

**FRANCHISE DISCLOSURE DOCUMENT  
HOLIDAY HOSPITALITY FRANCHISING, LLC  
A Delaware Limited Liability Company  
Three Ravinia Drive, Suite 100  
Atlanta, Georgia 30346  
(770) 604-2000  
<https://development.ihg.com>**

**VIGNETTE™  
COLLECTION**

The franchisee will establish and operate a luxury hotel as a part of the Vignette Collection™.

The total investment necessary to begin operation of a typical 200-room hotel in the Vignette Collection™, excluding land costs and other matters, ranges from \$28,725,250 to \$64,876,500 (\$143,626 - \$324,383 per guest room) or more (see Item 7), including between \$231,000 and \$433,500 or more that must be paid to the franchisor or an affiliate (see Item 5).

This disclosure document summarizes certain provisions of your franchise agreement and other information in plain English. Read this disclosure document and all accompanying agreements carefully. You must receive this disclosure document at least 14 calendar days before you sign a binding agreement with, or make any payment to, the franchisor or an affiliate in connection with the proposed franchise sale. **Note, however, that no governmental agency has verified the information contained in this document.**

You may wish to receive your disclosure document in another format that is more convenient for you. To discuss the availability of disclosures in different formats, contact Patricia Womack, Franchise Sales, Holiday Hospitality Franchising, LLC, at Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346 and (770) 604-2912.

The terms of your contract will govern your franchise relationship. Don't rely on the disclosure document alone to understand your contract. Read all of your contract carefully. Show your contract and this disclosure document to an advisor, like a lawyer or an accountant.

Buying a franchise is a complex investment. The information in this disclosure document can help you make up your mind. More information on franchising, such as "A Consumer's Guide to Buying a Franchise," which can help you understand how to use this disclosure document is available from the Federal Trade Commission. You can contact the FTC at 1-877-FTC-HELP or by writing to the FTC at 600 Pennsylvania Avenue, NW, Washington, DC 20580. You can also visit the FTC's home page at [www.ftc.gov](http://www.ftc.gov) for additional information. Call your state agency or visit your public library for other sources of information on franchising.

There may also be laws on franchising in your state. Ask your state agencies about them.

Issuance Date: September 13, 2021

## How to Use This Franchise Disclosure Document

Here are some questions you may be asking about buying a franchise and tips on how to find more information:

QUESTION	WHERE TO FIND INFORMATION
<b>How much can I earn?</b>	Item 19 may give you information about outlet sales, costs, profits or losses. You should also try to obtain this information from others, like current and former franchisees. You can find their names and contact information in Item 20 or Exhibit F.
<b>How much will I need to invest?</b>	Items 5 and 6 list fees you will be paying to the franchisor or at the franchisor's direction. Item 7 lists the initial investment to open. Item 8 describes the suppliers you must use.
<b>Does the franchisor have the financial ability to provide support to my business?</b>	Item 21 or Exhibits G1 and G2 includes financial statements. Review these statements carefully.
<b>Is the franchise system stable, growing, or shrinking?</b>	Item 20 summarizes the recent history of the number of company-owned and franchised outlets.
<b>Will my business be the only Vignette Collection™ hotel in my area?</b>	Item 12 and the "territory" provisions in the franchise agreement describe whether the franchisor and other franchisees can compete with you.
<b>Does the franchisor have a troubled legal history?</b>	Items 3 and 4 tell you whether the franchisor or its management have been involved in material litigation or bankruptcy proceedings.
<b>What's it like to be a Vignette Collection™ licensee?</b>	Item 20 or Exhibit F lists current and former franchisees. You can contact them to ask about their experiences.
<b>What else should I know?</b>	These questions are only a few things you should look for. Review all 23 Items and all Exhibits in this disclosure document to better understand this franchise opportunity. See the table of contents.

## What You Need To Know About Franchising *Generally*

**Continuing responsibility to pay fees.** You may have to pay royalties and other fees even if you are losing money.

**Business model can change.** The franchise agreement may allow the franchisor to change its manuals and business model without your consent. These changes may require you to make additional investments in your franchise business or may harm your franchise business.

**Supplier restrictions.** You may have to buy or lease items from the franchisor or a limited group of suppliers the franchisor designates. These items may be more expensive than similar items you could buy on your own.

**Operating restrictions.** The franchise agreement may prohibit you from operating a similar business during the term of the franchise. There are usually other restrictions. Some examples may include controlling your location, your access to customers, what you sell, how you market, and your hours of operation.

**Competition from franchisor.** Even if the franchise agreement grants you a territory, the franchisor may have the right to compete with you in your territory.

**Renewal.** Your franchise agreement may not permit you to renew. Even if it does, you may have to sign a new agreement with different terms and conditions in order to continue to operate your franchise business.

**When your franchise ends.** The franchise agreement may prohibit you from operating a similar business after your franchise ends even if you still have obligations to your landlord or other creditors.

### Some States Require Registration

Your state may have a franchise law, or other law, that requires franchisors to register before offering or selling franchises in the state. Registration does not mean that the state recommends the franchise or has verified the information in this document. To find out if your state has a registration requirement, or to contact your state, use the agency information in Exhibit E.

Your state also may have laws that require special disclosures or amendments be made to your franchise agreement. If so, you should check the State Specific Addenda. See the Table of Contents for the location of the State Specific Addenda.

## Special Risks to Consider About *This* Franchise

Certain states require that the following risk(s) be highlighted:

1. **Out-of-State Dispute Resolution**. The license agreement requires you to resolve disputes with the franchisor by litigation. You are not required to sue the franchisor only in the state of Georgia, but the franchisor can sue you in the state of Georgia. Out-of-state litigation may force you to accept a less favorable settlement for disputes. It may also cost more to litigate with the franchisor in the state, county and judicial district in which the franchisor's principal place of business is then located than in your own state.

Certain states may require other risks to be highlighted. Check the "State Specific Addenda" (if any) to see whether your state requires other risks to be highlighted.

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## **ITEM 1**

### **THE FRANCHISOR, AND ANY PARENTS, PREDECESSORS AND AFFILIATES**

This disclosure document refers to the franchisor, Holiday Hospitality Franchising, LLC, as “Holiday” and to the franchisee as “you”. If you are a corporation, partnership or other entity, the word “you” may also include owners or partners of the franchisee.

Holiday is a Delaware limited liability company which was formed on November 3, 1989 (originally under the name “Holiday Inns Franchising, Inc”, which was subsequently changed to “Holiday Hospitality Franchising, Inc.” and then converted from a corporation to a limited liability company). Except as set forth in this disclosure document, Holiday does business only under its limited liability company name. Holiday’s principal business address is Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346, and its telephone number is (770) 604-2000.

Holiday began offering franchises for Vignette Collection™ hotels in the United States with the issuance of this disclosure document in September 2021 (though its predecessors operated hotel businesses and offered franchises for hotel businesses starting in approximately 1953).

Holiday also offers and grants franchises for other hotel brands, including the Holiday Inn brand group of full service hotels, which includes Holiday Inn® hotels and Holiday Inn® & Suites hotels (formerly known as “Holiday Inn® Hotel & Suites” hotels), the Holiday Inn Express® brand group of limited service hotels, which includes Holiday Inn Express® hotels and Holiday Inn Express® & Suites hotels (formerly known as “Holiday Inn Express® Hotel & Suites” hotels); and Holiday Inn® Resort hotels, InterContinental® Hotels & Resorts, the Crowne Plaza® Hotels & Resorts, voco™ Hotels, Hotel Indigo®, EVEN® Hotels, Atwell Suites™, Staybridge Suites®, Candlewood Suites®, and avid® hotels, under separate disclosure documents. However, this disclosure document contains information related only to the Vignette Collection™ brand (see below in this Item 1).

While Holiday has not itself owned, managed or leased any hotels, its affiliates do. As of the date of this disclosure document Holiday’s affiliates operate (own, lease or manage) 38 Holiday Inn brand group, Holiday Inn Resort, Holiday Inn Express brand group, Crowne Plaza, InterContinental Hotels & Resorts, Staybridge Suites, EVEN® Hotels and Hotel Indigo brand hotels in the United States, Puerto Rico and Canada. Additionally, as of the date of this disclosure document Holiday’s affiliates operate 75 U.S. Army lodging facilities across the United States. Some of these facilities are branded as Holiday Inn Express or Candlewood Suites hotels.

Holiday’s agents for service of process in the states whose franchise laws require Holiday to name a state agency as agent for service are shown on Exhibit D.

### **HOLIDAY’S BUSINESS:**

Holiday offers and grants franchises under the terms of a License Agreement (the “License”) to establish and operate, at a single, defined location, a distinctive, high quality hotel under the service mark Vignette Collection™ (the “Hotel”). Holiday may designate other trademarks, service marks, logotypes and proprietary marks for use in connection with the Vignette Collection™ system (the “System”).

The System includes, among other things, those service marks and copyrights, trademarks and similar intellectual property rights that Holiday designates; rights to domain names and other identifications or elements used in electronic commerce made available to licensees of the System by the License; access to a reservation system operated in accordance with specifications Holiday establishes from time to time; advertising, distribution, publicity and other marketing programs and materials; architectural drawings and architectural works, training programs and materials; confidential or proprietary information, standards, specifications and policies for construction, furnishing, operation, appearance and guest service; programs for inspecting the Hotel, measuring and assessing service, quality and consumer opinion and consulting with you; and other requirements referred to in the License, or in

Holiday's Vignette Collection™ brand standards, (collectively, the "Standards") and in other communications. Holiday may add elements to the System or modify or delete elements of the System.

The License may include obligations for the performance of construction and renovation work, specific to the property being licensed which will be detailed in Attachment "B" to the License. You should review these obligations before signing any License.

A Vignette Collection™ Hotel will provide accommodations targeted to upper-upscale/entry-level luxury travelers who are seeking a hotel that stands out from the crowd. A typical Vignette Collection™ Hotel consists of more than 75 guest rooms; however, each Hotel's room count may be adjusted to align with market conditions.

Vignette Collection™ is a new upper-upscale/entry-level luxury brand that combines a collection of distinctive hotels with the global power of IHG. The Vignette Collection™ brand allows guests to experience unique, independently minded hotels under a name they can trust. The collection delivers one-of-a-kind stays and memorable rituals combined with a focus on providing a means for good among our guests and within our hotels and communities.

### **HOLIDAY'S PARENT, PREDECESSOR IN INTEREST AND AFFILIATES:**

Holiday's ultimate corporate parent is InterContinental Hotels Group PLC. InterContinental Hotels Group PLC does not maintain a principal place of business in the United States. Its principal place of business is in the United Kingdom at Broadwater Park, Denham, Buckinghamshire, UB9 5HR.

Holiday's direct corporate parent is Six Continents Hotels, Inc. ("SCH") (formerly known as Bass Hotels & Resorts, Inc. and Holiday Hospitality Corporation). SCH's principal business address is Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346.

Certain trademarks associated with the various hotel brands disclosed in this disclosure document are owned by SCH's affiliate, Six Continents Limited ("SCL"). Pursuant to various license agreements, SCL has granted SCH the exclusive license in the United States and Canada to use and sublicense use of all such trademarks (the "SCL License Agreements"). SCL's principal business address is in the United Kingdom at Broadwater Park, Denham, Buckinghamshire, UB9 5HR.

