights or exclusive operation, maintenance, repair and/or replacement obligations in amounts of at least \$10,000,000 per occurrence in the aggregate, \$10,000,000 products liability and completed operations aggregate and \$10,000,000 excess

umbrella coverage (or such other combination of coverage amounts so long as the total combined policy amount is at least \$20,000,000), *provided, however*, the County shall be deemed to be in compliance with this this requirement by maintaining insurance or a program of self-insurance with limits equal to the current claim limits of the Governmental Immunity Act of Utah, Sections 63G-7-101 et seq. of the Utah Code;

(c) at all times during which Construction is being performed, including major remodeling projects, but not including minor improvements valued at less than \$1,000,000, in connection with any Parcel owned by it or items with respect to which it has exclusive rights or exclusive operation, maintenance, repair and/or replacement obligations, builder's risk insurance with limits of coverage not less than that specified in subparagraph (a) above, independent contractor's insurance and blanket contractual liability insurance with limits of coverage not less than that specified in subparagraph (b) above. In addition, owner's and contractor's protective insurance with a minimum coverage of \$5,000,000 shall be required unless all general contractors performing work in connection with such Construction maintain no less than \$5,000,000 of general liability insurance, naming such Owners and their Permitted Mortgagees as additional insureds and satisfying the standards set forth elsewhere in this Agreement for insurance to be maintained by the Owners;

(d) worker's compensation insurance at legally required levels and employer's liability insurance in an amount not less than \$1,000,000 for the benefit of all employees entering upon the Parcel owned by it or items with respect to which it has exclusive rights or exclusive operation, maintenance, repair and/or replacement obligations, as a result of or in connection with their employment by the Owner maintaining such coverage or any agent, representative, licensee or contractor of such Owner (or where such Owner is otherwise legally liable);

(e) insurance against loss or damage by boiler or compressor or internal explosion of a boiler or compressor if such items shall be located on the Parcel owned by it or are items with respect to which it has exclusive rights or exclusive operation, maintenance, repair and/or replacement obligations with limits of coverage not less than \$50,000,000;

(f) such other insurance including, without limitation, flood, plate glass and malicious mischief insurance, and in such amounts, and such increases to the foregoing coverages, as are customarily maintained with respect to facilities similar in Construction, location and use to the Parcels; and

(g) such other insurance as may be required by any applicable Mortgage.

8.2 Standards for Insurance. The policies provided for in Section 8.1 may contain a reasonable deductible, not to exceed \$500,000 for general liability coverage and \$250,000 for each of property perils (excluding windstorm and earthquake perils, in which case the deductible shall not exceed five percent (5%) of the insured value of the location), unless the Owners of the Parcels approve of higher or different deductibles in their reasonable discretion. The insurance companies providing insurance shall have a Best's rating of not less than A(-)VII (or its equivalent) at the time each policy is acquired or renewed. Each policy of casualty and liability insurance shall contain a waiver of subrogation rights against the other Owner and its agents, employees and representatives; and each Owner(s), for itself and for its Permitted Mortgagee(s) and each of their

respective agents, employees and representatives, waives any liability that any other Owner or its Permitted Mortgagee(s) or each of their respective agents, employees or representatives might have which was covered or should have been covered by the insurance provided for in Section 8.1 and this Section 8.2. Notwithstanding anything to the contrary herein, any insurance which an Owner is required to obtain pursuant to this Agreement may be carried under a "blanket" policy or policies covering other properties or liabilities so long as the amounts under such "blanket" policy or policies applicable to such Owner's Parcel are not less than the amounts required under this Agreement.

8.3 Casualty. In the event any Parcel, or any items therein, is damaged or destroyed by reason of casualty (other than a Major Event), the Owner who owns such damaged or destroyed Parcel, or the items therein, shall, in good faith and with due diligence, settle the loss and restore the damaged or destroyed portion to at least the following extent: (a) the portions of the Improvements that are visible from the exterior shall be restored to substantially the condition they were in prior to the damage or destruction (which includes a fake facade, if so desired); (b) all easement areas benefiting any other Owner pursuant to this Agreement (including, without limitation, walls, floors and ceilings) shall be restored to substantially the condition they were in prior to the damage or destruction; and (c) all areas that must be restored in order for all other portions of any Improvements on an Adjacent Parcel to be watertight, secure and not a hazardous condition shall be restored to such extent; *provided, however*, if restoration to substantially the condition such Improvements were in prior to the damage or destruction is not then permitted by Applicable Law, restoration shall be to as nearly the condition they were in prior to the damage or destruction as may then be permitted by Applicable Law. The Owners of the affected Parcels by a casualty (other than a Major Event) shall cooperate with each other, and shall exert reasonable efforts to cause their insurance companies to work together, with a view toward restoring damage that affects such Improvements with respect to which there is joint use by virtue of the easements granted by this Agreement. The provisions of this Section 8.3 shall not be construed to modify the obligations of the Parties under Section 5.1 and Section 5.3 hereof.

ARTICLE 9 DISCHARGE AND RELEASE

9.1 Discharge on Transfer. Except as provided in Section 9.3, a Transferor of a Parcel shall be Discharged from and after the effective date of the Transfer from all of its unaccrued obligations hereunder, *provided* that all of the following conditions precedent are satisfied:

(a) Transferor shall have paid all amounts due and payable to the other Owners, and shall have performed all of its obligations accrued, as of said effective date;

(b) Transferor shall have given the other Owners written notice of the Transfer;
and

(c) Transferor shall have delivered to each other Owner a written instrument in recordable form, duly executed and acknowledged by Transferee, whereby such Transferee shall have expressly assumed all of the covenants, duties and obligations of Transferor under this Agreement with respect to the Parcel from and after said effective date; *provided, however*, that if the Transferee is a Permitted Mortgagee, its shall assume only the obligations under this

Agreement that relate to such Permitted Mortgagee's real property interest in such Parcel. In no event shall any Permitted Mortgagee be deemed to have assumed any liability under this Agreement of a personal nature.

9.2 **Discharge on Involuntary Transfer; Condemnation.** Subject to the provisions of Sections 9.3 and 11.2(a) and (b), an Involuntary Transferor of a Parcel shall be Discharged from and after the effective date of the Involuntary Transfer from all of its unaccrued obligations hereunder, on condition that such Involuntary Transferor shall have paid all amounts due and payable to the other Owners by such Involuntary Transferor, and shall have performed all of its obligations accrued, as of said effective date. In the event of a condemnation of at least substantially all of an Owner's Parcel, such Owner shall be Discharged from and after the effective date of the taking of title to or possession of such Parcel, whichever first occurs, from all of its unaccrued obligations hereunder, on condition that such Owner shall have paid all amounts due and payable to the other Owners by such Owner, and shall have performed all of its obligations accrued, as of said effective date.

9.3 **Exceptions to Discharge.** Neither a Transfer nor an Involuntary Transfer of a Parcel shall Discharge a Transferor or Involuntary Transferor from: (a) amounts due and unpaid from such Transferor or Involuntary Transferor; or (b) accrued obligations of such Transferor or Involuntary Transferor, in either event, as of the date of such Transfer or Involuntary Transfer, and such Transferor or Involuntary Transferor shall not be released from such obligations by such Transfer or Involuntary Transfer. Further, nothing in this Article 9 is intended to relieve Hotel Owner of the restriction set forth in Section 5.6 hereof.

9.4 **Discharge of Mortgagee.** A Permitted Mortgagee that acquires title to any Parcel (or portion thereof) in an Involuntary Transfer shall subsequently be Discharged from and after the effective date of such Permitted Mortgagee's Transfer of its interest in said Parcel, *provided* that it has performed all of its obligations that accrued during its period of ownership and *provided* it complies with Sections 9.1(b) and (c).

ARTICLE 10 TERM

Except as otherwise specifically provided in this Agreement, this Agreement shall continue and the obligations hereunder shall be in full force and effect and shall remain binding until the earlier of: (a) the date that the Owners mutually agree in writing to terminate this Agreement; (b) the date that is ninety-nine (99) years after the date of this Agreement; or (c) the date that Hotel Owner terminates this Agreement upon written notice to the County following the occurrence of a Major Hotel Casualty (herein referred to as the "***Termination Date***"); *provided* that, unless an Owner shall provide notice to each other Owner of its intent to terminate this Agreement no less than ninety (90) days prior to any such scheduled Termination Date, this Agreement shall automatically be extended, in each case for a ten (10)-year period following each scheduled Termination Date, and the tenth anniversary thereafter shall be the "***Termination Date***" for all purposes hereunder. No termination or expiration of the Development Agreement shall affect, impair or cause the termination of this Agreement. Upon any termination of this Agreement, all rights and privileges derived from and duties and obligations created or imposed by the terms of this Agreement shall terminate and thereafter cease to exist, except that: (a) any perpetual

Easements granted pursuant to this Agreement shall not so terminate; (b) easements granted to public utilities companies for a term or terms beyond said Termination Date shall not so terminate; (c) any provision that expressly provides for its survival shall not so terminate; (d) the Parking Agreement shall remain in effect in accordance with its terms; and (e) such termination shall not limit or affect any remedy at law, in equity or under this Agreement of any Owner hereto against the other Owner hereto with respect to any liability and obligation on the part of such other Owner arising or to be performed under this Agreement prior to the Termination Date.

ARTICLE 11 DEFAULT

11.1 **Events of Default -- Hotel Owner.** Each of the following events or occurrences constitutes an Event of Default by Hotel Owner:

(a) **Failure to Perform Obligations.** Without limiting any other provision of this Section 11.1 but subject to the effect of Section 5.3(b) hereof, if Hotel Owner fails to perform any obligations and duties provided in this Agreement after the time for any cure or the expiration of any grace period specified therefor, or if no such time is specified, within ninety (90) days after the date of written demand by the County to Hotel Owner to perform such obligation and duty, or, in the case of a Default that is not susceptible to cure within such ninety (90)-day period, Hotel Owner fails promptly to commence to cure such Default and thereafter to prosecute diligently such cure to completion as soon as reasonably practicable (assuming good faith prosecution of the cure) but in all events within one hundred eighty (180) days following the date of demand by the County for cure, subject, however to the effects of Article 10 and Section 15.1 hereof.

(b) **Commencement of Construction Failure.** Following the Effective Date and subject to Excusable Delay, Hotel Owner fails to achieve Commencement of Construction by the Outside Commencement Date.

(c) **Abandonment.** Following the Effective Date, if Hotel Owner voluntarily and permanently abandons construction of the Hotel Project (for the avoidance of doubt, Hotel Owner shall not be deemed to have permanently abandoned construction as a result of suspensions of work resulting from Excusable Delay), which abandonment is not cured within a reasonable time (but in no event less than thirty (30) days) following Hotel Owner's receipt of written notice from the County; *provided, however*, if an Event of Default occurs hereunder where Hotel Owner fails to Complete Construction of the Hotel Project on or before the Outside Completion Date due to delays by the General Contractor, or if Hotel Owner fails to comply with the Continuous Operating Covenant, the County agrees to provide written notice of such Event of Default to Hotel Owner and to the holder of any Mortgage, plus a period of ninety (90) additional days in which Hotel Owner and/or any Permitted Mortgagee shall have the right to cure such Event of Default and to achieve Completion of Construction.