SCH has granted - - pursuant to a master license agreement (originally entered into between each party's respective predecessor) which was amended and restated most recently on September 10, 2021 (the "Master License") - - Holiday the right to franchise and operate the Holiday Inn®, Holiday Inn Express®, Holiday Inn® Resort, Crowne Plaza® Hotels & Resorts, Staybridge Suites®, Candlewood Suites®, Hotel Indigo®, EVEN® Hotels, voco™ Hotels, Vignette Collection™ hotels, avid® hotels, InterContinental® Hotels & Resorts and Atwell Suites™ systems in the United States and Canada. Under the terms of the Master License, certain fees paid by franchisees, other than the royalties and related fees, are payable to SCH, and either SCH or Holiday may collect those amounts from franchisees. Also under the Master License, SCH is required to provide Holiday and its licensees with central marketing, reservation and training services.

SCH has also offered franchises outside of North America for the Crowne Plaza®, Holiday Inn Express® and Holiday Inn® hotel brand groups since April, 1997 (and its predecessors engaged in such activities before that time, commencing originally in May, 1988). In November, 2010, SCH assigned some of its international licenses to certain affiliates of Holiday, as follows: InterContinental Hotels Group (Asia Pacific) Pte Ltd, a Singapore company, with a registered business address of 230 Victoria Street #13-00 Bugis Junction Towers, Singapore 188024, Singapore and IHG Japan Management LLC, a Japanese company, with a registered business address of 20th Floor, Toranomon Kotohira Tower, 2-8, Toranomon 1-chome, Minato-ku, Tokyo, Japan. These companies now offer franchises on a regional basis, outside of the Americas.

Holiday's affiliate, IHG Hotels Limited, an English company, with its principal place of business located at Broadwater Park, Denham, Buckinghamshire, UB9 5HR, has offered franchises for the voco™ and Regent brand group hotels on a regional basis outside of the Americas since 2018. As of the date of this disclosure

document, there are 17 voco hotels in the United Kingdom, Middle East and Australia and 3 Regent Hotels in Europe and Asia which are open for business.

Holiday's affiliate, IHG Franchising Brasil LTDA, a Brazilian company, with its principal place of business located at Alameda Jau 537 #3S-E, Sao Paulo, Brazil, has offered franchises for the Holiday Inn<sup>®</sup>, Holiday Inn Express<sup>®</sup>, Candlewood Suites, Staybridge Suites<sup>®</sup>, InterContinental<sup>®</sup> Hotels & Resorts, Crowne Plaza<sup>®</sup> Hotels & Resorts, and Hotel Indigo<sup>®</sup> brand groups since 2007, for EVEN<sup>®</sup> Hotels since 2015 and for avid<sup>®</sup> hotels since 2019. As of the date of this disclosure document, there are 7 franchised Holiday Inn<sup>®</sup> hotels and 4 franchised Holiday Inn Express hotels open in Brazil.

Holiday's international affiliates disclosed above also offer InterContinental<sup>®</sup> Hotels & Resorts franchises on a regional basis, outside of the Americas. As of the date of this disclosure document, there are 39 franchised InterContinental<sup>®</sup> Hotels & Resorts hotels in Europe, the United States, Mexico, Latin America and the Asia/Pacific region, of which 6 hotels are co-branded under licensing agreements in Mexico (with "Grupo Presidente") and 3 are co-branded in Central America with Real Hotels & Resorts.

Holiday's affiliate, IHG Franchising, LLC ("IHGFL"), has offered franchises for Kimpton<sup>®</sup> Hotels & Restaurants since September, 2018. As of the date of this disclosure document, there are 7 franchised Kimpton<sup>®</sup> Hotels & Restaurants which are open for business in the United States. IHGFL does not operate businesses of the type franchised; however, certain of its affiliates manage such businesses and as of the date of this disclosure document, there are 67 managed Kimpton<sup>®</sup> Hotels & Restaurants worldwide. IHGFL's address is Three Ravinia Drive, Suite 100, Atlanta, GA 30346.

Except as set forth above, neither Holiday nor any of its parents or affiliates has offered franchises for any other line of business. Holiday does not operate businesses of the type being franchised, but its affiliates do. However, Holiday and its affiliates reserve the right to enter into any future business activities.

Holiday's affiliate, IHG Technology Solutions LLC, provides services related to the procurement, installation, training, use and maintenance of PMS equipment and software (see below). The address for IHG Technology Solutions LLC is Three Ravinia Drive, Suite 100, Atlanta, GA 30346.

Holiday has had no predecessor in the ten year period prior to the issuance date of this disclosure document.

### **PROPERTY MANAGEMENT, RESERVATION SYSTEM, & PAYMENT CARD PROCESSING SYSTEM:**

SCH owns or licenses (in the case of certain software) and administers a computerized reservation network, the "Reservation System," revenue management system, and a cloud-based network. Components of the Reservation System, revenue management system, and cloud-based network operate under the name of IHG Concerto<sup>™</sup> ("IHG Concerto<sup>™</sup>"). All Hotels must be linked to the aforementioned central Reservation System, including all system enhancements and upgrades such as the revenue management system ("RMS", which is fully integrated with IHG Concerto<sup>™</sup>) or such successor systems as SCH may designate. Hardware, software and network systems required to connect to the Reservation System must be fully operational when the Hotel opens, with appropriate management and staff trained and competent to operate the Reservation System at all times.

SCH requires each Vignette Collection<sup>™</sup> Hotel to obtain and install an approved property management system ("PMS"). As of the date of this disclosure document, the Oracle America, Inc. Opera or Opera Xpress solutions are the only approved PMS. The Opera or Opera Xpress PMS Software are supplied by Oracle America, Inc. ("Oracle"). In addition, a front office protection (FastConnect Plus, currently provided by AT&T) service is required as part of PMS deployment (see Items 8 and 11 of this disclosure document for a detailed description of the systems).

You must enter into the Master Technology Services Agreement ("MTSA") (attached as Exhibit C to this disclosure document) with IHG Technology Solutions LLC in order to access and communicate with the Reservation System; an Opera license or hosting agreement (which are available upon request) with

Oracle for the software, installation, training, and maintenance of the PMS software; and a contract with AT&T for the FastConnect Plus service.

In August 2017, SCH entered into an Equipment Refresh and Integration Services Agreement with Hewlett-Packard Inc. ("HP") for deployment and procurement services for the hotel property management system. Pursuant to that agreement, HP will provide PMS hardware, software and deployment services at your Hotel. In September 2014, SCH entered into a Secure Payment System Deployment Services Agreement with HP for the procurement and installation services of a credit card solution. Pursuant to that agreement, HP will provide hardware, software, and installation services at your Hotel. You must enter into HP Joinder Agreements in order to obtain the PMS hardware, software and deployment services, and the SPS solution at your Hotel. Copies of the HP Joinder Agreements can be found within Exhibit C to this disclosure document.

The Reservation System will provide room availability and rate data on all hotels that Holiday franchises. You must also participate in Holiday's reservation and referral system. This system will facilitate communication of reservations to you from Holiday and from other hotels that Holiday franchises on a reservation referral basis.

SCH may install one or more "private network" connecting services, or another solution as specified, for use in communicating with the Reservation System or PMS.

IHG Concerto™ is a technology platform designed to enable many capabilities such as reservations, rate management, inventory management and yielding and interactive homepage. The IHG Concerto™ platform is also designed to support effective management of Hotel Content and quick response to Guest Relations issues.

SCH administers a computerized payment card processing program, Secure Payment Solution ("SPS"). SPS is a data security process designed to remove certain credit card information from our systems. Using PCI certified payment terminals, credit card data will be encrypted and converted to tokens before entering the PMS. SCH has contracted with FreedomPay to provide the tokenization application services. All Hotels are required to use SPS or such successor payments program as may be implemented by SCH. Each franchisee will be required to enter into a merchant processing agreement with FDS Holdings, Inc., the SCH-approved merchant service provider, and a participation agreement with SCH (see Exhibit I-4).

#### **CONDOMINIUM AND TIMESHARING PROJECTS:**

Holiday may consider granting a franchise in connection with a condominium or timesharing hotel development project. Because such projects are complex and unique, each project must be considered by Holiday individually. Holiday will determine, according to the unique facts of each proposed development, to what extent variations and additions to the License terms and provisions, including without limitation additional royalties and other fees, are warranted. Therefore, it is probable that Holiday will vary materially License terms and provisions for condominium or timesharing hotel developments, but at this time there is no formal program or guidelines with general applicability.

In September 2008, Holiday entered into license agreements and other agreements (which were subsequently amended in 2019) with Holiday Inn Club Vacations Incorporated (formerly known as Orange Lake Country Club, Inc.) and certain of its affiliates (collectively, "HICV"). Among other things, the agreements provide for HICV's use of the Holiday Inn Club Vacations® brand in connection with the branding of certain timeshare resorts developed and/or operated by HICV and the sales and marketing of timeshare interests in such resorts, and the agreements permit HICV to use the Holiday Inn Club® service mark in connection with the branding and operation of HICV's timeshare exchange program. The licensing arrangement grants HICV certain exclusive rights to use the Holiday Inn Club Vacations® and Holiday Inn Club® service marks (the "Service Marks") within the United States and certain other territories and prohibits Holiday from franchising the Holiday Inn Club Vacations® brand or allowing third parties to use the Service Marks while HICV's exclusivity rights are in effect, subject to the conditions of the licensing arrangement. Accordingly, Holiday does not offer franchises involving

timeshare properties. As of the date of this disclosure document, HICV's exclusivity rights were in effect and Holiday and HICV had entered into license agreements for the branding by HICV of twenty-eight timeshare resorts located within the United States. All of those resorts were developed and/or are operated by HICV.

### **THE MARKET:**

The market for hotel services is highly developed. The lodging industry is very competitive. You will compete with a wide range of facilities offering various types of lodging and related services (including other hotel brands that Holiday or its affiliates franchise or manage). These facilities include various other types of operations, some of which belong to large national and international companies. Your ability to compete in your market will depend upon factors such as your geographic area, specific site location, general economic conditions and the capabilities of your management and service team.

### **INDUSTRY-SPECIFIC REGULATIONS:**

You must comply with a number of federal, state and local laws which apply generally to hotel businesses. These include laws affecting zoning and construction, public accommodations, accessibility by persons with disabilities, service of alcoholic beverages, health and safety, food storage and preparation, labor, data security and privacy. Many of these laws vary from jurisdiction to jurisdiction. It is your responsibility to learn about and comply with all applicable laws including the following:

**Health and Sanitation.** Most states have regulations or statutes governing the lodging business and related services. Many state and local authorities require licensing of lodging businesses to assure compliance with health and sanitation codes. Health related laws affect the use of linens, towels, and glassware and food preparation and service, among other things.

**Facility Operations.** Lodging facilities are subject to state innkeepers' laws that may (i) allow innkeepers to impose liens against the possessions of guests who do not pay their bills; (ii) limit the liability of innkeepers regarding guests' valuables; (iii) require posting of house rules and room rates in each room or near the registration area; (iv) require registration of guests and proof of identity at check-in, and retention of records for a specified period of time; (v) limit the right of innkeepers to refuse lodging to certain guests; and (vi) limit the right of innkeepers to evict guests in certain circumstances. Applicable federal and state civil rights laws prohibit discrimination in hotels on the basis of race, creed, color or national origin. Some states prohibit "overbooking" and require innkeepers to find other accommodations if the guest has paid a deposit. Some states and municipalities have also enacted laws and regulations governing non-smoking areas and guest rooms.

**Persons with Disabilities.** The Americans With Disabilities Act ("ADA") requires hotels that are newly constructed or altered on or after March 15, 2012 to be compliant with the provisions of the ADA (28 CFR Part 36) and all of the requirements of the 2010 ADA Standards for Accessible Design contained in 28 CFR Part 36, Subpart D and 36 CFR Part 1191, Appendices B and D (the "2010 Standards"). Hotels constructed or altered between September 15, 2010 and March 15, 2012 may comply with either the 2010 Standards or the prior 1991 ADA Standards for Accessible Design ("1991 Standards"), but a hotel must use the selected standards for all elements in the entire facility. If elements in hotels existing before September 15, 2010 already comply with corresponding elements in the 1991 Standards and are not being altered, hotels are not required to make changes to those elements to bring them into compliance with the 2010 Standards until such time as those elements are altered. The ADA, 2010 Standards and 1991 Standards contain certain specific criteria for accessibility of public spaces and elements in hotels as well as room design, auxiliary equipment in rooms, and distribution of rooms designated as accessible for guests with disabilities. The ADA, 2010 Standards and 1991 Standards also set forth various operational requirements for hotels and reservation system requirements. These reservation system requirements have been incorporated into the Reservation System and the Standards. You are responsible for on-going compliance with the ADA, applicable design standards, and related local, state and federal laws and regulations at your Hotel. The entire text of the ADA, the 2010 Standards, and the 1991 Standards are available through IHG Merlin, the internet-based information delivery service for System hotels, as well as

www.ada.gov. Note that ADA compliance is not included in the Vignette Collection™ rooms plan review process.

**Telephone Charges.** Federal and state laws and regulations affect the re-offering of local, intrastate, and long-distance telephone services in hotel guest rooms and at coin box telephones. Surcharges on local and intrastate calls are regulated or prohibited in some states.

**COVID-19.** As a response to the global outbreak of the COVID-19 pandemic, governmental authorities have imposed operating restrictions, limitations on group gatherings, forced closures, and other requirements and conditions that impact the lodging industry, all of which vary on a federal, state and local level and which, as of the issuance date of this Disclosure Document, continue to evolve. It is your sole responsibility to research and comply with all applicable laws, rules, and orders of any government authority concerning the outbreak and your response. Holiday reserves the right to make any adjustments to our services as it may determine necessary, in its sole judgement, from time to time in order to protect health and safety. These adjustments may include, by way of example but without limitation, suspending in-person gatherings such as training, meetings and conferences; instead, such events may be conducted virtually.

## **ITEM 2**

### **BUSINESS EXPERIENCE**

#### **Chief Executive Officer, InterContinental Hotels Group, PLC – Keith Barr:**

Chief Executive Officer, InterContinental Hotels Group, PLC (since July, 2017); Chief Commercial Officer, InterContinental Hotels Group, PLC (May, 2013-June, 2017).

#### **Chief Executive Officer, Americas – Elie W. Maalouf:**

Chief Executive Officer, Americas (since January, 2015).

#### **Chief Development Officer, Americas – Joel M. Eisemann:**

Chief Development Officer, Americas (since September, 2011).

#### **Chief Operating Officer, Americas – Jason M. Caiafa:**

Chief Operating Officer, Americas (since February, 2020); Senior Vice President, Hotel Life Cycle and Growth Initiatives (February, 2018-January, 2020); Vice President, Americas Strategy (April, 2015-January, 2018).

#### **Senior Vice President, Global Loyalty & Partnerships – Heather Balsley:**

Senior Vice President, Global Loyalty & Partnerships (since November, 2019); Senior Vice President, Global Marketing, Mainstream Brands (February, 2018-October, 2019); Senior Vice President, Americas Brands and Marketing (February, 2016-January, 2018).

#### **Senior Vice President, Global Marketing, Mainstream Brands – Jennifer Gribble:**

Senior Vice President, Global Marketing, Mainstream Brands (since November, 2019); Vice President, Global Holiday Inn Express, avid hotels & Mainstream Growth (April, 2018-October, 2019); Vice President, Americas Holiday Inn Express & avid hotels (January, 2017-March, 2018); Vice President, Americas Holiday Inn Express (July, 2014-December, 2016).

#### **Senior Vice President, Global Marketing, Luxury Brands – Jane Mackie:**

Senior Vice President, Global Marketing, Luxury Brands (since March, 2019); Chief Marketing Officer, Aman Group Sarl, Baar, Switzerland (April, 2017-November, 2018); Vice President, Fairmont Brand, FRHI Hotels and Resorts, Toronto, Ontario, Canada (October, 2013-March, 2017).

#### **Senior Vice President, HR Americas & Global Learning – Raymond Co:**

Senior Vice President, HR Americas & Global Learning (since September, 2018); Vice President,

Human Resources, Greater China (September, 2013-August, 2018).

**Senior Vice President and General Counsel, Americas – Nimesh Patel:**

Senior Vice President and General Counsel, Americas (effective September, 2020); Vice President and Associate General Counsel, Americas (October, 2011-September, 2020).

**Senior Vice President and Chief Financial Officer, Americas – Michael Glover:**

Senior Vice President and Chief Financial Officer, Americas (since August, 2019); Senior Vice President and Group Controller (September, 2015-August, 2019).

**Senior Vice President, Capital Investments and Transactions – Robert J. Chitty:**

Senior Vice President, Capital Investments and Transactions (since February, 2018); Senior Vice President, Global Corporate Finance, Acquisitions and Mergers (March, 2014-January, 2018).

**Senior Vice President, Hotel Lifecycle and Growth, Americas – Chris Bagnato:**

Senior Vice President, Hotel Lifecycle and Growth, Americas (since February, 2020); Vice President, Franchise Lifecycle (April, 2018-February, 2020); Vice President, Franchise Performance Support (October, 2015-March, 2018).

**Senior Vice President, Development – Julianne Smith:**

Senior Vice President, Development (since August, 2019); Senior Vice President Development and Owner Relations, Hyatt Hotels Corp, Chicago, IL (July, 2014-April, 2019).

**Director, Owner & Franchise Services, Americas – David Comai:**

Director, Owner & Franchise Services, Americas (since September, 2009).

**Vice President, Development & Owner Support – Eric Frye:**

Vice President, Development & Owner Support (since January, 2021); Vice President, Full Service Development, Marriott International, Bethesda, MD (January, 2011-September, 2020).

**Vice President, Transactions & Asset Management – Matt Frankiewicz:**

Vice President, Transactions & Asset Management (since May, 2017); Senior Director of Development and Asset Management, White Lodging Services Corporation, Merrillville, IN (March, 2010-April, 2017).

**Director, Transactions & Asset Management – Josh Josephson:**

Director, Transactions & Asset Management (since January, 2015).

**Director, Transactions & Asset Management – Kevin M. Winkowski:**

Director, Transactions & Asset Management (since March, 2018); Manager, Transactions & Asset Management (March, 2014-March, 2018).

**Vice President, Upscale Development – Arik Kono:**

Vice President, Upscale Development (since January, 2016); Vice President, Development, Starwood Hotels & Resorts (Marriott International), Atlanta, GA (January, 2006-December, 2016).

**Vice President, Upscale Development – Christopher Dobbins:**

Vice President, Upscale Development (since September, 2017); Vice President Development West, Hyatt Hotels Corp, Scottsdale, AZ (October, 2005-August, 2017).

**Vice President, Luxury and Upscale Development – Alex Kuhl:**

Vice President, Luxury and Upscale Development (since April, 2020); Vice President, Upscale Development (January, 2011-March, 2020).

**Vice President, Franchise Sales and Development, Mainstream Brands – Kevin Schramm:**

Vice President, Franchise Sales and Development, Mainstream Brands (since October, 2019); Regional Vice President, Franchise Sales and Development, West Core Brands (December, 2013-September, 2019).

**Regional Vice President, Franchise Sales and Development, East Mainstream Brands – Roland J. Schick:**

Regional Vice President, Franchise Sales and Development, East Mainstream Brands (since October, 1995).

**Regional Vice President, Franchise Sales and Development, Northeast Mainstream Brands – Mitchell Salaman:**

Regional Vice President, Franchise Sales and Development, Northeast Mainstream Brands (since September, 2016).

**Regional Vice President, Franchise Sales and Development, West Mainstream Brands – Shawn P. Siemers:**

Regional Vice President, Franchise Sales and Development, West Mainstream Brands (since October, 2019); Regional Director, Franchise Sales and Development (June, 2004-September, 2019).

**Regional Director, Franchise Sales and Development – David Bingham:**

Regional Director, Franchise Sales and Development (since January, 2011).

**Regional Director, Franchise Sales and Development – Dan Duenas:**

Regional Director, Franchise Sales and Development (since November, 2019); Business Development Manager, Franchise Sales & Development, West Core Brands (July, 2017-October, 2019); Sales Representative, Cleveland/Srixon Golf Co., Scottsdale, AZ (January, 2005-June, 2017).

**Regional Director, Franchise Sales and Development – Cooper Gantt:**

Regional Director, Franchise Sales and Development (since November, 2019); Business Development Manager, Franchise Sales and Development, West Core Brands (June, 2016-October, 2019).

**Regional Director, Franchise Sales and Development – Laurie Gardner:**

Regional Director, Franchise Sales and Development (since May, 2012).

**Regional Director, Franchise Sales and Development – John D. Faught:**

Regional Director, Franchise Sales and Development (since 1997).

**Regional Director, Franchise Sales and Development – Dan Henretty:**

Regional Director, Franchise Sales and Development (since November, 2006).

**Regional Director, Franchise Sales and Development Canada – Stuart Laurie:**

Regional Director, Franchise Sales and Development Canada (since 1995).

**Regional Director, Franchise Sales and Development – Alex Moeckel:**

Regional Director, Franchise Sales and Development (since August, 2016).

**Regional Director, Franchise Sales and Development – Ed Shaw:**

Regional Director, Franchise Sales and Development (since April, 2002).

**Regional Director, Franchise Sales and Development – Silas K. Simpson:**

Regional Director, Franchise Sales and Development (since 1999).

**Regional Director, Franchise Sales and Development – William L. Watson:**

Regional Director, Franchise Sales and Development (since January, 2015).

**Regional Director, Franchise Sales and Development – Mark Zach:**

Regional Director, Franchise Sales and Development (since July, 2013).

**Manager, Business Development, Canada – Anto Vrdoljak:**

Manager, Business Development, Canada (since July, 2016).

**Director, Luxury Development – Genna M. Panagopoulos:**

Director, Luxury Development (since August, 2020); Director, Upscale Development (July, 2019-July, 2020); Development Manager, Upscale Development, North America (May, 2016-June, 2019).