(d) **Insurance.** Hotel Owner fails to maintain the insurance required under this Agreement and such failure continues for a period of ten (10) Business Days from the date Hotel Owner receives written notice thereof from the County.

(e) Assignment. Hotel Owner violates the terms of Section 5.6 hereof and such violation continues for a period of thirty (30) days after receiving written notice thereof from the County.

(f) Receiver and Bankruptcy. If prior to Completion of Construction, a receiver, trustee or custodian is appointed for, or takes possession of, all or substantially all of the assets of Hotel Owner either in a proceeding brought by Hotel Owner, or in a proceeding brought against Hotel Owner, and such appointment is not discharged or such possession is not terminated within one hundred twenty (120) days after the effective date thereof or if Hotel Owner consents to or acquiesces in such appointment or possession. If Hotel Owner files a petition for relief under the Federal Bankruptcy Code or any other present or future federal or state insolvency, bankruptcy or similar law (all of the foregoing collectively, "Applicable Bankruptcy Law") or an involuntary petition for relief is filed against Hotel Owner under any Applicable Bankruptcy Law, and if such petition is not dismissed within one hundred twenty (120) days after the filing thereof, or if an order for relief naming Hotel Owner is entered under any Applicable Bankruptcy Law, or if any composition, rearrangement, extension, reorganization or other relief of debtors now or hereafter existing is requested or consented to by Hotel Owner.

11.2 Remedies of County. Except to the extent specifically provided herein to the contrary, including, without limitation, in Article 14 hereof, upon the occurrence of an Event of Default by Hotel Owner, the County shall have, as the County's sole and exclusive remedies, the remedies set forth below:

(a) Specific Performance/Injunctive Relief. The County may seek to specifically enforce this Agreement may seek injunctive relief as necessary to obtain such specific enforcement. If a court of competent jurisdiction fails to award the remedy of specific performance under this Section 11.2(a), the County may seek actual damages, including the Fair Market Value of the Hotel Site in an unimproved condition, but not consequential or punitive damages. For avoidance of doubt, if the County is required to pay consequential or punitive damages to a third party following the entry of a final, non-appealable judgment entered by a court of competent jurisdiction and Hotel Owner's indemnification obligations are triggered with respect thereto, such damages are intended to be included in an award of actual damages hereunder.

(b) Right of Reversion. After the Closing and prior to Completion of Construction, only upon Hotel Owner's abandonment or suspension described in Section 11.1(c) hereof, subject to the notice and Cure right set forth in Section 11.1(c), subject to the effect of Article 15 hereof, and subject to Excusable Delay, the County may exercise the Right of Reversion set forth herein (and referenced in the Deed) by recording a notice of uncured abandonment evidencing the County's compliance with Section 11.1(c). In that event, Hotel Owner shall sign a special warranty deed (the "Reversion Deed"), reconveying all of its rights, title, and interest in the Hotel Site to the County and shall assign to the County all of Hotel Owner's rights, titles, and interests in and to the Plans and Specifications. Hotel Owner acknowledges and agrees that its failure to do so shall cause significant damage to the County, and Hotel Owner's failure to so execute and deliver the properly acknowledged Reversion Deed to the County shall give the County an immediate right to compel Hotel Owner to execute and deliver the Reversion Deed to the County through any means available under Applicable Law.

(c) Right of Self-Help. If Hotel Owner's Event of Default has a material adverse effect upon the County's operation of, or its ability to comply with any contract or agreement relating to, the Convention Center, then upon not less than thirty (30) days' prior written notice to Hotel Owner and Hotel Owner's failure to resolve such Event of Default within such thirty (30)-day period or in the case of a Default not susceptible of cure within such 30-day period, if Hotel Owner fails promptly to commence to cure such Default and thereafter to prosecute diligently such cure to completion as soon as reasonably practicable (assuming good faith prosecution of the cure) but in all events within one hundred eighty (180) days following the date of demand by the County for cure, the County may perform such obligations at the Hotel Owner's sole cost and seek reimbursement from the Hotel Owner for such costs incurred by County when performing such obligations pursuant to the provisions of Section 4.1 hereof. The Parties agree, however, that the County's rights under this Section 11.2(c) shall only apply to and permit the County to seek and enforce this remedy with respect to Article 2 (Easements), Section 3.2 (Work Performed after Completion of Construction), and Article 7 (Repair, Maintenance, Alterations, and Restorations).

11.3 Events of Default – County. The following constitute Events of Default by the County:

(a) Failure to Perform Obligations. Without limiting any other provision of this Section, if the County fails to perform any obligations and duties provided in this Agreement after the time for any cure or the expiration of any grace period specified therefor, or if no such time is specified, within ninety (90) days after the date of written demand by Hotel Owner to the County to perform such obligation and duty, or, in the case of a Default that is not susceptible of cure within such 90-day period, the County fails promptly to commence to cure such Default and thereafter to prosecute diligently such cure to completion as soon as reasonably practicable (assuming good faith prosecution of the cure) but in all events within one hundred eighty (180) days following the date of demand by Hotel Owner for cure.

(b) Failure to Comply with Assignment Requirements. If the County violates the terms of Section 19.4(a) hereof and such failure continues for a period of thirty (30) days.

11.4 Remedies of Hotel Owner. Upon the occurrence of an Event of Default by the County, Hotel Owner shall have, as Hotel Owner's sole and exclusive remedies, the remedies set forth below:

(a) Specific Performance/Injunctive Relief. Hotel Owner may institute an action against the County for specific performance and may seek injunctive relief as necessary to obtain such specific enforcement.

(b) Right of Self-Help. If the County's Event of Default has a material adverse effect upon Hotel Owner's operation of, or its ability to comply with any contract or agreement relating to, the Hotel Project, then upon not less than thirty (30) days' prior written notice to the County and the County's failure to resolve such Event of Default within such 30-day period or in the case of a Default not susceptible of cure within such 30-day period, County fails promptly to commence to cure such Default and thereafter to prosecute diligently such cure to completion as soon as reasonably practicable (assuming good faith prosecution of the cure) but in all events within one hundred eighty (180) days following the date of demand by the Hotel Owner for cure,

Hotel Owner may perform such obligations at the County's sole cost and seek reimbursement from the County for such costs incurred by Hotel Owner when performing such obligations pursuant to the provisions of Section 4.1 hereof.

(c) Damages. The Hotel Owner may pursue a claim against the County for damages, such damages not to exceed the amount of the Project Financing, but such claim is intended to include the amount of any indemnity and defense obligations of the County hereunder.

11.5 Event of Default/Rights and Remedies Are Cumulative. Subject to the limitations of this Agreement, the rights and remedies of the Parties to this Agreement are cumulative and the exercise by either Party of any single one or more of such remedies will not preclude the exercise by it, at the same or a different time, of any other such remedies for the same default or breach or of any of its remedies for any other default or breach by the other Party. No waiver made by either Party with respect to the performance, or manner or time thereof, of any obligation of the other Party or any condition to its own obligation under this Agreement will be considered a waiver with respect to the particular obligation of the other Party or condition to its own obligation beyond those expressly waived and to the extent thereof, or a waiver in any respect in regard to any other rights of the Party making the waiver or any other obligations of the other Party.

11.6 Plans and Data. Except to the extent specifically provided herein to the contrary, in the case of a termination of the Development Agreement and the County's exercise of its Right of Reversion, Hotel Owner shall deliver to the County copies of any and all documents, studies, reports, cost estimates, plans, and specifications in the possession of or, to the extent reasonably available to Hotel Owner, prepared for Hotel Owner or the County for the development of the Hotel Project within thirty (30) days after demand or notice from the County. Such materials will be provided to the County without any representation or warranty of any kind, express or implied (including regarding the truth, accuracy or completeness thereof and fitness for a particular purpose), Hotel Owner hereby expressly disclaiming all such warranties.

11.7 No Termination of Agreement. No Default or Event of Default by either Owner shall entitle the other Owner to terminate or cancel this Agreement; *provided, however*, that this limitation shall not affect any other rights or remedies that the Owners have by reason of any Default or Event of Default under this Agreement.

11.8 Consequences of Major Events. The following sets forth the rights of Hotel Owner with respect to the occurrence of a Major Event, which event shall only occur if the County has not remedied the occurrence as provided in this Agreement, including those specified in the definition of a Major Event. The following rights are in addition to all of the other rights and remedies of Hotel Owner hereunder if the occurrence of such Major Event also constitutes an Event of Default by the County hereunder:

(a) Convention Center Casualty Event. If a Convention Center Casualty Event occurs that is not cured, then: (i) the Room Block Agreement shall automatically terminate and be of no further force and effect (notwithstanding any provision to the contrary set forth in this Agreement, the Development Agreement, or the Room Block Agreement); and (ii) the Continuous

Operating Covenant shall automatically terminate (notwithstanding any contrary provision set forth in this Agreement or the Development Agreement).

(b) Convention Center Designation Failure. If a Convention Center Designation Failure Event occurs (subject to all cure and notice rights contained in the Room Block Agreement), then: (i) the Room Block Agreement shall automatically terminate and be of no further force and effect (notwithstanding any provision to the contrary set forth in this Agreement, the Development Agreement, or the Room Block Agreement); and (ii) the Continuous Operating Covenant shall automatically terminate.

(c) Recorded Notices of Terminations. If by the operation of the provisions of this Section 11.8, the Room Block Agreement is terminated, then promptly upon demand therefor by Hotel Owner, the County shall join with Hotel Owner in executing and delivering for recordation in the Official Records: (i) a termination of the Room Block Agreement in form and substance reasonably satisfactory to Hotel Owner and the County; and (ii) a written acknowledgment of the termination of the Continuous Operating Covenant.

ARTICLE 12 APPROVAL

12.1 Approvals/Standards for Review.

(a) Review and Approval Rights. The provisions of this Section 12.1(a) shall be applicable with respect to all instances in which it is provided under this Agreement that a Party (or its agents or representatives) has the right to review and Approve a matter under or in connection with this Agreement (a "Review and Approval Rights"). As used herein, the term "Review and Approval Rights" shall include, without limiting the generality of that term, all instances in which one Party (the "Submitting Party") is permitted or required to submit to the other Party (or its agents or representatives) any document, information or other materials and with respect to which the other Party (or its agents or representatives) (the "Reviewing Party") has a right or duty hereunder to review, approve, or disapprove such submission.

(b) Standard for Review. If the Submitting Party requires a timely response to any matter submitted for Approval to the Reviewing Party in order to satisfy any deadline herein or in the construction schedule, such submittal shall be submitted under cover of a request which: (a) clearly states that review and Approval of such submission is time sensitive; (b) states the date by which approval or disapproval of such submission by the Reviewing Party is required (which date shall afford the Reviewing Party reasonable time to review such submission, given the nature of such submission); and (c) identifies the provision of this Agreement pursuant to which such review and Approval is sought. The Reviewing Party shall review the same and shall as soon as reasonably possible (but in any event within the time period specified in the submission request) give the Submitting Party notice of the Reviewing Party's comments resulting from such review and, if the matter is one that requires Approval pursuant to the terms of this Agreement, such approval or disapproval.

(c) Deemed Approval or Consent. If, in response to any matter submitted in accordance with Section 12.1(b) above, the Reviewing Party fails to submit a response within the

time period specified in such submittal and in any event within no more than ten (10) Business Days after receiving the matter submitted for Approval (except as otherwise expressly set forth herein), then: (a) any deadline herein with respect to the matter submitted shall be tolled until the Reviewing Party responds to such submittal; and (b) the Submitting Party shall have the right (but not the obligation) to submit a second Notice to the Reviewing Party that contains the submittal and states, in all capitalized, boldface type the following: "SECOND NOTICE—FAILURE TO RESPOND WITHIN TEN (10) DAYS FOLLOWING THE DATE OF THIS NOTICE SHALL RESULT IN YOUR APPROVAL OF THE SUBMITTAL THAT IS THE SUBJECT OF THIS REQUEST FOR REVIEW." If the Reviewing Party fails to so respond within such ten (10)-day period described in the foregoing second Notice to the Reviewing Party, then the matter submitted shall be deemed to have been Approved by the Reviewing Party for all purposes hereunder. Notwithstanding any other provision of this Agreement, however, any matter submitted to the County for Approval that relates to the construction of the Hotel Project or the Completion of Construction shall require the County to respond within three (3) Business Days and without an additional notice or cure period.

(d) Disputes. The Parties agree to use commercially reasonable efforts to expeditiously resolve any disputes in good faith concerning the Approval of or consent to any matter submitted to either Party for Approval or consent hereunder, but if any such Dispute is not resolved between the Parties and the same constitutes an Arbitral Dispute, such Dispute shall be resolved in accordance with the provisions contained in Section 13.1 (and the time for performance related to such submission shall be tolled during the pendency of any such Dispute).

ARTICLE 13 ARBITRATION

13.1 Arbitration Procedures.

(a) Arbitral Disputes. Certain provisions of this Agreement expressly provide that the County and Hotel Owner may submit the disputes described in those provisions (each an "*Arbitral Dispute*") to arbitration pursuant to this Section 13.1 for resolution. For the avoidance of doubt, no dispute with respect to or arising out of this Agreement that is not an Arbitral Dispute shall be submitted for resolution by arbitration under this Section 13.1.

(b) Notice of Dispute. In the event any dispute, controversy, or claim between or among the Parties arises under this Agreement (each a "*Dispute*"), including, but not limited to, a Dispute relating to the effectiveness, validity, interpretation, implementation, termination, cancellation or enforcement of this Agreement, including as to the existence of Excusable Delay, the Parties shall first attempt in good faith to settle and resolve such Dispute through discussions between the senior executives of each Party. In the event an Arbitral Dispute arises, either Party may deliver to the other Party a written notice that it has elected to implement the procedures set forth in this Section 13.1 (a "*Notice of Dispute*"). Within five (5) Business Days following delivery of the Notice of Dispute, the senior executives of each Party shall meet and negotiate in good faith in an effort to resolve the Arbitral Dispute. If the Arbitral Dispute has not been resolved by execution of a written agreement or acknowledgment of such resolution within ten (10) Business Days of delivery of the Notice of Arbitral Dispute, then either Party may by Notice to the other Party (the "*Arbitration Notice*") submit the Arbitral Dispute to arbitration in accordance

with the provisions of this Subsection 13.1(b) and the general arbitration procedures set forth on Exhibit H, and the other Party shall either agree or disagree as to arbitration.

(c) Fast-Track Arbitration. Any Arbitral Dispute arising during the Construction phase of the Hotel Project that is referred to arbitration as a result of the delivery of an Arbitration Notice and agreement by the Parties shall be submitted to, and resolved exclusively and finally through, binding arbitration in accordance with the fast-track arbitration procedures set forth on Exhibit H. Any other Arbitral Dispute that is referred to arbitration because of the delivery of an Arbitration Notice shall be submitted to, and resolved exclusively and finally through, arbitration in accordance with the procedures set forth on Exhibit H hereto.

ARTICLE 14 EFFECT OF TRANSFER

14.1 Transfer. Upon a Transfer or Involuntary Transfer, any Transferee or Involuntary Transferee (as the case may be) shall become an "Owner" hereunder, subject to the provisions of Section 14.2 with respect to Transfers or Involuntary Transfers of partial interests in any Parcel. Following a Transfer or Involuntary Transfer, the Transferor or Involuntary Transferor shall no longer be an Owner; *provided, however*, that the easements, conditions, covenants, obligations and restrictions of this Agreement shall be binding and enforceable by any Owner against any Transferor with respect to those time periods during which such Transferor was an Owner. For the avoidance of doubt, no Permitted Mortgagee shall be deemed an Owner unless and until such Permitted Mortgagee takes title to the Transferor's interest in the Parcel or is deemed to be a Permitted Mortgagee in possession pursuant to Applicable Law. Notwithstanding any other provision of this Agreement to the contrary, any Permitted Mortgagee's liability hereunder is and shall be limited only to its interest in such Parcel.

14.2 Partial Interests. A Transferee or Involuntary Transferee of any of the following partial interests shall not be treated as a separate Owner hereunder (but shall nonetheless be subject to the terms of this Agreement), unless such Person is designated in writing as the sole Owner with respect to such Parcel by all such Persons owning a partial interest in such Parcel:

- (a) any partial interest in an Owner's Parcel to the extent permitted by Applicable Law;
- (b) any partial, undivided interest in all of an Owner's Parcel or Parcels, such as an interest held in joint tenancy, tenancy-in-common or as a life estate; and
- (c) any lease, sublease, easement or license affecting all or a portion of any Parcel.

ARTICLE 15 PERMITTED MORTGAGEES

15.1 Permitted Mortgagees.

(a) Right to Mortgage. Any Owner may mortgage, pledge, encumber, assign or transfer collaterally its interest in its Parcel (each, a "*Mortgage*"), subject and subordinate to

this Agreement, to one or more Permitted Mortgagees. Upon execution of a Mortgage, an Owner or the holder of the Permitted Mortgage shall promptly deliver to each other Owner in the manner herein provided for the giving of notice, a true copy of the Permitted Mortgage (and such Permitted Mortgagee shall promptly notify each other Owner of any subsequent assignment thereof) and shall notify each such Owner of the address or addresses of the Permitted Mortgagee to which notices may be sent (which address shall be deemed such Permitted Mortgagee's address for notices hereunder until changed by notice to each Owner in accordance with Section 19.6 hereof).

(b) Permitted Mortgagee Agent. For the purposes of this Section 15.1, if a Permitted Mortgagee or the holders of any one Mortgage shall comprise more than one person, such parties comprising a Permitted Mortgagee shall appoint an agent for receipt and giving of notices ("*Permitted Mortgagee Agent*"), and each Owner shall be obligated to serve the notices to be given by such Owner pursuant to the provisions of Section 19.6 hereof on such Permitted Mortgagee Agent to receive such notice.

(c) Notice for Event of Default. When giving notice to an Owner with respect to any Event of Default under this Agreement by such Owner, or, with respect to Hotel Owner, when the County gives notice to Hotel Owner that Hotel Owner has failed to deliver a Hotel Covered Event Recovery Plan timely, the non-defaulting Owner will also serve a copy of each such notice upon each Permitted Mortgagee and Permitted Mortgagee Agent entitled to notice pursuant to the terms of this Agreement, and no notice to a Defaulting Owner shall be effective unless a copy of such notice is so served upon each such Permitted Mortgagee and Permitted Mortgagee Agent entitled to notice pursuant to the terms of this Agreement, which notice shall be served to the address of such Mortgage as provided to such Owner pursuant to Section 19.6 hereof below in the same manner as provided in Section 19.6 for the giving of notice to an Owner.

(d) Right to Cure. Each such Permitted Mortgagee will have the same period after giving of the notice of such aforesaid Event of Default to each Permitted Mortgagee and Permitted Mortgagee Agent for remedying the Event of Default or causing the same to be remedied for the account of the Owner or of the Permitted Mortgagee (as such Permitted Mortgagee may elect) as is given the defaulting Owner after notice to it, plus an additional period of forty-five (45) days in situations involving payments of money and one hundred twenty (120) days for any other default, or if such default is not susceptible to cure within one hundred twenty (120) days, then Permitted Mortgagee shall have such additional time to cure such default as shall be reasonably required, so long as Permitted Mortgagee acts diligently to complete such cure. However, no Permitted Mortgagee shall become liable to any Owner under this Agreement until such time as said Permitted Mortgagee, by foreclosure or otherwise, acquires a Parcel, and upon such Permitted Mortgagee's conveyance of such Parcel to another party or relinquishing such possession, as the case may be, such Permitted Mortgagee shall have no further such liability hereunder or otherwise to any Owner.

(e) Foreclosure. Any Permitted Mortgagee may become the legal owner and holder of a Parcel by foreclosure or by deed in lieu of foreclosure of its Mortgage, whereupon such Permitted Mortgagee shall immediately become and remain liable under this Agreement and shall remain so for all obligations of such prior Owner accruing hereunder during the period of ownership of such Parcel by such Permitted Mortgagee, so long as Permitted Mortgagee's liability is limited to its interest and rights in such Parcel.

(f) No Modifications. No voluntary surrender of this Agreement by an Owner and no modification of this Agreement shall be effective as to any Permitted Mortgagee, unless consented to in writing by such Permitted Mortgagee.

(g) Separate Agreement. Upon request of any Permitted Mortgagee, each Owner agrees to enter into a separate agreement or estoppel with such Permitted Mortgagee that incorporates or affirms the provisions of this Article 15 and which includes such modifications as may be reasonably requested by such Permitted Mortgagee.

ARTICLE 16 ATTORNEYS' FEES

16.1 Prevailing Owner. If any Owner shall institute any action or proceeding ("*Suit*"), excluding arbitration (which shall be governed by the provisions set forth in Article 13), against any other Owner relating to a breach or alleged violation of any covenant, term or obligation of this Agreement, any Default, or enforcement of the provisions hereof, the Prevailing Owner shall be entitled to recover from the non-Prevailing Owner, as part of the Prevailing Owner's costs of Suit or its damages, said Prevailing Owner's reasonable Attorneys' Fees as found by the court. The "*Prevailing Owner*" shall be the Owner which by law is entitled to recover its costs of Suit, whether or not the Suit proceeds to final judgment. An Owner not entitled to recover its costs shall not recover Attorneys' Fees; *provided, however*, where an Owner shall have instituted and then dismissed Suit as against another Owner, without the concurrence of such other Owner, such other Owner shall be the Prevailing Owner. No sum for Attorneys' Fees shall be included in calculating the amount of a judgment to determine whether an Owner is the Prevailing Owner entitled to recover its costs and Attorneys' Fees. The provisions of this Section 16.1 shall not apply to any action or cause of action for declaratory relief.