**Director, Upscale Development – Madison Schlieve:**

Director, Upscale Development (since July, 2019); Development Manager, Upscale Development, North America (January, 2018-June, 2019); Manager, Investment Analysis (April, 2017-January, 2017); Senior Analyst, Feasibility and Development Finance, Hyatt Hotels Corporation (March, 2015-April, 2017).

**Development Manager, Upscale Development – Misty E. Roe:**

Development Manager, Upscale Development (since October, 2016).

**Business Development Manager, Franchise Sales and Development, Mainstream Brands – Courtney O'Donnell:**

Business Development Manager, Franchise Sales and Development, Mainstream Brands (since November, 2016); Coordinator – Real Estate Investment Management, Starwood Hotels & Resorts, New York, NY (March, 2014-October, 2016).

**Business Development Manager, Franchise Sales & Development, Mainstream Brands – Marcus Linden:**

Business Development Manager, Franchise Sales & Development, Mainstream Brands (since March, 2018); Manager, Investment Analysis (February, 2017-February, 2018); Senior Analyst, Investment Analysis (January, 2016-February, 2017).

**Development Manager, Upscale Development – Jimmy Bae:**

Development Manager, Upscale Development (since August, 2020); Business Development Manager, Franchise Sales and Development, West Core Brands (July, 2019-August, 2020); Director, Investment Analysis, Americas (January, 2015-June, 2019).

**Vice President, Franchise Licensing and Compliance – Jenny L. Tidwell:**

Vice President, Franchise Licensing and Compliance (since January, 2009).

**Lead Manager, Franchise Licensing and Compliance – Elisa A. Uhlis:**

Lead Manager, Franchise Licensing and Compliance (since April, 2015).

**Lead Manager, Franchise Licensing and Compliance – Gwendolyn E. Gailliard:**

Lead Manager, Franchise Licensing and Compliance (since June, 2018); Lead Specialist, Franchise Licensing and Compliance (September, 2015-June, 2018).

**Lead Manager, Franchise Licensing and Compliance – David Ferguson:**

Lead Manager, Franchise Licensing and Compliance (since January, 2021); Manager, Franchise Licensing and Compliance (September, 2017-January, 2021); Lead Regional Licensing Specialist, Franchise Licensing and Compliance (September, 2015-September, 2017).

**Manager, Franchise Licensing and Compliance – Baris Ozdiker:**

Manager, Franchise Licensing and Compliance (since May, 2013).

**Manager, Franchise Licensing and Compliance – Jennifer N. Prince:**

Manager, Franchise Licensing and Compliance (since March, 2015).

**Head of Global Hotel Indigo – Carol Hoeller:**

Head of Global Hotel Indigo (since May, 2018); Director, Guest Experience, Crowne Plaza (June, 2013-May, 2018).

**Vice President, Global Crowne Plaza and voco Americas – Ginger Taggart:**

Vice President, Global Crowne Plaza and voco Americas (since August, 2020); Vice President Global Luxury Brands (April, 2018-August, 2020); Vice President Global InterContinental and Crowne Plaza Brands (February, 2017-April, 2018); Vice President Global Crowne Plaza Brand (June, 2015-February, 2017).

**Head of Global Luxury Brands – Jenifer Reese:**

Head of Global Luxury Brands (since March, 2020); Director, Global Luxury Brands (March, 2018-March, 2020); Director, Global Crowne Plaza (October, 2015-March, 2018).

**Vice President, Global Holiday Inn/Holiday Inn Resorts & EVEN Hotels – Raul Ortiz:**

Vice President, Global Holiday Inn/Holiday Inn Resort & EVEN Hotels (since September, 2020); Vice President, Global Staybridge Suites, Candlewood Suites & EVEN Hotels (September, 2019-September, 2020); Vice President, Global Staybridge Suites & Candlewood Suites Brands (April, 2018-September, 2019); Vice President, Extended Stay Brands, Americas (June, 2017-March, 2018); Marketing Director, Holiday Inn & Crowne Plaza - Americas (August, 2014-June, 2017).

**Vice President, Global Holiday Inn Express – Stephanie Atiase:**

Vice President, Global Holiday Inn Express (since January, 2021); Senior Director, Strategy and New Ventures, Hilton, Washington, DC (December, 2019-October, 2020), Senior Director, Corporate Strategy and Corporate Development, Hilton, Washington, DC (September, 2016-December, 2019), Project Leader, Boston Consulting Group, Washington, DC (January, 2015-September, 2016).

**Vice President, Global avid hotels & Atwell Suites – Karen Gilbride:**

Vice President, Global avid hotels & Atwell Suites (since November, 2019); Head of avid hotels (January, 2017-October, 2019); Director, Multi-Brand Concepts & Delivery, Americas (June, 2015-January, 2017).

**Vice President, Global Staybridge Suites & Candlewood Suites – Justin Alexander:**

Vice President, Global Staybridge Suites & Candlewood Suites (since September 2020); Director, Global Brand Design, Staybridge Suites & Candlewood Suites (November, 2019-August, 2020); Director, Global Brand Design, Candlewood Suites (October, 2017-October, 2019); Director, Brand Experience, Holiday Inn Americas (September, 2013-September, 2017).

**Vice President, Franchise Performance Owner Support – Patrick Dwyer:**

Vice President, Franchise Performance Owner Support (since April, 2018); Franchise Performance Support, Vice President – Mid-Atlantic Region (October, 2015-March, 2018).

**Vice President, Operations, Extended Stay – Jimmy Taylor:**

Vice President, Operations, Extended Stay (since October, 2015).

**Vice President, Franchise Performance Support, US & Canada – Kurt Weber:**

Vice President, Franchise Performance Support, US & Canada, Atlanta, GA (since April, 2019); Chief Operating Officer, Account Management, Sales and Customer Support, Alliance Reservations Network, Orlando, FL (August, 2017-April, 2019); Regional Vice President, Franchise Operations, Starwood Hotels & Resorts, Atlanta, GA (January, 2015-January, 2017).

**Franchise Performance Support, Regional Vice President, Crowne Plaza Accelerate – Debbie Grant:**

Franchise Performance Support, Regional Vice President, Crowne Plaza Accelerate (since May, 2018); Franchise Performance Support, Vice President – Southeast Region (October, 2015-May, 2018).

**Franchise Performance Support, Regional Vice President, Mid-Atlantic – Trent Croxall:**

Franchise Performance Support, Regional Vice President, Mid-Atlantic (since May, 2018); Director, Hotel Operations Support (July, 2014-May, 2018).

**Franchise Performance Support, Regional Vice President, West – Tim Kennedy:**

Franchise Performance Support, Regional Vice President, West (since October, 2015).

**Franchise Performance Support, Regional Vice President, Southeast – Cindy Murphy:**

Franchise Performance Support, Regional Vice President, Southeast (since December, 2015).

**Franchise Performance Support, Regional Vice President, South – John Kelley:**

Franchise Performance Support, Regional Vice President, South (since May, 2018); Regional Director, Franchise Performance Support, South Region (October, 2015-May, 2018).

**Franchise Performance Support, Regional Vice President, West – Mike Fitzmaurice:**

Franchise Performance Support, Regional Vice President, West (since May, 2018); Regional Director, Franchise Performance Support, West Region (October, 2015-May, 2018).

**Franchise Performance Support, Regional Vice President, Central – Dawn Allcroft:**

Franchise Performance Support, Regional Vice President, Central (since May, 2018); Regional Director, Franchise Performance Support, Central Region (October, 2015-May, 2018).

**Franchise Performance Support, Regional Vice President, East Central – Dave McAllister:**

Franchise Performance Support, Regional Vice President, East Central (since July, 2019); Area Manager, Franchise Performance Support (October, 2013-July, 2019).

**Franchise Performance Support, Regional Vice President, West Central – Tony Franzen:**

Franchise Performance Support, Regional Vice President, West Central (since May, 2018); Franchise Performance Support Director, West Central Region (October, 2015-May, 2018).

**Franchise Performance Support, Regional Vice President, Canada – Jonathan Lund:**

Franchise Performance Support, Regional Vice President, Canada (since October, 2015).

**Franchise Performance Support, Regional Vice President, Appalachia – Kevin Schockling:**

Franchise Performance Support, Regional Vice President, Appalachia (since May, 2018); Franchise Performance Support Director, Appalachia (October, 2015-May, 2018).

**Franchise Performance Support, Regional Vice President, Central – Rod Lindsey:**

Franchise Performance Support, Regional Vice President, Central (since May, 2018); Franchise Performance Support Director, Central (October, 2015-May, 2018).

**Franchise Performance Support, Regional Vice President, North – George C. Hall:**

Franchise Performance Support, Regional Vice President, North (since May, 2018); Franchise Performance Support Director, North (April, 2017-May, 2018); General Manager, Task Force (June, 2016-March, 2017).

**Franchise Performance Support, Regional Vice President, North – Hafeez Merani:**

Franchise Performance Support, Regional Vice President, Southwest Region (since November, 2019); Franchise Performance Support, Western Canada Region (September, 2016-November, 2019).

**Franchise Performance Support, Regional Vice President, New York – Jay Lyden:**

Franchise Performance Support, Regional Vice President, New York (since July, 2019); Senior Director Full Service Franchising, Marriott International, Bethesda, MD (January, 2017-July, 2019); Senior Director of Franchise Operations, Starwood Hotels and Resorts, Atlanta, GA (January, 2012-December, 2016).

**Principal, Architecture and Design – John M. Leary:**

Principal, Architecture and Design (since December, 2018); Vice President, Project Management, Park Hotels and Resorts, McLean, VA (January, 2017-December, 2018); Vice President, Capital Projects, Hilton Worldwide, McLean, VA (June, 2009-December, 2016).

**ITEM 3**

**LITIGATION**

Note: Throughout Item 3, Six Continents Hotels, Inc. (f/k/a Bass Hotels and Resorts, Inc.) is referred to as “SCH” and Holiday Hospitality Franchising, LLC (f/k/a Holiday Hospitality Franchising, Inc. and Holiday Inns Franchising, Inc.) is referred to as “Holiday.” Please see Item 1 for further detail on corporate history and corporate name changes.

**Pending Litigation:**

**A. Pending Litigation Relating Solely to the Vignette Collection™ Brand**

None.

**B. Pending Litigation Not Relating Solely to the Vignette Collection™ Brand**

Holiday, SCH, and the IHG Owner’s Association are named defendants in six class action lawsuits filed by punitive classes of Holiday franchisees in Connecticut, Louisiana, New Jersey, New Mexico, Ohio, Pennsylvania and Texas. Each of the lawsuits allege that Holiday and SCH engages in unlawful and otherwise improper franchise business practices, including, imposing unreasonable products, services and requirements and receiving improper kickbacks from required purchases. Specifically, the lawsuits assert causes of action including breach of contract, breach of the implied covenant of good faith and fair dealing, breach of fiduciary duty, declaratory judgment, violation of the Sherman Act, and a demand for an accounting. Holiday and SCH believe the allegations to be meritless and intend to defend the allegations vigorously. The six lawsuits are:

- (1) Park 80 Hotels LLC, a Louisiana limited liability company, PL Hotels, LLC, a Louisiana limited liability company, individually, and on behalf of a class of similarly situated individuals and entities v. Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc. D/b/a Intercontinental Hotels Group and IHG Owners Association, Inc., United States District Court for the Eastern District of Louisiana, Civil Action No. 2:21-cv-974 (May 19, 2021).
- (2) Aaron Hotel Group, LLC, a Connecticut limited liability company, individually, and on behalf of a class of similarly situated individuals and entities v. Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc. d/b/a Intercontinental Hotels Group and IHG Owners Association,

Inc., United States District Court for the District of Connecticut, Civil Action No. 3:21-cv-00727 (May 27, 2021).

- (3) PH Lodging Tomball, LLC, a Texas limited liability company, on behalf of itself and a class of similarly situated entities v. Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc. d/b/a Intercontinental Hotels Group and IHG Owners Association, United States District Court for the Southern District of Texas, Civil Action No. 4:21-cv-01803 (June 3, 2021).
- (4) Synergy Hotels, LLC, an Ohio Limited Liability Company, on behalf of itself and all those similarly situated v. Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc. D/b/a InterContinental Hotels Group and IHG Owners Association, Inc., United States District Court for the Southern District of Ohio, Civil Action No. 2:21-cv-03248-MHW-KAJ (June 7, 2021).
- (5) Bensalem Lodging Associates, LLC, a Pennsylvania Limited Liability Company, individually and on behalf of all others similarly situated v. Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc. D/b/a Intercontinental Hotels Group and IHG Owners Association, Inc., United States District Court for the District of Pennsylvania, Civil Action No. 2:21-cv-02882 (D. Penn. June 29, 2021).
- (6) A Hunts Mills Associates LLC, a New Jersey Limited Liability Company, individually and on behalf of all others similarly situated v. Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc. d/b/a Intercontinental Hotels Group and IHG Owners Association, Inc. d/b/a Intercontinental Hotels Group and IHG Owners Association, Inc., Civil Action No. 2:21-cv-13726 (D. N.J. July 16, 2021).
- (7) 110 Sunport LLC, a New Mexico Limited Liability Company, individually and on behalf of all others similarly situated v. Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc. d/b/a Intercontinental Hotels Group, Civil Action No. 1:21-cv-00844 D.N.M. August 26, 2021).

Holiday Hospitality Franchising, LLC v. Triumph Investment Group, L.L.C., Navintal M. Patel a/k/a Navnit M. Patel, and Manuben Navintal Patel a/k/a Manu N. Patel, State Court of Dekalb County, Georgia, Civil Action File No. 21A01070 (March 2, 2021).

On March 2, 2021, Holiday filed a lawsuit against the defendants seeking liquidated damages and unpaid system fees owed under a Staybridge Suites® license agreement that Holiday terminated as a result of the licensee's failure to pay amounts owed to Holiday under the agreement. On July 7, 2021, the defendants asserted a counterclaim against Holiday raising substantially similar allegations to those raised in the franchise class actions summarized immediately above. The defendants asserted counterclaims for breach of contract, breach of the implied covenant of good faith and fair dealing, breach of fiduciary duty, declaratory judgment, and a demand for an accounting. Holiday believes the allegations to be meritless and intends to defend the allegations vigorously.

Holiday Hospitality Franchising, LLC v. Niranjana Khatiwala, Nimesh D. Vesuwala and Mayur N. Khatiwala, State Court of Dekalb County, Georgia, Civil Action File No. 20A83898 (December 11, 2020).

On December 11, 2020, Holiday filed a lawsuit against the defendants seeking liquidated damages and unpaid system fees owed under a Crowne Plaza® license agreement that Holiday terminated as a result of the licensee's failure to pay amounts owed to Holiday under the agreement. On April 30, 2021, the defendants filed counterclaims against Holiday alleging Holiday imposed unreasonable renovation requirements on the licensee related to the subject hotel and required renovations outside the scope of the requirements of the applicable agreements. The defendants asserted claims for breach of contract, breach of quasi-contract, negligent misrepresentation,

promissory estoppel, and attorneys' fees. Holiday believes the allegations to be meritless and intends to defend the allegations vigorously.

Scion Hotels LLC vs. Holiday Hospitality Franchising, LLC, United States District Court, New Jersey, Civil Action File No. 2:21-cv-02276-MCA-MAH (February 18, 2021)

Scion Hotels LLC ("Scion"), a New Jersey franchisee of a Holiday Inn hotel, filed a civil complaint against Holiday to obtain damages for violation of the New Jersey Franchise Practices Act in allegedly wrongfully imposing unreasonable standards of performance upon Scion and then wrongfully refusing to renew its license agreement. Scion's allegations initially focused on the alleged concealment of Holiday's intent to convert a nearby 400-room Ramada Plaza to a full-service Holiday Inn (completed in January 2020), proposed licensing of a nearby Hampton Inn as a Holiday Inn Express, and purported refusal to extend the existing license agreement with Scion to the end of 2021 (set to expire on April 21, 2021). Scion acquired the hotel on March 20, 2019 and signed a license agreement with IHG on June 4, 2019. Scion alleged that it would not have acquired the hotel had it known Holiday's intentions. On April 9, 2021, Scion filed an amended complaint which removed the previously-asserted allegations regarding alleged fraudulent concealment on the part of Holiday. The amended complaint asserts causes of action for wrongful non-renewal under the New Jersey Franchise Practices Act, constructive termination under the New Jersey Franchise Practices Act, and unreasonable standards of performance under the New Jersey Franchise Practices Act. Scion alleges damages of no less than \$10 million. Holiday believes the allegations to be meritless and intends to defend the allegations vigorously.

Astoria Enterprises Ltd. v. Holiday Hospitality Franchising, Inc. and InterContinental Hotels Group PLC, The Queen's Bench Winnipeg Centre, File No. CI-07-01-54936 (December 21, 2007).

On December 21, 2007, Astoria Enterprises ("Astoria"), a former Licensee, filed suit against Holiday demanding \$541,000 in damages for failing to renew or extend an existing license beyond its original termination date and for loss of reputation. According to Astoria, Holiday's refusal to renew the License was wrongful and commercially unreasonable. Holiday filed an answer denying any liability, and discovery is ongoing. Holiday intends to defend the allegations vigorously.

Marina di Castello SpA v. IHG Hotels Limited, Court of Santa Maria Capua Vetere, Italy, Docket No. 4307/27 (November 22, 2013).

The former licensee of the Holiday Inn Resort Naples - Castel Volturno hotel and the Crowne Plaza Caserta hotel issued a claim against IHG Hotels Limited ("IHGHL"), brought in the Court of Santa Maria Capua Vetere, seeking to have the Court: 1) declare that the arbitration provisions in the license agreements are invalid; 2) determine whether or not IHGHL's conduct has resulted in damages to the licensee of circa €3,000,000; 3) determine that IHGHL owes the licensee €1,467,316 in respect of excess fees paid to IHGHL (plus interest) re: the Holiday Inn Castel Volturno hotel and €325,027 in respect of excess fees paid to IHGHL (plus interest) re: the Crowne Plaza Caserta hotel; and 4) award licensee's costs in respect of the claim. IHGHL terminated the license agreements for both hotels in March 2013 for non-payment of fees of €373,000 and an early termination payment of €800,000 under the license agreement for the Crowne Plaza Caserta hotel and fees of €190,000 and an early termination payment of €417,000 under the license agreement for the Holiday Inn Resort Naples - Castel Volturno hotel. IHGHL believes these claims to be without merit and intends to defend against these claims vigorously.

K.J. Harjani & Cia Ltda v. Six Continents Hotels, Inc., 3<sup>rd</sup> Civil Court of Manaus, Brazil, Case No. 0022145-55.2006.8.04.0001 (July 5, 2006).

The former licensee of the Holiday Inn® hotel in Manaus, Brazil filed a lawsuit seeking damages for alleged wrongful termination of the license agreement. The license agreement was terminated due to non-compliance with brand standards in 2002. This lawsuit was filed on July 5, 2006 and Six Continents Hotels, Inc. ("SCH") was served in 2014. SCH filed an answer denying the claims and requesting dismissal for failure to prosecute. SCH intends to defend against this claim vigorously.

Holiday Hospitality Franchising, LLC v. 109454 Canada, Inc., Michael Rosenberg, and Louis Drazin, Province of Quebec, District of Montreal, Case No. 500-17-098388-179 (April 18, 2017).

On April 18, 2017, Holiday filed a lawsuit against the defendants seeking unpaid system fees and liquidated damages related to the termination of a Holiday Inn® hotel license agreement. On July 13, 2018, defendants filed a cross demand seeking damages for alleged misuse of the judicial process. A trial date for November 28, 2022 has been set and is scheduled to conclude by December 9, 2022. Holiday believes the allegations to be meritless and intends to defend the claim vigorously.

Hotels Cote de Liessee, Inc. v. Holiday Hospitality Franchising, LLC, Chancery Court for the State of Tennessee, Davidson County, Case No. 19-145-I (January 30, 2019).

Plaintiff, licensee of a Holiday Inn® hotel in Montreal, originally brought suit in Montreal, Canada - - in the case Hotels Cote de Liessee, Inc. v. Holiday Hospitality Franchising, LLC, Province of Quebec, District of Montreal, Superior Court No. 500-17-100372 (September 22, 2017) - - alleging that Holiday breached the obligation of good faith with respect to the license agreement by allegedly failing to honor alleged oral representations concerning a nearby hotel. The Montreal Court dismissed the claims against Holiday on November 26, 2018; after which dismissal, the Plaintiff then filed this complaint in Tennessee on January 30, 2019 alleging breach of contract of the hotel license agreement. Holiday believes the allegations to be meritless and intends to defend the claim vigorously. Plaintiff subsequently sold the hotel in violation of the license agreement in 2019, Holiday terminated the license agreement thereafter, and on April 10, 2020, Holiday asserted a counterclaim against Plaintiff and a third-party claim against Michael Rosenberg seeking unpaid system fees and liquidated damages arising from the early termination of the license agreement.

Holiday Hospitality Franchising, LLC, f/k/a Holiday Hospitality Franchising, Inc. v. RD Secaucus, LP, RosDev Hospitality US, LLC, and Michael Rosenberg, State Court of DeKalb County, GA, Civil Action File No. 18A71055-7 (September 11, 2018).

On September 11, 2018, Holiday filed a lawsuit against the defendants seeking unpaid system fees and liquidated damages related to the termination of a Crowne Plaza® hotel license agreement. On November 27, 2018, defendants filed a counterclaim alleging breach of contract, failure to provide consultation and advice, and misrepresentation. The parties participated in mediation, but were unsuccessful in reaching an amicable resolution. The parties are currently engaged in discovery. Holiday believes the counterclaim to be meritless and intends to defend against the claim vigorously.

Holiday Hospitality Franchising, LLC v. Stamford Plaza Hotel and Conference Center, L.P., RDCP Holdings and Michael Rosenberg, State Court of DeKalb County, GA, Civil Action File No. 20A78893 (January 30, 2020).