ARTICLE 17 COMPLIANCE WITH APPLICABLE LAWS

17.1 Legal Requirements. Each Owner, at its expense, shall comply with all Applicable Laws with respect to its respective Parcel. Any Owner may defer compliance with any such Applicable Laws, if it shall contest by appropriate proceedings in accordance with the provisions of Section 17.2, prosecuted diligently and in good faith, the legality or applicability thereof, *provided* that such deference does not materially adversely interfere with any other Owner's use of its Parcel as provided under this Agreement.

17.2 Exceptions to Legal Requirements. No Owner shall be in default for failure to comply with any Applicable Law if, and so long as, (a) such Owner shall diligently and in good faith contest the same by appropriate legal proceedings, which shall operate to prevent the enforcement or collection of the same and the sale of its Parcel or any part thereof to satisfy the same; (b) such Owner shall timely upon final determination thereof pay the amount of any such cost or perform such act, together with all costs, interest, fines and penalties which may be payable in connection therewith; and (c) the failure to pay such cost or perform such act, as applicable, or any such interest, fine or penalty, does not constitute a default under any Mortgage on such Owner's Parcel.

**ARTICLE 18
INDEMNIFICATION**

18.1 **Development Agreement Indemnity.** This Agreement is not intended to replace the Indemnity Waiver of Subrogation contained in Section 8.2 of the Development Agreement, which, by its express terms, survived the Closing.

18.2 **Indemnity.** In addition to any indemnities otherwise provided in this Agreement or in the Development Agreement, each Owner ("***Indemnitor***") agrees to indemnify, hold harmless, protect and defend, with counsel reasonably acceptable to the Person receiving such indemnity, a specific Person, including such Person's Affiliates and their respective officers, directors, partners, members, landlords, agents, servants and employees (individually and collectively, "***Indemnitee***") from and against all losses, claims, actions, liens, proceedings, liabilities, damages (excluding consequential and punitive damages), costs and/or expenses (including the Indemnitee's reasonable Attorneys' Fees) (collectively, a "***Claim***") resulting from the death of or injury to any Person or the physical or economic damage to or loss of any property: (a) as shall occur on any Parcel owned by Indemnitor; (b) as shall occur due to the entry by Indemnitor or the employees, agents, contractors or subcontractors of Indemnitor onto the Parcel owned by the Indemnitee; (c) as shall occur due to a violation of this Agreement on the part of the Indemnitor; or (d) in connection with the exercise of any rights, licenses or interests granted to, or easements used by such Indemnitor. Indemnitee shall give Indemnitor notice of any suit or proceeding entitling the Indemnitee to indemnification pursuant to this Agreement. Failure to give such notice shall not, however, in any manner negate or invalidate the obligation to provide such indemnity, except to the extent the Indemnitor is actually prejudiced thereby. No Owner shall be obligated to indemnify another Owner pursuant to this Section 18.2 to the extent the Claim underlying the Indemnitee's request for indemnity: (i) results from the gross negligence or intentional wrongdoing of the Indemnitee; or (ii) results from such willful, intentional or wanton acts or omissions of the Indemnitee as shall constitute an "occurrence" excluded from coverage under standard comprehensive public liability and property damage insurance policies as they may exist at the time of any such determination. In no event shall any Permitted Mortgagee who becomes an Owner by reason of an Involuntary Transfer be liable for any consequential or punitive damages relating to any Claim. The County does not waive any defenses under the Governmental Immunity Act of Utah, Sections 63G-7-101 et seq. of the Utah Code and nothing contained in this Section is intended to modify the limits of liability set forth in the Governmental Immunity Act of Utah or the basis for liability as established thereunder.

**ARTICLE 19
MISCELLANEOUS**

19.1 **Breach Shall Not Defeat Mortgage.** A breach of any of the easements, conditions, covenants, or restrictions of this Agreement shall not defeat or render invalid the lien of any Mortgage made in good faith and for value, but all such easements, conditions, covenants and restrictions shall be binding upon and effective against any Person who acquires title to said property or any portion thereof by Involuntary Transfer.

19.2 **Subordination.** Each Owner shall have the right to collaterally assign and encumber this Agreement as security to one or more of its Permitted Mortgagees holding a

Mortgage so long as such Permitted Mortgagee, in writing (a) subordinates such Mortgage and the lien thereof to this Agreement and to the rights, interests, obligations, duties, conditions, covenants and agreements granted pursuant to this Agreement or otherwise contained herein (whether such Mortgage is recorded on or after the date hereof), and (b) agrees to be bound by the terms and conditions of this Agreement upon its taking title to such property. Notwithstanding the foregoing, regardless of whether any Permitted Mortgagee receives a collateral assignment of this Agreement, each Mortgage (whether recorded on or after the date hereof) and the lien thereof shall automatically be subject and subordinate to this Agreement and to the rights, interests, obligations, duties, conditions, covenants and agreements granted pursuant to this Agreement or otherwise contained herein.

19.3 **Estoppel Certificates.** Each Owner shall at any time and from time to time (but not more often than once in each calendar quarter), within fifteen (15) days after request by any other Owner, execute, acknowledge and deliver to such other Owner or to any existing or prospective purchaser, Permitted Mortgagee or lessee designated by such other Owner, a certificate stating: (a) that this Agreement is unmodified and in full force and effect, or if there has been a modification or modifications, that this Agreement is in full force and effect, as modified, and identifying the modification agreement or agreements; (b) whether or not there is any existing default hereunder by either Owner in the payment of any sum of money owing to the Owner executing such certificate, whether or not there is any existing default by either Owner with respect to which a notice of default has been given or received by the Owner executing such certificate (and, to the best of the knowledge of the Owner executing such certificate, whether any other default exists under this Agreement), and if there is any such default, specifying the nature and extent thereof; (c) whether or not there are any outstanding claims, set-offs, defenses or counterclaims which an Owner has asserted against the other Owner by notice to the other Owner; and (d) such other matters as may be reasonably requested.

19.4 **Successors and Assigns.**

(a) **County's Assignment.** If the County desires to assign its interest hereunder to any Person, such assignment shall be subject to the prior approval of Hotel Owner, which may be granted or withheld in the Hotel Owner's sole discretion.

(b) **Hotel Owner's Assignment.** Hotel Owner's right to convey the Hotel Site or any interest in the Development Agreement or its interest hereunder is governed by Section 5.6 hereof.

19.5 **Covenant Running With Land; Modifications.** This Agreement shall be a covenant running with the land and shall be binding upon and inure to the benefit of the Owners, their successors, assigns, Permittees and Permitted Mortgagees. Notwithstanding the foregoing, this Agreement may be abrogated, modified, terminated, rescinded or amended in whole or in part by, and only by, an instrument executed by each of the Owners (joined by their respective Permitted Mortgagees (if any) to the extent necessary). The joinder of any Permittees of any Owner shall specifically not be required in connection with any of the foregoing.

19.6 **Notices.** Each Notice to be provided or given hereunder must be in writing (in some instances in this Agreement the words "written Notice" or "notice in writing" may be used

and in others simply the word "Notice" may be used; no inference is to be drawn therefrom as all Notices must be in writing) and must be delivered or provided in one of the following methods: (a) certified mail, return receipt requested, postage pre-paid and addressed to the Party to whom such Notice is intended to be delivered; (b) delivery by nationally recognized overnight delivery service (such as Federal Express); (c) personal delivery to the addressee by courier or other means of hand delivery; or (d) electronic mail communication directed to the email address for such Person set forth below or as otherwise described below and any such notice shall be deemed delivered and received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested function, as available, return email, or other written acknowledgement). Notice delivered by certified mail pursuant hereto shall be effectively given and received on the third (3rd) Business Day following deposit of the same in the United States Mail, postage pre-paid, addressed properly to the Party to whom such notice is intended. Notice by overnight delivery service shall be effectively given and received upon delivery (or attempted delivery, if delivery is refused or cannot be made because the address of the recipient changed and the Party sending the notice is not aware of the address change) of the same with such delivery service, with all postage pre-paid, addressed properly to the Party to whom such notice is intended. Notice by personal delivery shall be effectively given and received upon acceptance thereof by (or, if delivery is refused, upon attempted delivery to) the addressee as confirmed in writing by a receipt executed by and retained by the Party delivering such Notice. Any Party, and any Person described in the preceding sentences, may from time to time by Notice as herein provided, designate a different address to which Notices to it shall be sent. Any Permitted Mortgagee may by Notice to the Parties set forth hereinabove designate an address or addresses to which Notices hereunder shall be sent. Copies of any notices required to be given to an Owner shall also be given to each Permitted Mortgagee of such Owner if such Permitted Mortgagee has notified (in the manner provided for above for giving notice of change of address) the Owner giving notice of such Permitted Mortgagee's address and requested that notices be furnished to such Permitted Mortgagee. Notice given by the attorney for any Owner shall be as effective as if given by that Owner. Every Notice contemplated by this Agreement shall be delivered to Persons as follows, unless a Party amends the following information in compliance with this Section 19.6:

If to Hotel Owner: Salt Lake City CH, LLC
303 Peachtree Center Avenue NE, Suite 575
Atlanta, Georgia 30303
Attention: Roger Zampell
Email: rzampell@portmanholdings.com

With a copy to: Carl W. Barton, Esq,
Holland & Hart LLP
222 South Main, Suite 2200
Salt Lake City, Utah 84101
Email: cbarton@hollandhart.com

If to County: 2001 South State Street, Suite N2-100
Salt Lake City, Utah 84114
Attention: Deputy Mayor
Email: elivack@slco.org

With a copy to:

Deputy District Attorney
35 East 500 South
Salt Lake City, Utah 84111
Attention: Zachary Shaw
Email: zshaw@slco.org

19.7 **Governing Law; Invalidity; Liability After Sale; Counterparts.** This Agreement shall be governed by the laws of the State of Utah. If any portion of this Agreement shall be or become illegal or unenforceable for any reason, the remaining portions shall remain in full force and effect and shall be enforceable to the fullest extent permitted by law. This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same document.

19.8 **Certain Defined Terms and Actions.**

(a) Whenever the terms “presently” or “existing” are used herein, they shall refer to the date of this Agreement.

(b) Use of the words “herein,” “hereinafter,” “hereinabove,” “hereof” and “hereunder,” in this Agreement refer to this Agreement as a whole and not merely to the particular article, section, paragraph or provision in which such words appear, unless the context otherwise requires. Whenever it is indicated in this Agreement that either Owner may, shall or will perform any act, then such act shall be performed at the sole cost and expense of the performing Owner unless otherwise specifically indicated to the contrary. Use of the word “including” shall be deemed illustrative and not exclusive, and shall be deemed qualified by the term “but not limited to” whenever used. Any reference to any contract, agreement or other document in this Agreement shall be understood to refer to such document as amended, amended and restated, supplemented or otherwise modified from time to time.

(c) Whenever in this Agreement an Owner is obligated to do something that requires Permitted Mortgagee consent, joinder or subordination (such as executing or joining in a document to be recorded), such Owner shall, at its sole cost, use commercially reasonable efforts to cause each Permitted Mortgagee of such Owner and any other lienor of any portion of its interest in its Parcel to promptly signify its consent, joinder or subordination in recordable form.

19.9 **Captions.** The captions appearing in this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement, nor in any way affect this Agreement.

19.10 **No Partnership.** Nothing in this Agreement shall cause the Owners in any way to be construed as a partners, joint venturers or associates of each other in the operation of the Hotel Project or the Convention Center.

19.11 **Time of Essence.** Time is of the essence of this Agreement as to each of the terms, conditions, obligations and performances contained herein or required hereunder.

19.12 **Waiver.** No failure by any Owner to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy

consequent upon a breach or default thereof, no forbearance by any Owner to enforce one or more of the remedies herein provided upon an Event of Default, and no acceptance of full or partial payment of any amount payable under this Agreement during the continuance of any such breach or default, shall constitute a waiver of any such breach or default or of such covenant, agreement, term or condition. No covenant, agreement, term or condition of this Agreement to be performed or complied with by any Owner and no breach or default thereof shall be waived, altered or modified except by a written instrument executed by the other. No waiver of any breach or default shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach or default thereof.

19.13 **Entire Agreement.** This Agreement contains the entire agreement between the Owners with respect to the subject matter hereof and all negotiations between the Owners are merged herein.

19.14 **Construction of Agreement.** This Agreement shall not be construed more strictly against one Owner than against any other by virtue of the fact that initial drafts may have been prepared by counsel for one of the Owners, it being recognized that this Agreement is the product of extensive negotiations between the Owners and that the Owners have contributed substantially and materially to the final preparation of this Agreement.

19.15 **Independent Covenants.** Each and every covenant and agreement contained in this Agreement shall be deemed separate and independent and not dependent upon any other provisions of this Agreement and the damages for failure to perform the same shall be deemed in addition to and separate and independent of the damages accruing by reason of the breach of any other covenant contained in this Agreement.

19.16 **No Third-Party Beneficiaries.** The provisions contained in this Agreement are for the sole benefit of the Owners and their Permitted Mortgagees to the extent set forth in the applicable Mortgage (including their respective permitted successors and assigns), and shall not give rise to any rights by or on behalf of anyone other than the Owners and such Permitted Mortgagees.

19.17 **No Merger.** There shall be no merger of the easements, rights, interests or estates burdening any property pursuant to this Agreement with the fee estate of such property by reason of the fact that the same Person may acquire or hold, directly or indirectly, any such easements, rights, interests or estates and such fee estate, and no merger shall occur unless and until all Persons having an interest in any such easements, rights, interests or estates and such fee estate shall join in a written instrument effecting such merger.

19.18 **Further Assurances.** Each Owner, upon the request of any other Owner and at the expense of such other Owner at any time from time to time, agrees to promptly execute, acknowledge and/or deliver such additional instruments and documents, in recordable form if appropriate, and to take such other action, in each case, as may be reasonably requested by any other Owner in order to effectuate the agreements contained herein. The Owners further agree to make such changes to this Agreement as shall be reasonably required to make this Agreement consistent with all Applicable Laws.

19.19 **Rights Irrevocable.** The Owners hereby agree that, except as otherwise expressly provided herein, (a) no fee or other charge is payable by any Person in connection with the use of any easement, right or interest granted hereunder or pursuant to the terms hereof and (b) all easements, rights and interests granted hereunder or pursuant to the terms hereof shall be irrevocable.

19.20 **Recording.** Upon execution of this Agreement by the Owners, the Owners shall cause this Agreement to be recorded at Closing (immediately following the recording of the Deed) by the Recorder's Office against the Convention Center Parcel and the Hotel Site.

19.21 **Additional Easements.** Nothing herein shall be construed to prevent or preclude the recordation of any additional easements, licenses, rights or way or similar access agreements or restrictions to the extent that the same are not inconsistent with the terms and provisions hereof and are permitted by Applicable Law.

19.22 **Controlling Provisions.** In the event of any conflict between this Agreement and the Development Agreement with respect to the subject matter hereof, the terms of this Agreement shall control.

[SIGNATURES ON FOLLOWING PAGES]

COUNTY:

SALT LAKE COUNTY,
a body corporate and politic of the State of Utah

By: Erin Witvarek
Mayor Jennifer Wilson or Designee

By: Sherrie Swensen
Sherrie Swensen, Salt Lake County Clerk

Approved as to Form and Legality:

R. Clayton Patten
Deputy District Attorney

STATE OF UTAH)
)
) :ss
COUNTY OF SALT LAKE)

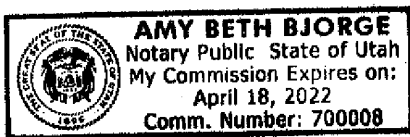
On this 20 day of December, 2019, personally appeared before me Erin Witvarek, who being duly sworn, did say that (s)he is the Deputy Mayor of Salt Lake County, Office of Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.



[Signature]
NOTARY PUBLIC
Residing in Salt Lake County, Utah

STATE OF UTAH)
)
) :ss
COUNTY OF SALT LAKE)

On this 18 day of Dec, 2019, personally appeared before me Sherrie Swensen, who being by me duly sworn, did say and acknowledge that (s)he is the Clerk of Salt Lake County, and that the foregoing Declaration of Conditions, Covenants, and Restrictions and Easement Agreement was signed by her on behalf of Salt Lake County by authority of a Resolution of the Salt Lake County Council.



[Signature]
NOTARY PUBLIC
Residing in Salt Lake County, Utah

LIST OF EXHIBITS:

Exhibit A	Convention Center Parcel Legal Description
Exhibit B	Hotel Site Legal Description
Exhibit C	Map Shared Utility Area(s)
Exhibit D	Site Plan (Hotel Site Plan and Convention Center Site Plan)
Exhibit E	Convention Center Signage Easement Areas
Exhibit F	Hotel Signage Easement Areas
Exhibit G	Hotel Site Perimeter
Exhibit H	Arbitration Procedures

Exhibit A

Convention Center Parcel Legal Description

A PARCEL OF LAND BEING PART OF BLOCK 68, PLAT "A", SALT LAKE CITY SURVEY AND THE VACATED RIGHTS OF WAY OF 100 SOUTH STREET AND 200 WEST STREET. SAID PARCEL OF LAND IS LOCATED IN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 1 SOUTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN. THE BOUNDARY OF SAID PARCEL OF LAND IS DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID BLOCK 68, BEING THE SOUTHEASTERLY CORNER OF AN ENTIRE TRACT KNOWN AS PARCEL 15-01-226-005 AND DESCRIBED IN THAT QUIT CLAIM DEED RECORDED ON NOVEMBER 22, 1994 AS ENTRY # 5971108 IN THE OFFICE OF THE SALT LAKE COUNTY RECORDER, WHICH POINT IS 63.98 FEET S. 89°56'38" W. AND 64.43 FEET N. 00°02'52" W. AND 660.30 FEET S. 89°56'38" W. FROM THE CITY MONUMENT LOCATED AT THE INTERSECTION OF 200 SOUTH AND WEST TEMPLE STREETS; THENCE ALONG THE BOUNDARY OF SAID ENTIRE TRACT THE FOLLOWING FOUR COURSES: 1) S. 89°56'38" W. (RECORD = S. 89°58'19" W.) 21.87 FEET; 2) N. 00°01'00" W. (RECORD = N. 00°01'07" W.) 737.44 FEET; 3) N. 89°59'21" E. (RECORD = N. 89°58'53" E.) 21.87 FEET; 4) S. 00°04'26" W. (RECORD = S. 0°01'07" E.) 12.04 FEET TO THE CENTERLINE OF THE VACATED 100 SOUTH STREET DESCRIBED IN THAT QUIT CLAIM DEED RECORDED ON FEBRUARY 15, 1967 AS ENTRY # 2188364 IN THE OFFICE OF SAID RECORDER; THENCE N. 89°54'43" E. 660.01 FEET ALONG SAID CENTERLINE TO THE EASTERLY BOUNDARY LINE OF SAID STREET VACATION; THENCE S. 00°01'46" E. 65.75 FEET ALONG SAID EASTERLY VACATION LINE TO THE NORTHEAST CORNER OF SAID BLOCK 68; THENCE S. 00°02'46" E. (RECORD = S. 00°00'59" E.) 334.93 FEET ALONG THE EAST LINE OF SAID BLOCK 68; THENCE S. 89°57'14" W. 220.00 FEET; THENCE S. 00°02'46" E. 325.11 FEET TO THE SOUTH LINE OF SAID BLOCK 68; THENCE S. 89°56'38" W. (RECORD = S. 89°58'16" W.) 440.34 FEET ALONG SAID SOUTH LINE OF BLOCK 68 TO THE POINT OF BEGINNING.

CONTAINS 423,595 SQUARE FEET IN AREA OR 9.724 ACRES MORE OR LESS

Exhibit B

Hotel Site Legal Description

A parcel of land being part of Block 68, Plat "A," Salt Lake City Survey located in the Northeast quarter of Section 1, Township 1 South, Range 1 West of the Salt Lake Base and Meridian. The boundary of said parcel of land is described as follows:

Beginning at the Southeast corner of said Block 68, which point is 63.98 feet South 89°56'38" West and 64.43 feet North 00°02'52" West from the city monument located at the intersection of 200 South and West Temple Streets; thence South 89°56'38" West (record = South 89°58'16" West) 220.00 feet along the South line of said Block 68; thence North 00°02'46" West 325.11 feet; thence North 89°57'14" East 220.00 feet to the East line of said Block 68; thence South 00°02'46" East (record = South 00°00'59" East) 325.07 feet along said East line to the point of beginning.

Contains 71,520 square feet in area or 1.642 acres more or less.