On January 30, 2020, Holiday filed a lawsuit against the defendants seeking more than \$2 million in unpaid system fees owed to Holiday under a Crowne Plaza® hotel license agreement. On August 6, 2020, defendants filed substantially the same counterclaim that was asserted in the RD Secaucus matter described above (the two hotels are owned by the same group), and a separate claim for fraudulent inducement. Holiday believes the counterclaims to be meritless and intends to defend against the claims vigorously.CPTS Hotel Lessee LLC v. Holiday Hospitality Franchising, LLC, Supreme Court of the State of New York, 653517/2016 (June 5, 2016).

CPTS Hotel Lessee LLC ("CPTS"), the franchisee for the Crowne Plaza Times Square New York, sent Holiday a notice of termination and filed suit against Holiday on July 5, 2016 claiming that Holiday breached its license agreement and seeking in excess of \$30M in damages. CPTS alleges that Holiday failed to effectively market the Crowne Plaza brand and Crowne Plaza branded hotels as upscale hotels so as to promote, protect and enhance the public image and reputation of the brand and to increase the demand for services offered by the System. The lawsuit also sought a declaratory judgment ordering that CPTS has the right to terminate its license agreement with Holiday. Holiday and InterContinental Hotels Group Resources, Inc. ("IHGR") filed a claim against CPTS seeking injunctive relief, a declaratory judgment and alleging breach of contract and fraud. On May 1, 2018, the

Court granted Holiday's motion for preliminary injunction, holding that CPTS could not terminate the license agreement until a final judgment is entered and all rights of appeal have been exhausted. Also on May 1, 2018, the Court denied CPTS's motion to dismiss the complaint, granted IHGR's application for a declaratory judgment that the license agreement is not terminable at will by CPTS, and dismissed IHGR's claim for fraud. CPTS appealed, and the appellate division upheld the decision in favor of Holiday. Holiday intends to vigorously defend its rights under the license agreement.

Kensington Close Hotel Limited ("KCH") v. IHG Hotels Limited ("IHG Hotels"), London Court of International Arbitration (December 23, 2019).

The franchisee owner of the Holiday Inn London Kensington High Street hotel issued a Statement of Claim in the London Court of International Arbitration on December 23, 2019. Owners claim that they sustained losses due to the operation of a neighboring IHG branded hotel. IHG Hotels submitted its response in opposition on February 12, 2020 and a merits hearing is set for November 30, 2020. On November 27, 2020 the parties finalized a settlement agreement in respect of the dispute resulting in IHG Hotels making payment to KCH. The parties are currently resolving costs and then the arbitration will be dismissed.

Tsemex Global Enterprise PLC & Tsemex Hotels and Business PLC ("Tsemex") v. IHG Hotels Limited and InterContinental Hotels Group, PLC ("IHG"), International Chamber of Commerce (March 13, 2020).

Claimant, owner of a proposed non-franchised hotel development project in Addis Abbaba, Ethiopia, filed a Statement of Claim with the International Chamber of Commerce alleging that IHG misrepresented its rights to license the Crowne Plaza brand in Ethiopia, causing damages. The Claimant's memorial and witness statements were received on March 23, 2020. . IHG served its responsive memorial on July 17, 2020. The Claimants served their second memorial on November 4, 2020 and IHG responded on January 13, 2021. The merits hearing is scheduled for July 5-14, 2021. IHG Hotels believes the allegations to be meritless and intends to defend the claim vigorously.

Anderson, et al. v. Kimpton Hotel & Restaurant Group, LLC, United States District Court, Northern District of California, Civil Action Case No. 3:19-cv-01860-MMC (April 5, 2019).

On April 5, 2019, Plaintiffs filed a purported class action suit alleging that they were harmed by the compromise of personal information due to a data security breach affecting Kimpton Hotels during the period August 10, 2016 – March 9, 2017. This suit relates to the breach of the Sabre SynXis reservation system used by Kimpton during the referenced time frame. On August 8, 2019, the court granted Kimpton's motion to dismiss the complaint. Plaintiffs filed an amended complaint on August 30, 2019, adding two new named plaintiffs. On November 1, 2019, the court granted Kimpton's motion to dismiss the amended complaint. Plaintiffs filed a second amended complaint on December 16, 2019. In response to Kimpton's motion to dismiss the second amended complaint, Plaintiffs amended the complaint for the third time on February 11, 2020. Kimpton answered on August 7, 2020 and the discovery process is underway. Kimpton believes the allegations to be meritless and intends to defend the claim vigorously.

#### **Litigation Against Franchisees Commenced in the Last Fiscal Year:**

#### **Litigation against Franchisees and/or Guarantors for Unpaid Franchise Fees and/or other damages**

Holiday Hospitality Franchising, LLC v. Stamford Plaza Hotel and Conference Center, L.P., RDCP Holdings and Michael Rosenberg, State Court of DeKalb County, GA, Civil Action File No. 20A78893. Date filed: January 30, 2020.

Holiday Hospitality Franchising, LLC v. Amika Capital Investments, Inc., Atulkumar R. Amin, Parul A. Amin and Hanabe J. Patel, United States District Court for the District of Colorado, Civil Action File No. 1:20-cv-00874. Date Filed: March 31, 2020.

Holiday Hospitality Franchising, LLC v. Sarahshua Enterprise LLC and Sal Shahriar, State Court of DeKalb County, GA, Civil Action File No. 20A80366. Date filed: May 11, 2020.

Holiday Hospitality Franchising, LLC v. Southwest Hotel Management, Inc., Kamlesh B. Gosai, Smita K. Gosai, Nainesh T. Desai, Anant J. Gandhi and Jyoti A. Gandji, State Court of DeKalb County, GA, Civil Action File No. 20A80420. Date filed: May 14, 2020.

Holiday Hospitality Franchising, LLC v. Arushi Enterprise Corporation, Laxmanbhai M. Patel and Harshaben L. Patel, State Court of DeKalb County, GA, Civil Action File No. 20A80866. Date filed: June 24, 2020.

Holiday Hospitality Franchising, LLC v. Suresh Anadani and Anita Anadani, United States District Court for the Northern District of Georgia, Civil Action File No. 1:20-cv-034360WMR. Date filed: July 8, 2020.

Holiday Hospitality Franchising, LLC v. Narain Gulabani, State Court of DeKalb County, GA, Civil Action File No. 20A81337. Date filed: July 27, 2020.

Holiday Hospitality Franchising, LLC v. William D. Singh and Apreet Kaur, State Court of DeKalb County, GA, Civil Action File No. 20A81697. Date filed: August 19, 2020.

Holiday Hospitality Franchising, LLC v. Manoj Mehta, State Court of DeKalb County, GA, Civil Action File No. 20A81785. Date filed: August 21, 2020.

Holiday Hospitality Franchising, LLC v. Brian M. Byrnes and Thomas D'Iorio, State Court of DeKalb County, GA, Civil Action File No. 20A81866. Date filed: August 25, 2020. Holiday Hospitality Franchising, LLC v. Surinder Bhogal and Bhanveet Kaur Bhogal, State Court of DeKalb County, GA, Civil Action File No. 20A83370. Date Filed: November 12, 2020.

Holiday Hospitality Franchising, LLC v. Niranjana Khatiwala, Nimesh D. Vesuwala and Mayur N. Khatiwala, State Court of DeKalb County, GA, Civil Action File No. 20A83898. Date Filed: December 11, 2020.

#### **Concluded Litigation:**

##### **A. Concluded Litigation Relating Solely to the Vignette Collection Brand**

None.

##### **B. Other Concluded Litigation Not Relating Solely to the Vignette Collection Brand**

Holiday Hospitality Franchising, LLC v. Jamesburg Hospitality, LLC, Ashok Pancholi, Yogesh Pancholi, Hetal Pancholi, and Vishnu Dayal, State Court of DeKalb County, GA, Civil Action File No. 20A80648 (June 5, 2020).

On June 5, 2020, Holiday filed a lawsuit against the defendants seeking unpaid system fees under a terminated Crowne Plaza® license agreement. On August 21, 2020, the defendants filed a counterclaim against Holiday alleging breach of contract and breach of covenant of good faith. The parties resolved the matter via a settlement that resulted in payments being made to Holiday and no payment made by Holiday. The litigation was dismissed on February 10, 2021.

Holiday Hospitality Franchising, LLC v. South Boston Hospitality, LLC, Prakash N. Bhoola, Urjita P. Bhoola, Rajendra Jariwala, and Hemlata R. Jariwala a/k/a Hemlataben R. Jariwala, State Court of DeKalb County, GA, Civil Action File No. 18A69075 (April 30, 2018).

On April 30, 2018, Holiday filed a lawsuit against the defendants seeking unpaid system fees and liquidated damages related to the termination of a Holiday Inn Express® hotel license agreement. On July 20, 2018, defendants filed a counterclaim alleging breach of contract, breach of implied covenant of good faith and fair dealing, fraud, and fraudulent misrepresentation. The parties resolved this matter via a settlement that resulted in payments being made to Holiday and no payment made by Holiday. The litigation was dismissed on September 30, 2020.

120-122 Water Street LLC, Raj Guru, Vinod Chand, Prakash Patel, Balram Kakkar, Neelam Jain v. Holiday Hospitality Franchising, LLC, United States District Court, Northern District of Georgia, Civil Action Case No. 1:20-cv-01154-JPB (March 13, 2020).

On March 13, 2020, the licensee and guarantors of a proposed Hotel Indigo® branded hotel to be located in New York filed suit against Holiday alleging breach of the covenant of good faith and fair dealing, common law fraudulent inducement, and negligent misrepresentation. Plaintiffs alleged that they were entitled to terminate the license agreement after deciding not to construct the hotel. Plaintiffs also sought a declaratory judgment and permanent injunction confirming that their actions terminated and cancelled the license agreement. The parties resolved the litigation consensually, the license agreement remains in effect and the licensee is currently in the process of preparing the hotel to open for business in accordance with the license agreement as a Hotel Indigo® branded hotel. The litigation was dismissed with prejudice on December 7, 2020.

David Orr v. InterContinental Hotels Group, PLC, Inter-Continental Hotels Corp., and InterContinental Hotels Group Resources, Inc., United States District Court, Northern District of Georgia, Civil Action No. 1:17-cv-01622-MHC (May 5, 2017).

Plaintiff filed a class action complaint on May 5, 2017 alleging breach of implied contract, negligence, and unjust enrichment regarding a payment card incident. Plaintiff alleges that the defendants failed to secure and safeguard customers' personal financial data. The court approved a motion for preliminary approval of settlement on May 18, 2020. On September 2, 2020, the court gave final approval and the case was dismissed with prejudice.

Jay Brodsky v. Hilton Worldwide Holdings, Inc., Hyatt Hotels Corporation, Marriott International, Inc., Wyndham Worldwide Corporation, InterContinental Hotel Group, John and Jane Doe, United States District Court for the Northern District of New Jersey, Case No. 2:18-cv-13045 (August 20, 2018).

Plaintiff filed suit against InterContinental Hotels Group ("IHG") and others alleging violations of federal antitrust law. The complaint alleged that the defendant hotel companies engaged in a scheme to restrict keyword bidding that resulted in Plaintiff being forced to pay higher hotel prices. The defendants resolved this matter with a total payment of \$7,000 (\$1,400 per defendant) to Plaintiff. The case was dismissed with prejudice on April 1, 2019.

Back Bay Resorts SWF, LLC and Edmund Shamsi v. Holiday Hospitality Franchising, LLC, United States District Court, Northern District of Georgia, Atlanta Division, Civil Action No. 1:14-cv-02521-ELR (August 14, 2014).

A current franchisee and guarantor who operate a Hotel Indigo brand hotel in Ft. Myers, Florida, filed suit seeking to terminate their license agreement. Plaintiffs sought actual damages they claimed to have suffered based on Holiday's alleged breaches of the license agreement, breach of the duty of good faith and fair dealing, and tortious interference with their contractual relationship with third party vendors and prospective hotel guests. Plaintiffs also sought declaratory and injunctive relief. On March 2, 2015, the court granted Holiday's motion to dismiss but gave plaintiffs leave to amend the complaint. On April 1, 2015, Plaintiff filed an amended complaint alleging breaches of the license agreement, violations of the duty of good faith and fair dealing, and seeking declaratory relief. On November 20, 2015, the court granted in-part Holiday's motion to dismiss. The court dismissed Plaintiff's claims that Holiday breached the license agreement and duty of good faith and fair dealing by failing to use certain fees collected to confer certain benefits upon the hotel. The court also dismissed Plaintiff's request for declaratory judgment. The parties resolved this matter with no money paid by Holiday. This matter was dismissed with prejudice on July 11, 2018.

110 Sunport, LLC, 786 Sunport, LLC, Gibbs Master Tenant, LLC, Taidin Gillani, Rashida Gillani, Tushar Patel, Sangita Patel, Jayesh Patel, Nanda Patel, Ashish Patel, Yamini Patel v. Holiday Hospitality Franchising, LLC, United States District Court, District of New Mexico, Case No. 1:17-cv-01097-KBM-SCY (October 5, 2017).

On October 5, 2017, the licensees of a Holiday Inn® Express & Suites hotel and a Staybridge Suites hotel located in Albuquerque, New Mexico and the licensee and guarantors of a former Hotel Indigo® hotel located in San Antonio, Texas filed suit against Holiday alleging tortious interference with prospective contract, misrepresentation, unfair and unconscionable trade practices, repudiation of contract, breach of implied fiduciary duty, and breach of contract for payment plan. Plaintiffs originally filed suit in the State Court of New Mexico. Holiday removed the action to federal court and filed a motion to dismiss the claims. The parties resolved this matter with no payment made by Holiday. The litigation was dismissed with prejudice on December 26, 2018.

Holiday Hospitality Franchising, LLC v. Omkar Rocklin, Inc., Bhavin Mehta, and Monali Mehta, State Court of DeKalb County, Civil Action File No. 18A70085-5 (July 3, 2018).

On July 2, 2018, Holiday filed a lawsuit against the defendants seeking unpaid system fees and liquidated damages related to the termination of a Holiday Inn Express® hotel license agreement. On August 13, 2018, defendants filed a counterclaim alleging breach of contract, wrongful termination of license agreement, and breach of the implied duty of good faith and fair dealing. The parties resolved this matter with no payment made by Holiday. The litigation was dismissed with prejudice on June 10, 2019.

Holiday Hospitality Franchising, LLC v. AE Hotels, LLC, Adel Shehata and Heba Shehata, State Court of DeKalb County, GA, Civil Action File No. 18A71043 (September 11, 2018).

On September 11, 2018, Holiday filed a lawsuit against the defendants seeking unpaid system fees and liquidated damages related to the termination of a Holiday Inn Express® hotel license agreement. On October 24, 2018, defendants filed a counterclaim alleging unjust termination of the license agreement. On July 10, 2019, Holiday obtained a judgment against defendants in the amount of \$950,145.90 plus attorneys' fees and prejudgment interest.

In the Matter of Foremost Hospitality HIEG GMBH and IHG Hotels Limited, London Court of International Arbitration (January 29, 2018).

On January 29, 2018, a party to a franchise agreement for a Holiday Inn Express® hotel to be located in Stuttgart, Germany, requested an arbitration proceeding in accordance with the terms of the franchise agreement. The Claimant alleged that that IHG Hotels Limited ("IHG Hotels") wrongfully terminated the agreement. An arbitration was held in April 2019, where the Claimant sought monetary damages and a declaratory judgment. On February 7, 2020, the arbitrator issued an award against IHG Hotels for damages, legal fees and costs, and interest. The amount of the award is confidential pursuant to requirements of the London Court of International Arbitration. IHG Hotels has never offered franchises in the United States.

Sands Empreendimentos Hoteleiros v. IHG Franchising Brasil LTDA, State Court of Sao Luis, MA, Brazil. Case Number 44620-22.2015.8.10.0001 (September 24, 2015).

Plaintiff, former licensee of a Holiday Inn® hotel in Brazil, filed suit against IHG Franchising Brasil LTDA ("IHG Brasil") and claimed that the license agreement did not comply with Brazilian franchise laws. Former licensee seeks reimbursement of all fees paid under the license agreement. On November 24, 2015, IHG Brasil filed a counterclaim seeking payment of unpaid fees due under the license. The court ruled that this matter was required to be determined by arbitration rather than litigation and dismissed the claim without prejudice on November 22, 2019.

Eric Washington v. Six Continents Hotels, Inc., United States District Court, Central District of California, Western Division, Civil Action No. 2:16-cv-03719 (May 27, 2016).

On May 27, 2016, Washington filed suit against Six Continents Hotels, Inc., (“SCH”), alleging that SCH sent him hundreds of text messages without his consent, in violation of the Telephone Consumer Protection Act (TCPA). The TCPA prohibits companies from using an automatic telephone dialing system (ATDS) to send text messages and prohibits certain text messages absent written consent. Washington seeks statutory damages. SCH filed a motion to dismiss Washington’s claims. The parties agreed to resolve this matter with a payment made by SCH of \$175,000. This matter was dismissed with prejudice on February 26, 2019.

Lenexa Hotel, LP v. Holiday Hospitality Franchising, Inc., United States District Court, District of Kansas, Kansas City Division, KS, Case No. 12CV2775 (December 10, 2012), Case No. 15-9196 (August 4, 2015).

A lawsuit was filed by a Crowne Plaza® franchisee in Lenexa, Kansas, initially on December 10, 2012 and later amended on January 17, 2013, alleging breach of contract, breach of the covenant of good faith and fair dealing and seeking declaratory relief as result of Holiday’s alleged failure to meet its contractual obligations concerning the reservation system. Holiday filed a motion to dismiss on March 1, 2013, which was denied. Near the close of the discovery process, the parties jointly moved the Court to permit Plaintiff to voluntarily dismiss the lawsuit so that the parties could discuss a possible resolution. Under the dismissal, which was approved by the Court, plaintiff was permitted to re-file if the parties could not resolve the matter. Plaintiff re-filed the lawsuit on August 4, 2015 and filed for Chapter 11 bankruptcy protection on November 1, 2016. The hotel left the Crowne Plaza system on August 31, 2017. Holiday filed a counterclaim seeking unpaid fees and liquidated damages related to the termination of the license agreement. On April 26, 2018, Plaintiff amended the complaint to allege fraudulent inducement of contract. On August 31, 2018, Holiday moved for summary judgment on all claims. Following a mediation, the parties resolved this matter with no admission of liability by either party and Holiday making a payment to Plaintiff of \$10.9M. The matter was dismissed with prejudice on January 7, 2019.

Holiday Hospitality Franchising, LLC v. RP/OE Waikiki Beachcomber, LLC, State Court of DeKalb County, GA, Civil Action File No. 18A68410. (March 8, 2018).

On March 8, 2018, Holiday filed a lawsuit against the defendant seeking damages related to the termination of a Holiday Inn® Resort hotel license agreement. In response, on May 11, 2018, defendant filed a counterclaim against Holiday alleging breach of contract. The parties resolved this matter with no payment made by Holiday. The litigation was dismissed with prejudice on August 28, 2018.

Gulf Coast Bank & Trust Co. v. InterContinental Hotels Group, PLC, Inter-Continental Hotels Corp., InterContinental Hotels Group Resources, Inc., United States District Court, Northern District of Georgia, Civil Action No. 1:18-cv-00411 (January 26, 2018).

Plaintiff, a bank located in Louisiana, filed a purported class action complaint regarding a payment card incident. Plaintiff alleges that defendants negligently failed to protect card holder data, thus harming the bank that issued the card. The suit seeks injunctive relief as well as unspecified damages. Defendants moved to dismiss the suit. On May 29, 2018, plaintiff dismissed this case without prejudice.

NSD Hotel Associates, LLC v. MBA Architects, Inc. & Liberty International Underwriters, Inc. v. Galileo Consulting Group, LLC & Six Continents Hotels, Inc., State of Wisconsin, Circuit Court, La Crosse, Case No. 16-cv-597 (September 22, 2017).

On September 22, 2017, MBA Architects, Inc. filed a third party complaint against SCH in an existing lawsuit brought against MBA Architects by the licensee of a Candlewood Suites® hotel in La Crosse, Wisconsin. In the underlying lawsuit, the licensee alleged claims for negligence and breach of contract against MBA Architects related to architectural design services provided in the construction of the hotel. MBA Architects alleges that if it is deemed liable to Plaintiff, SCH should be liable to MBA Architects on

a theory of contribution or indemnification. The parties resolved this matter with no payment by SCH. This matter was dismissed with prejudice on August 27, 2018.

Holiday Hospitality Franchising, LLC v. Essag Canada and Eshri Singh, State Court, DeKalb County, GA, Civil Action File No.: 17A64721-1 (June 2, 2017).

On June 2, 2017, Holiday filed a lawsuit against the defendants seeking damages related to the termination of a Holiday Inn® hotel license agreement. In response, defendants filed a counterclaim against Holiday alleging breach of the duty of good faith and reasonableness. The parties resolved this matter with no payment made by Holiday. The litigation was dismissed with prejudice on February 23, 2018.

Holiday Hospitality Franchising, LLC v. Khan Hospitality, Inc., Reza Hussain a/k/a Mohammad R. Hussain, Asrar Khan, Baby Hussain Khan a/k/a Baby Hussain, Ripen Khan, Rowan Akther a/k/a Roshan Akther, and Mona Khan a/k/a Mona Shahnaz, United States District Court, Northern District of Georgia, Civil Action File No. 1:16-CV-3339-SCJ (June 20, 2016).

In response to a lawsuit filed by Holiday on June 20, 2016 seeking damages related to the termination of a Holiday Inn Express® hotel license agreement, defendants filed a counterclaim on September 8, 2016 against Holiday alleging bad faith and seeking attorneys' fees. The parties resolved this matter with no payment made by Holiday. The litigation was dismissed with prejudice on October 5, 2017.

Jay Z. Dalwadi and Jay Shree Kapi Hospitality Franchising, LLC v. Holiday Hospitality Franchising, Inc., United States District Court, Southern District of Texas, Case No. 4:16-cv-02588 (August 24, 2016).