Tax Parcel No.: 15-01-226-007

Exhibit C

Shared Utility Area(s) Map

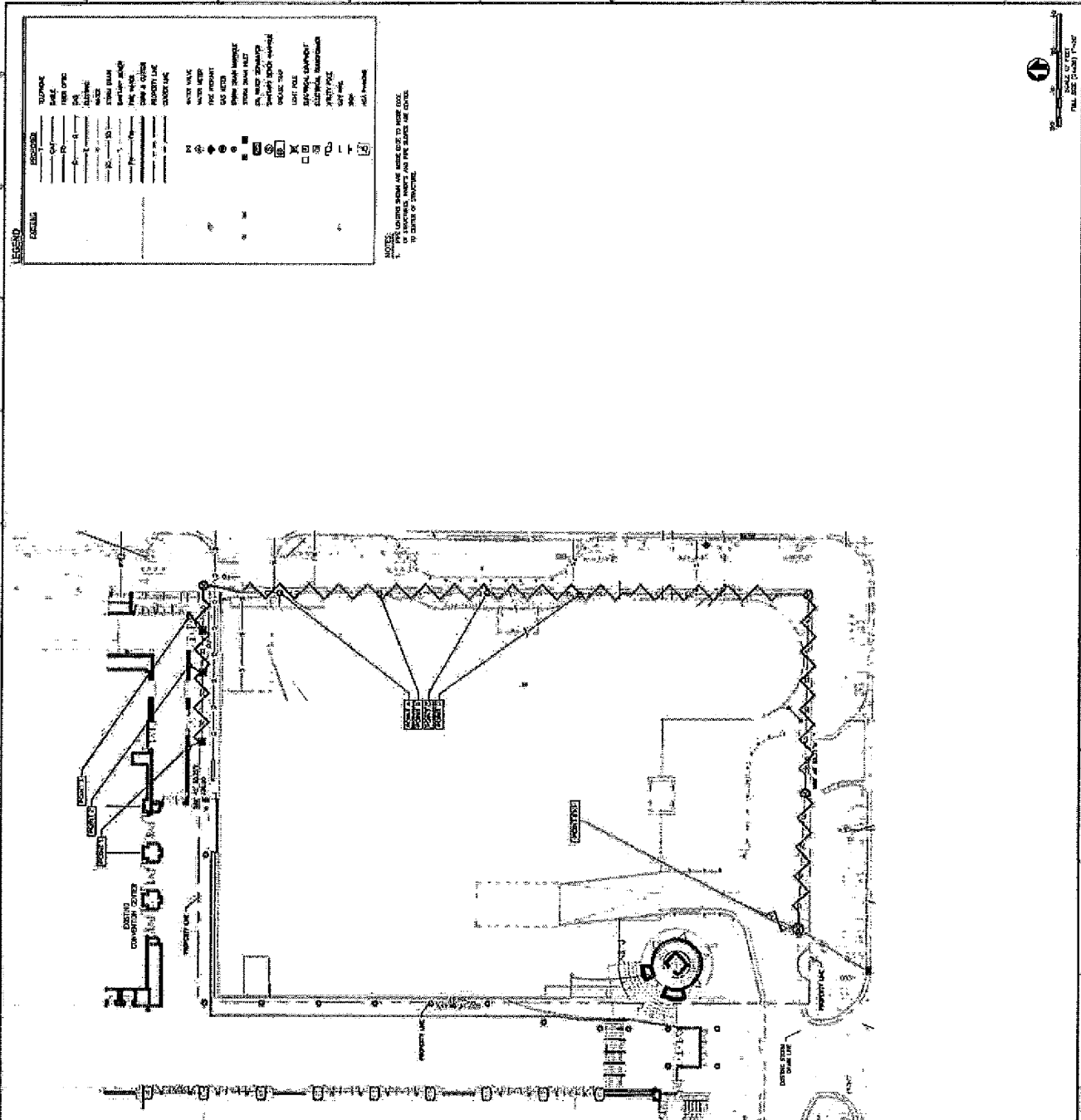
EXHIBIT C - SHARED UTILITIES

Items highlighted with a dashed line represent both the storm water piping for the existing Salt Palace Convention Center's Grand Ballroom, as well as, the storm water piping from the new Convention Center Hotel.

POINTS 1/2/3 reflect the location(s) where storm water from the existing Salt Palace Convention Center's Grand Ballroom roof drains enter the new storm water piping system constructed by the Hotel Owner.

POINTS A/B/C/D reflect the location(s) where storm water from the new Convention Center Hotel enter the new storm water piping system constructed by the Hotel Owner.

Storm water in the new storm water piping system will re-connect to the existing Salt Palace Convention Center's storm water detention system at point EX1 and further illustrated on page 2 of 2.



SALT LAKE CITY HOTEL
100 S TEMPLE, SALT LAKE CITY, UTAH 84101

TSA DESIGN DEVELOPMENT

SALT LAKE CITY HOTEL
SALT LAKE CITY, UTAH

PSOMAS
Professional Services Organization of Master Architects

UTILITY PLAN

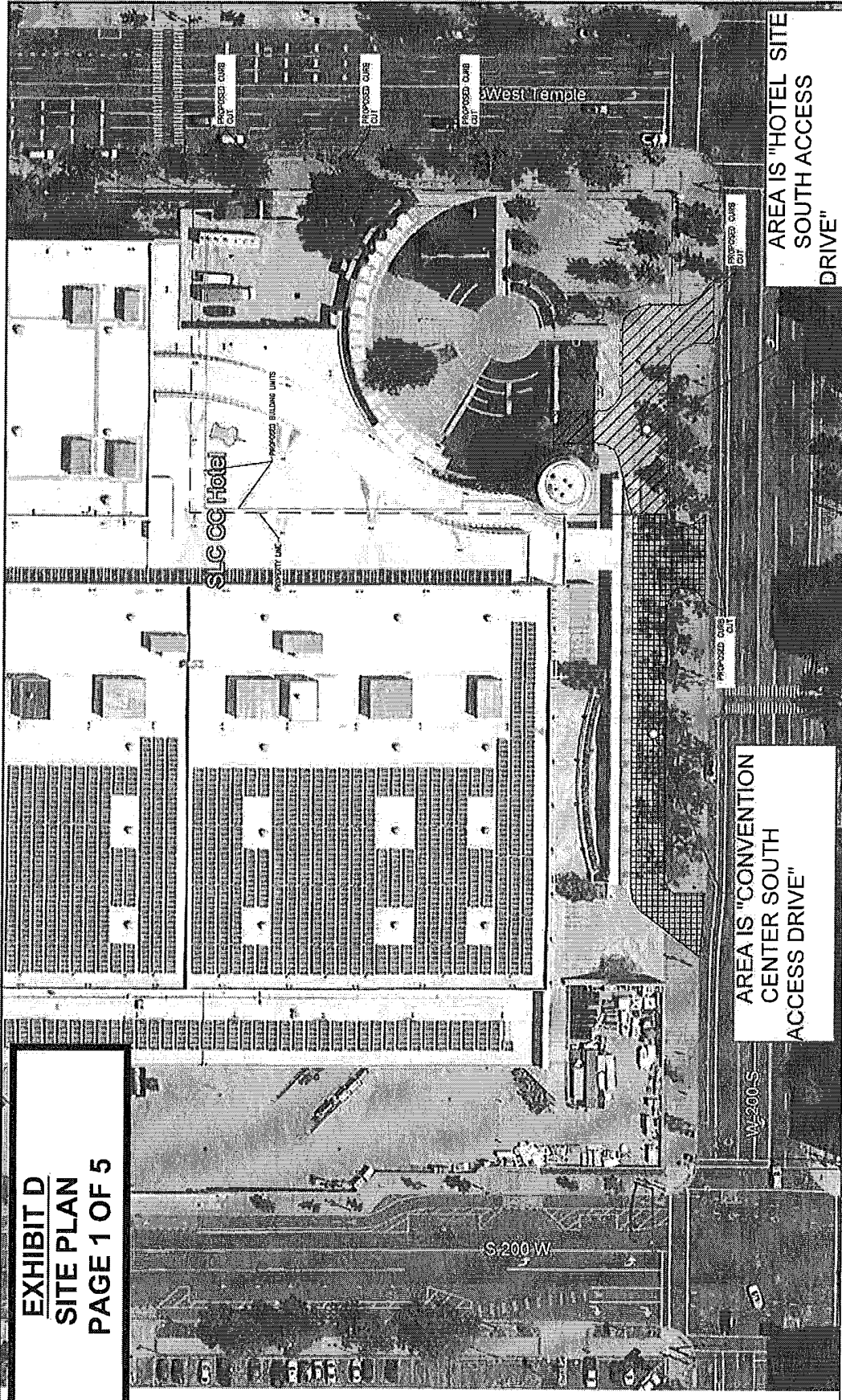
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Exhibit D

Site Plan of Hotel Site and Convention Center

Exhibit D to Declaration of Conditions, Covenants, and Restrictions and Easement Agreement

EXHIBIT D
SITE PLAN
PAGE 1 OF 5



AREA IS "CONVENTION
CENTER SOUTH
ACCESS DRIVE"

AREA IS "HOTEL SITE
SOUTH ACCESS
DRIVE"



SCALE OF FEET
PLAN SIZE (24x36) 1"=50'

PSOMAS
4796 a Heberle Rd., Suite 200
Dallas, TX 75243
PH: 214.377.7777

EXHIBIT D
SITE PLAN
PAGE 3 OF 5

SOUTH TEMPLE

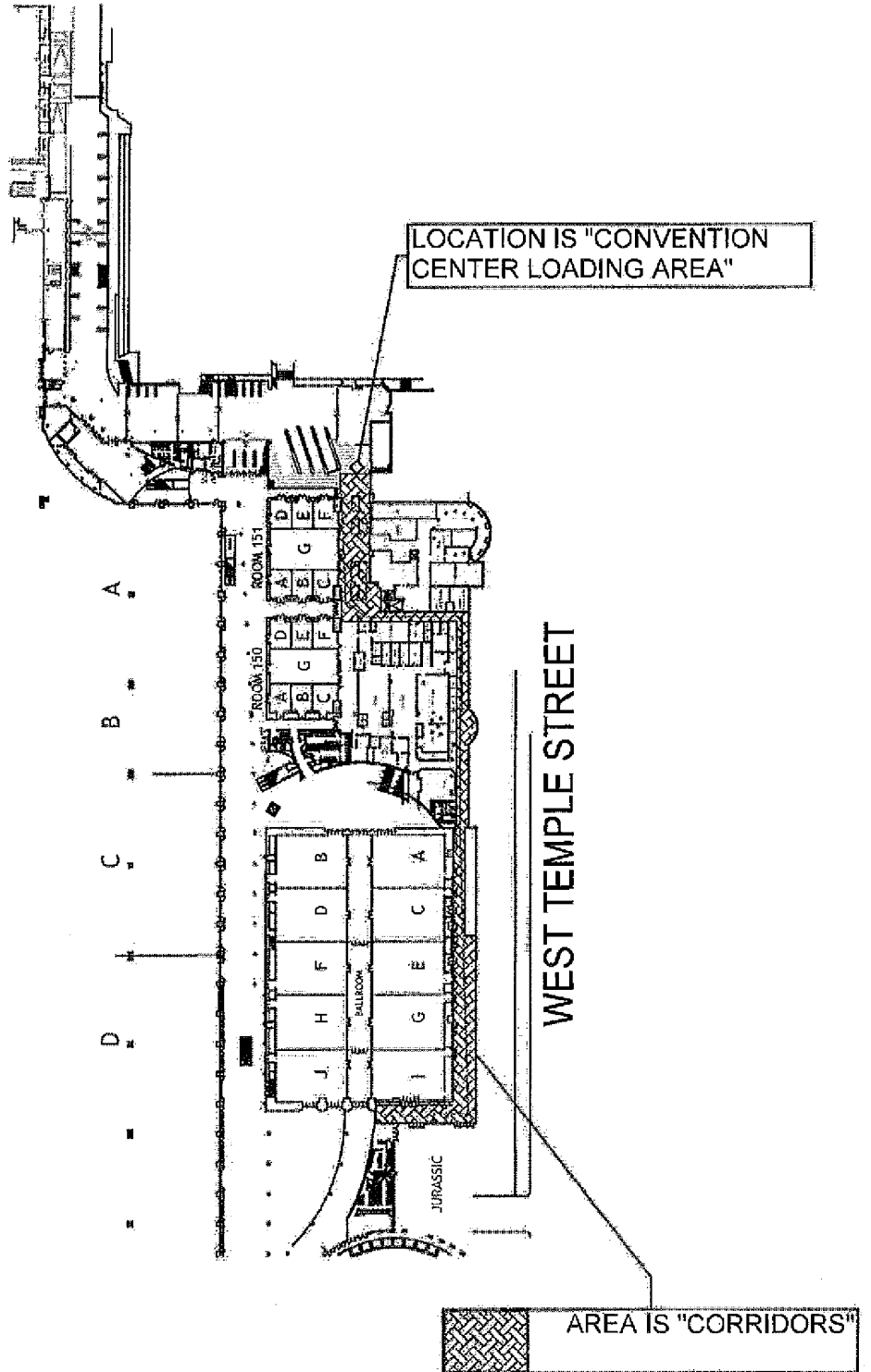


EXHIBIT D
SITE PLAN
PAGE 4 OF 5

AREA IS "PARKING GARAGE
ACCESS IMPROVEMENTS -
PARKING GARAGE STAIRWELL G"

AREA IS "PARKING GARAGE
ELEVATOR IMPROVEMENTS -
ELEVATOR AND LOBBY"

REVISIONS AND CHANGE ORDER	170 S WEST TEMPLE, SALT LAKE CITY, UTAH 84119	NOT FOR CONSTRUCTION	DATE	BY	APPROVED	PROJECT	SHEET NO.	SHEET TOTAL	OVERALL LEVEL BY PLAN	SCALE	DATE
SALT LAKE COUNTY											
POSTMAN											
ARCHITECTS											
SALT LAKE CITY, UTAH											
OVERALL LEVEL BY PLAN											
SCALE											
DATE											
A1-00											

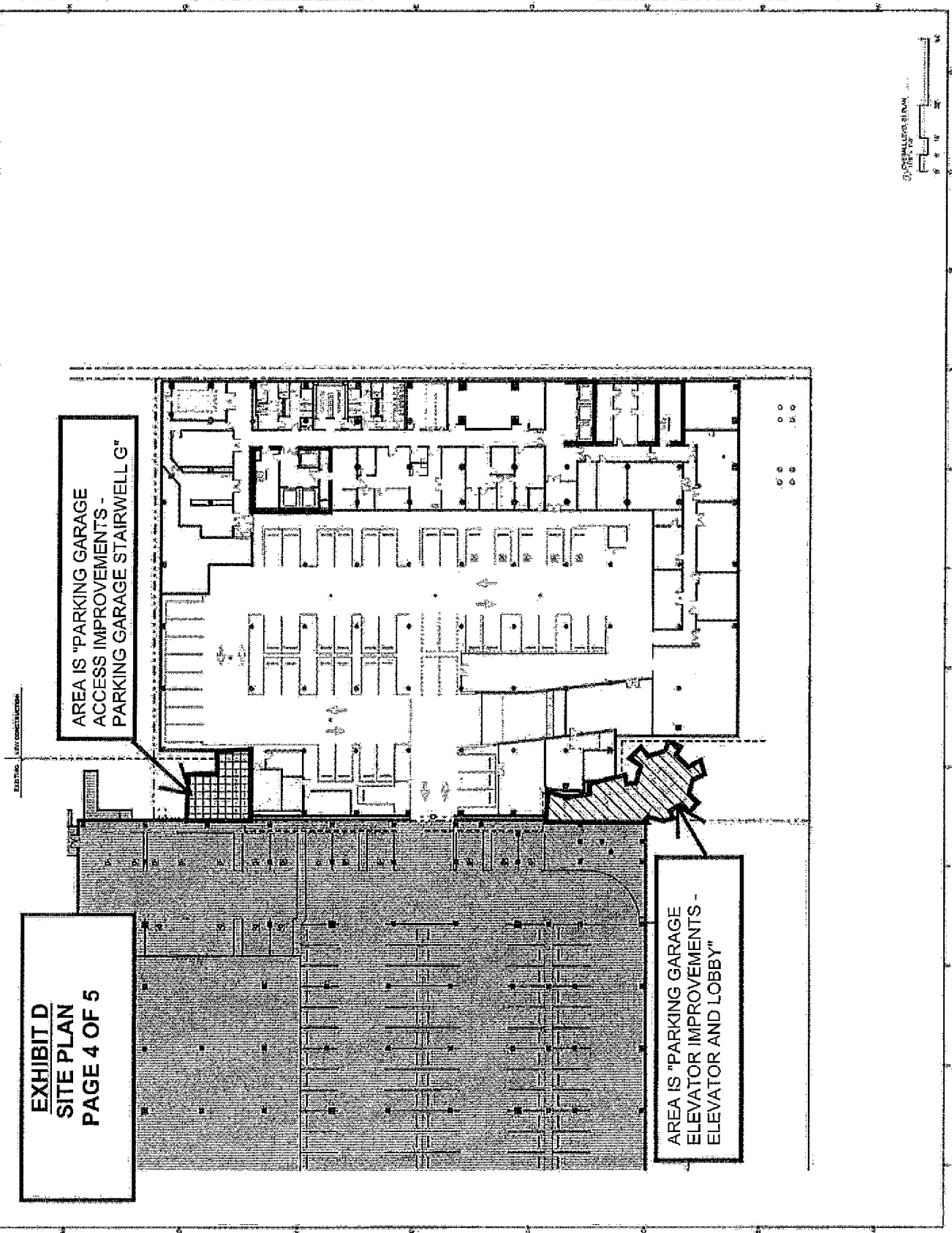


Exhibit E

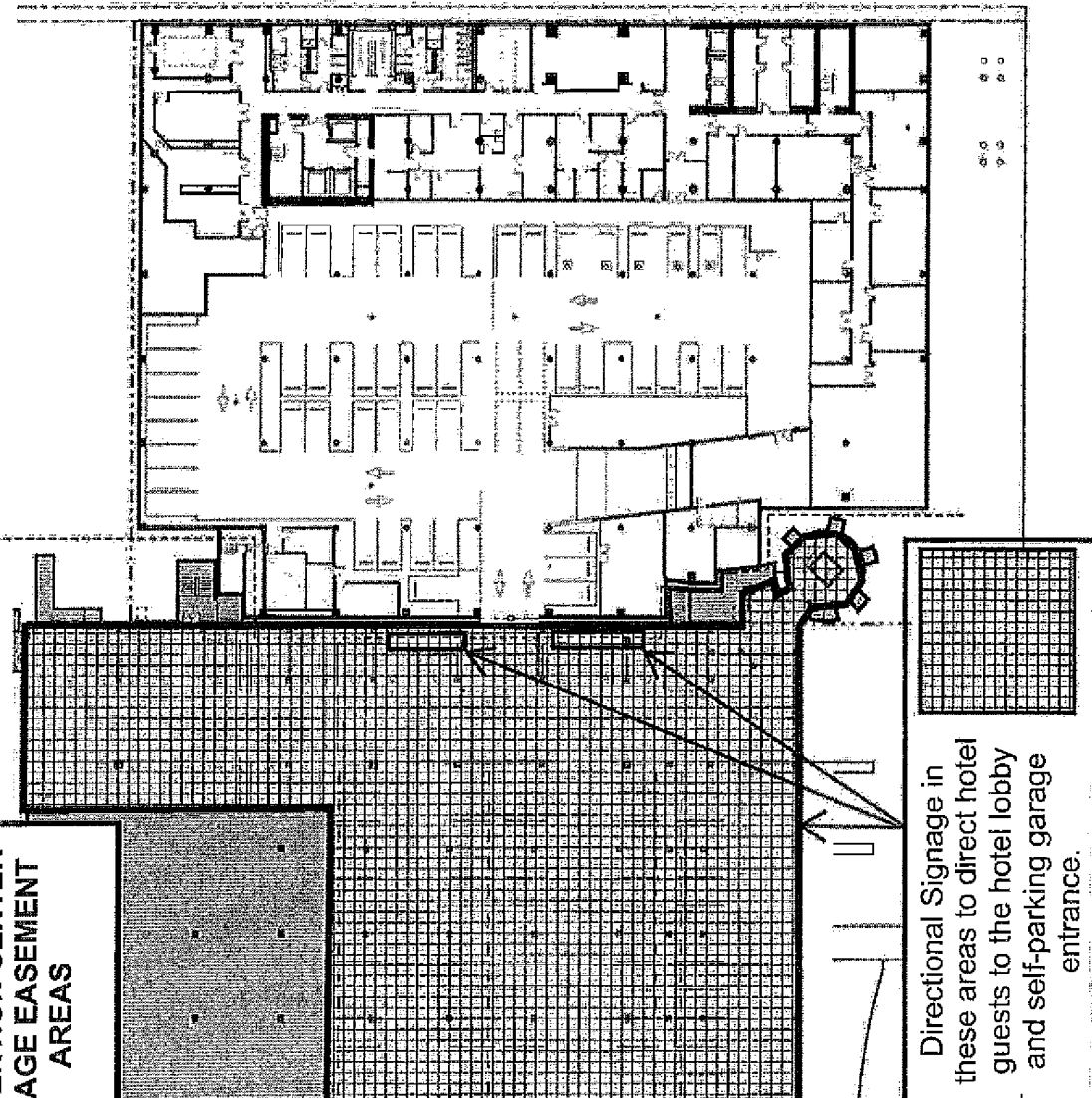
Convention Center Signage Easement Areas

EXHIBIT E
CONVENTION CENTER
SIGNAGE EASEMENT
AREAS

PARKING COUNTS

TYPE	COUNT
VALET SPACES	4
RESTROOM SPACES	2
TOTAL PARKING SPACES	6

*Check to make sure signage is in the correct location and that it is properly placed for visibility and readability.



Directional Signage in these areas to direct hotel guests to the hotel lobby and self-parking garage entrance.

Salt Lake City Hotel
 170 WEST TEMPLE, SALT LAKE CITY, UTAH 84111

NOT FOR CONSTRUCTION

PORTMAN
 ARCHITECTS
 100 WEST 100 SOUTH, SUITE 200
 SALT LAKE CITY, UTAH 84111

OVERALL LEVEL 21 PLAN

DATE	NOV 11 2011
SCALE	A-1-00



Exhibit F

Hotel Signage Easement Areas

Exhibit G

Hotel Site Perimeter

NO.	REVISIONS AND ISSUE DATES
1	ISSUED FOR PERMITS
2	ISSUED FOR CONSTRUCTION
3	ISSUED FOR PERMITS
4	ISSUED FOR CONSTRUCTION
5	ISSUED FOR PERMITS
6	ISSUED FOR CONSTRUCTION
7	ISSUED FOR PERMITS
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48	ISSUED FOR CONSTRUCTION
49	ISSUED FOR PERMITS
50	ISSUED FOR CONSTRUCTION

170 SWERT TEMPLE, SALT LAKE CITY, UTAH 84111

Salt Lake City Hotel

NOT FOR CONSTRUCTION

ARCHITECTURE
PORTMAN
 ARCHITECTS
 100 SOUTH STATE STREET
 SUITE 2000
 SALT LAKE CITY, UT 84111

OVERALL LEVEL PLAN
 A-1-01

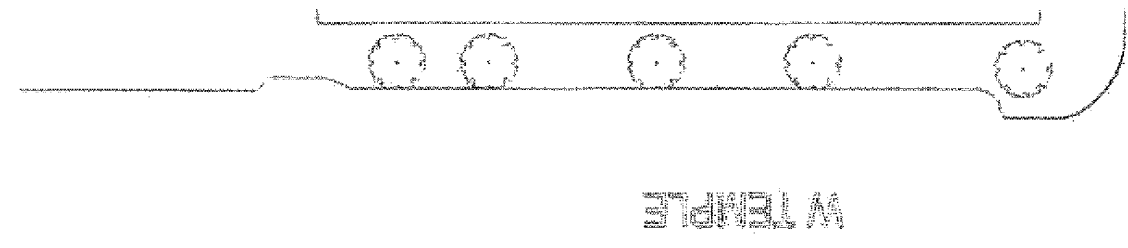
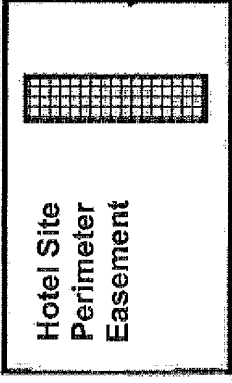


EXHIBIT G
HOTEL SITE PERIMETER EASEMENT



Hotel Site Perimeter Easement

THIS PERIMETER EASEMENT IS TO BE USED TO DEFINE THE PERIMETER OF THE HOTEL SITE PERIMETER EASEMENT. THE PERIMETER EASEMENT IS TO BE USED TO DEFINE THE PERIMETER OF THE HOTEL SITE PERIMETER EASEMENT. THE PERIMETER EASEMENT IS TO BE USED TO DEFINE THE PERIMETER OF THE HOTEL SITE PERIMETER EASEMENT.

Exhibit H

Fast-Track Arbitration Procedures

Selection of the Arbitrator

1. The party demanding arbitration (the "***Demanding Party***") shall, at the same time it serves the Arbitration Notice under Section 13.1 of the Agreement, serve a copy of a demand (the "***Demand***") identifying:

- (a) the name, physical address, telephone, and email addresses of each party,
- (b) if applicable, the name, physical address, telephone number, email addresses, and fax numbers for any known representative for each party, and
- (c) a statement setting forth with reasonable particularity the nature of the claim and relief sought, including the amount involved (if monetary damages are sought).

2. If the Parties agree to arbitrate a dispute and the fast-track arbitration procedures apply (as set forth in Section 9.8.3 of the Agreement), they shall first attempt in good faith to agree on an arbitrator within seven days² of agreeing to arbitrate.

3. If the parties are unable to agree on an arbitrator within seven days, they shall have seven additional days to exchange a list of five acceptable proposed arbitrators.

4. If both parties' lists include a single common arbitrator, that arbitrator shall be appointed to arbitrate the dispute. If the parties' lists include more than one common arbitrator, the parties shall attempt to agree on the selection of one of the common arbitrators. Otherwise, each party shall select an arbitrator from its respective list of proposed arbitrators for the sole purpose of selecting an arbitrator. The parties will engage these two persons to identify, within seven days of the engagement, a person not identified on either party's list to serve as the arbitrator. The parties will engage the selected person to serve as the arbitrator.

5. If no arbitrator has been selected under the foregoing procedure within thirty (30) days of service of the Arbitration Notice, either party may file a motion in the Third District Court for the State of Utah in and for Salt Lake County requesting that the Court appoint an arbitrator under the Utah Uniform Arbitration Act.

6. Any arbitrator appointed under this section shall be a practicing attorney, arbitrator, or former judge with experience related to the subject matter of the Demand and any Counterclaim.

² Unless otherwise specified, any reference to "days" in this Exhibit H shall mean calendar days. If a deadline calculated under these procedures falls on weekend (Saturday or Sunday), Federal holiday, or Utah state holiday, the deadline shall be moved to the first business day following the weekend or holiday.

Pleadings

7. The Demanding Party shall serve a copy of all documents supporting its claims within seven days of appointment of an arbitrator.

8. The party responding to a Demand (the "**Responding Party**") shall serve a copy of its answer to the Demand ("**Answer**") within fourteen days of service of the Demand. The Answer shall respond to the allegations in the Demand, and assert all applicable affirmative defenses, with reasonable particularity. The Responding Party must assert any counterclaim ("**Counterclaim**") against the Responding Party simultaneously with its Answer. The Counterclaim shall include the same information required in a Demand (as detailed in Paragraph 1 above).

9. The Responding Party shall serve a copy of all documents supporting its defenses to the Demand, and any documents supporting a Counterclaim, if applicable, with its Answer and Counterclaim.

10. The Demanding Party shall file its Reply to any Counterclaim ("**Reply**") within fourteen days of service of the Counterclaim. The Demanding Party shall serve a copy of all documents supporting its defenses to the Counterclaim with the Reply.

11. Each Party shall be entitled to amend its pleadings (defined as a Demand, Answer, Counterclaim or Reply) once as a matter of course within seven (7) days of service of the pleading to be amended, except that the Demand may be amended once within seven days after appointment of the arbitrator. No further amendment shall be permitted without the consent of the other Party or authorization by the arbitrator.

Preliminary Hearing

12. At the discretion of the arbitrator, a preliminary hearing should be scheduled as soon as practicable after the arbitrator has been appointed. The parties should be invited to attend the preliminary hearing along with their representatives. The preliminary hearing may be conducted in person or by telephone.

13. At the preliminary hearing, the parties and the arbitrator should be prepared to discuss and establish a procedure for the conduct of the arbitration that is appropriate to achieve a fair, efficient, and economical resolution of the dispute.

Discovery

14. Discovery is presumptively limited to exchange of documents.

15. Upon date(s) established by the arbitrator, both parties will serve on the other:

(a) all non-privileged hardcopy and electronic documents that they reasonably believe are relevant to any issue to be resolved in the arbitration;

(b) a privilege log with a sufficient description so that the assertion of privilege can be appropriately evaluated by the non-producing party and the arbitrator; and

(c) if desired, a list of particular categories of documents needed with respect to the dispute, which list shall attempt to be as specific as reasonably practicable, and each party shall then serve in response a statement of whether the initial production included the requested documents and, if not, whether the production will be supplemented or whether there is an objection thereto.

16. The arbitrator shall resolve any dispute regarding the exchange or production of documents within seven days. The parties shall produce any documents required by the arbitrator in the time specified by the arbitrator.

17. Unless the parties agree or the arbitrator orders otherwise upon good cause shown, no depositions shall be permitted.

18. Any expert witnesses must be disclosed and expert reports exchanged within the time specified by the arbitrator. Unless the parties agree or the arbitrator orders otherwise based upon good cause shown, no expert depositions shall be permitted.

Hearing Procedures

19. At a date agreed upon by the parties or ordered by the arbitrator, the parties shall give written notice for any witness or expert witness who has provided a written witness statement to appear in person at the arbitration hearing for examination. If such notice is given, and the witness fails to appear, the arbitrator may disregard the written witness statement and/or expert report of the witness or make such other order as the arbitrator may consider to be just and reasonable.

20. If a witness whose testimony is represented by a party to be essential is unable or unwilling to testify at the hearing, either in person or through electronic or other means, either party may request that the arbitrator order the witness to appear in person for examination before the arbitrator at a time and location where the witness is willing and able to appear voluntarily or can legally be compelled to do so. Any such order may be conditioned upon payment by the requesting party of all reasonable costs associated with such examination.

21. Unless the parties agree or the arbitrator orders otherwise, any documents not produced two (2) weeks prior to the arbitration hearing may not be used by the producing party at the hearing, except for rebuttal documents, which may be admitted in the discretion of the arbitrator.

22. Unless the parties agree or the arbitrator orders otherwise, any witness not identified two (2) weeks prior to the arbitration hearing shall not be permitted to testify, except for rebuttal witnesses, who may be permitted to testify at the discretion of the arbitrator.

23. Unless the parties agree or the arbitrator orders otherwise based upon good cause shown, the hearing shall not exceed one day. Each party shall have equal opportunity to submit proofs and complete its case. The arbitrator shall determine the order of the hearing and may require further submission of documents within two business days after the hearing. For good cause, the arbitrator may schedule additional hearings within fourteen days after the initial day of the hearings.

24. The parties may offer such evidence as is relevant and material to the dispute and shall produce such evidence as the arbitrator may deem necessary to an understanding and determination of the dispute. All evidence shall be taken in the presence of the arbitrator and all of the parties, except where any of the parties is absent, in default, or has waived the right to be present.

25. The arbitrator shall determine the admissibility, relevance, and materiality of the evidence offered and may exclude evidence deemed by the arbitrator to be cumulative or irrelevant. Conformity to legal rules of evidence shall not be necessary.

26. The arbitrator shall take into account applicable principles of legal privilege, such as those involving the confidentiality of communications between a lawyer and client.

27. An arbitrator or other person authorized by law to subpoena witnesses or documents may do so upon the request of any party or independently.

28. A hearing under these fast-track procedures must take place within ninety (90) days of appointment of the arbitrator.

29. The arbitrator shall issue a decision within thirty (30) days of the conclusion of the hearing.

30. Any and all of these procedures may be altered by written stipulation of the parties or by order of the arbitrator upon good cause shown.

Adoption of AAA Procedures

Except as provided otherwise above, and regardless of the amount in dispute, any arbitration under the fast-track procedure described above shall be governed by the then-current American Arbitration Association ("AAA") Commercial Arbitration Rules for Expedited Procedures, and to the extent not inconsistent with the fast-track procedures outlined above, the AAA general Commercial Arbitration Rules. Nothing in these procedures shall require the parties to arbitrate any dispute through the AAA unless the parties agree otherwise.

General Arbitration Procedures

Selection of the Arbitrator

1. The Party demanding arbitration (the “*Demanding Party*”) shall, at the same time it serves the Arbitration Notice under Section 13.1(b) of the Agreement, serve a copy of a demand (the “*Demand*”) identifying:

- a. the name, physical address, telephone, and email addresses of each party;
- b. if applicable, the name, physical address, telephone number, email addresses, and fax numbers for any known representative for each party; and
- c. a statement setting forth with reasonable particularity the nature of the claim and relief sought, including the amount involved (if monetary damages are sought).

2. If the Parties agree to arbitrate a dispute and these general arbitration procedures apply (as set forth in Section 13.1(b) of the Agreement), the Parties agree to arbitrate before a panel of three arbitrators.

3. Within fourteen days of agreeing to arbitrate, the Parties shall each select an arbitrator and notify the other Party of its chosen arbitrator.

4. Within fourteen days of their selection, the Parties’ chosen arbitrators shall select a third arbitrator who shall chair the arbitration panel.

5. If the chosen arbitrators are unable to agree on a third arbitrator within fourteen days, either Party may file a motion in the Third District Court for the State of Utah requesting that the Court appoint a third arbitrator under the Utah Uniform Arbitration Act.

6. Any arbitrator appointed under this section shall be a practicing attorney, arbitrator, or judge with experience related to the subject matter of the Demand.

Adoption of AAA Procedures

Once the arbitration panel is selected, the Parties agree that the arbitration shall be governed by the applicable AAA Commercial Arbitration Rules. Nothing in these procedures shall require the parties to arbitrate any dispute through the AAA unless the Parties agree otherwise.

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