On August 24, 2016, former licensee Jay Shree Kapi Hospitality Franchising and former guarantor Jay Z. Dalwadi filed suit against Holiday Hospitality Franchising, LLC. The suit alleges breach of contract, breach of the implied covenant of good faith and fair dealing, and fraud based upon Holiday's alleged failure to approve an application for relicensing of a Holiday Inn Express & Suites hotel. On July 5, 2017, the Court granted Holiday's motion to dismiss the complaint and dismissed the complaint with prejudice. Defendants appealed the ruling. The parties resolved this matter with no payment made by Holiday. The appeal was dismissed with prejudice on October 31, 2017.

Hospitality Marketing Concepts, Inc. v. Six Continents Hotels, Inc. & InterContinental Hotels Group, PLC, United States District Court, Central District of California, Southern Division, Civil Action No. 8:15-cv-01791 (November 2, 2015).

On June 12, 2015, Hospitality Marketing Concepts, Inc. ("HMC") filed suit against "InterContinental Hotels Group" in California Superior Court. Following an amended complaint and voluntary dismissal, HMC filed a new action in California federal court on November 2, 2015 against Six Continents Hotels, Inc. and InterContinental Hotels Group, PLC alleging breach of oral contracts, fraud, fraudulent inducement, breach of fiduciary duty, and unfair business practices related to a dining rewards program previously in existence in hotels outside the United States. On January 28, 2016, the court partially granted SCH's motion to dismiss, but gave HMC leave to amend its complaint. On March 4, 2016, HMC filed an amended complaint re-alleging the same claims. Following a partially successful motion to dismiss, SCH was the only remaining defendant and the remaining claims were breach of oral contract, fraud, and unfair business practices. Following a partially successful motion for summary judgment by SCH, the parties resolved this matter with SCH making a payment of \$699,000 to HMC. The litigation was dismissed with prejudice on December 14, 2017.

Holiday Hospitality Franchising, LLC v. Holtsville Hospitality, LLC, Ashock Pancholi, Chintah Mehta a/k/a Chintan Mehta, United States District Court, Northern District of Georgia, Civil Action No. 1:16-CV-00828-TWT (November 30, 2015).

In response to a lawsuit filed by Holiday on November 30, 2015 against the defendants seeking damages related to the termination of a Crowne Plaza® hotel license agreement, defendants filed a counterclaim against Holiday on March 25, 2016 alleging damages related to investments made in

converting and renovating the hotel. On July 13, 2017, the Court granted Holiday's motion for summary judgment, entered judgment in Holiday's favor regarding the damages sought by Holiday, and dismissed Defendants' counterclaim.

TCBH, Inc. v. Holiday Hospitality Franchising, Inc., United States District Court, District of Minnesota, Civil Action No. 12-CV-2813 SRN/TNL (November 5, 2012).

An existing Holiday Inn® franchisee in Eagan, Minnesota filed suit against Holiday on November 5, 2012 alleging breach of contract, violation of the Minnesota Franchise Act and seeking an injunction to prevent the termination of the license agreement for licensee's failure to complete the property improvement plan in a timely manner. The parties resolved this matter with no payment made by Holiday. The litigation was dismissed without prejudice on November 2, 2015.

Holiday Hospitality Franchising, LLC v. 360 Global Venture Group, LLC, Ajay P. Shingal, and Mira Shingal, State Court of DeKalb County, Georgia, Civil Action No. 13A49466-3 (November 18, 2013).

On November 18, 2013, Holiday filed a lawsuit against the defendants seeking damages related to the termination of a Holiday Inn® hotel license agreement. In response, defendants filed a counterclaim against Holiday alleging breach of contract. The parties resolved this matter with no payment made by Holiday. The litigation was dismissed without prejudice on May 26, 2015.

Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc., IHG Management (Maryland) LLC, and InterContinental Hotels Group Resources, Inc. v. Flamingo Structures LLC, Halston Mikail, Farrah Mikail, Kevin Bral A/K/A Kaveh Bral, and Jackie Bral, United States District Court, Northern District of Georgia, Atlanta Division, Civil Action No. 1:12-CV-03064-TCB (August 31, 2012).

Holiday Hospitality Franchising, LLC, Six Continents Hotels, Inc., IHG Management (Maryland) LLC, and InterContinental Hotels Group Resources, Inc. (collectively "IHG") filed a lawsuit in the United States District Court for the Northern District of Georgia against a former Holiday Inn® hotel licensee, Flamingo Structures LLC, as well as guarantors, Halston Mikail, Farrah Mikail, Kevin Bral A/K/A Kaveh Bral, and Jackie Bral, claiming an amount in excess of \$1,211,126 in damages for trademark infringement, trademark dilution, false designation of origin, unfair competition, breach of contract, and breach of guaranty resulting from default of a management agreement, default of a franchise agreement and indemnity for legal fees incurred defending a third party lawsuit.

In response, the Defendants filed an answer on October 15, 2012, denying the allegations and asserting a counterclaim against Holiday and IHG Management (Maryland) setting forth causes of action for breach of the management agreement, negligence, breach of fiduciary duty, and breach of the license agreement. Defendants claim monetary damages of \$7,300,000 plus additional damages to be proven at trial as well as attorneys' fees and court costs. Defendants also asserted a third party claim against the management entity, IHG Management (Maryland), for indemnity for any judgments entered against the Defendants which would constitute a duty, obligation or responsibility of IHG Management (Maryland) under the management agreement. Following discovery, the parties resolved this matter with neither Holiday nor IHG Management (Maryland) LLC making any payments. The case was dismissed with prejudice on June 19, 2014.

Holiday Hospitality Franchising, LLC v. Touch International, Ltd and Azhar Ali Malik, State Court of DeKalb County, Georgia, Civil Action No. 11A39504-5 (October 28, 2011).

On October 28, 2011, Holiday filed suit against the Defendants asserting a claim for breach of a Holiday Inn® hotel license agreement, breach of a guaranty of the license agreement and attorneys' fees. Holiday is seeking damages in the amount of \$421,336.39. On May 21, 2012 Defendants filed a counterclaim, which they later amended, asserting claims for breach of contract, tortious interference with contractual relations, tortious interference with business relations, attorneys' fees and punitive damages. The parties resolved this matter with no payment made by Holiday. This case was dismissed with prejudice on April 14, 2014.

Holiday Hospitality Franchising, LLC v. Heritage New London, LLC, Sunil Nayak and Vandana Nayak, State Court of DeKalb County, Georgia, Civil Action No. 13A40515 (November 21, 2013).

On November 13, 2013, Holiday filed suit against the Defendants asserting a claim for breach of a Holiday Inn® hotel license agreement, breach of a guaranty of the license agreement, and attorneys' fees. Holiday is seeking damages in the amount of \$421,336.39. On January 23, 2014, Defendants filed a counterclaim asserting claims for breach of contract, breach of the covenant of good faith and fair dealing, setoff and recoupment, punitive damages, and attorneys' fees. The parties resolved this matter with Holiday making no payments. The case was dismissed with prejudice on August 1, 2014.

Stayfield Hotels Corp. v. Holiday Hospitality Franchising, LLC, State Court of DeKalb County, Georgia, Civil Action No. 13A49556-5 (November 26, 2013).

On November 26, 2013, Stayfield Hotels Corp., a current Holiday Inn Express® Hotel & Suites franchisee alleged claims against Holiday for breach of the license agreement and attorneys' fees. The parties resolved this matter with Holiday making no payments. The case was dismissed with prejudice on June 16, 2014.

Holiday Hospitality Franchising, LLC v. Coastal Hotel Properties, LLC, John W. Gandy, Bhupendra Patel, and Pradipkumar Patel, State Court of DeKalb County, Georgia, Civil Action No. 14A-51633-2, removed to United States District Court, Northern District of Georgia, Atlanta Division, Civil Action No. 1:14-cv-02325-ODE (May 29, 2014).

In response to a lawsuit filed by Holiday on May 29, 2014 against the defendants seeking damages related to the termination of a Holiday Inn® hotel license agreement, defendants filed a counterclaim against Holiday alleging breach of contract and breach of the duty of good faith and fair dealing. This case was settled without any payment by Holiday to the Defendants which resulted in a dismissal with prejudice of all claims on March 5, 2015.

Holiday Hospitality Franchising, LLC v. Woodlawn Group, LLC, Sanjay Mundra, Dicky Walia, Harminder Singh, State Court of DeKalb County, Georgia, Civil Action No. 14A-51446-2 (May 15, 2014).

In response to a lawsuit filed by Holiday on May 15, 2014 against the defendants seeking damages related to the termination of a Holiday Inn® license agreement, defendants filed a counterclaim against Holiday alleging breach of contract, breach of the covenant of good faith and fair dealing, set off and recoupment, and seeking punitive damages and attorneys' fees for alleged wilful misconduct, malice, fraud, oppression, and want of care. This case was settled without any payment by Holiday to the Defendants which resulted in a dismissal of all claims on January 27, 2015.

Holiday Hospitality Franchising, LLC v. Warner Robbins Hospitality, LLC, Dhuru L. Patel, Piyush K. Patel, Nishit S. Desai, State Court of DeKalb County, Georgia, Civil Action No. 14A-50454-1 (April 6, 2014).

In response to a lawsuit filed by Holiday on April 6, 2014 against the defendants seeking damages related to the termination of a Holiday Inn® license agreement, defendants filed a counterclaim against Holiday alleging breach of Georgia's Fair Business Practices Act. This case was settled without any payment by Holiday to the Defendants which resulted in dismissal of all claims on March 13, 2015.

Holiday Hospitality Franchising, LLC v. Dreams Hospitality Group, LLC, Aman Patel, Sapna Patel a/k/a Sapna Bindal, Bhasker Patel, Nimish Patel, Devang Shah a/k/a Devang Mukund, Shah, Kirit patel, a/k/a Kiritkumar Madan, Lal Patel, and Varsha Patel a/k/a Varshaben N. Patel, State Court of DeKalb County, Georgia, Civil Action No. 14A51131-6 (April 23, 2014).

In response to a lawsuit filed by Holiday against the defendants seeking damages related to the termination of a Holiday Inn Express® hotel license agreement, defendants filed a counterclaim against Holiday alleging breach of Holiday's obligations under the license agreement. This case was settled without any payment by Holiday to the defendants which resulted in a dismissal with prejudice of all claims on September 23, 2014.

Holiday Hospitality Franchising, Inc. v. Star Hospitality Developers Roseville, LLC, Paul Bains, Mannish Patel, Kamaljit Mann, Pradeep Patel, Minesh Mehta, Surinder Pal Bains, and Rajbinder Bains, State Court of DeKalb County, Georgia, Civil Action No. 11A38393-6 (August 18, 2011).

In response to a lawsuit filed by Holiday on August 18, 2011 against the defendants seeking damages related to the termination of a license agreement for a Holiday Inn hotel, defendants filed a counterclaim against Holiday alleging breach of contract, set off fraud, conversion, and unjust enrichment. The case was settled without any payment by Holiday to defendants which resulted in a dismissal with prejudice of all claims on August 1, 2012.

AMTX Hotel Corporation v. Holiday Hospitality Franchising, Inc., United States District Court, Northern District of Texas, Amarillo Division, Civil Action No. 2:12-cv-00035-J (February 6, 2012).

A franchisee of Holiday Inn in Amarillo, Texas filed suit against Holiday on February 6, 2012, claiming breach of contract, breach of implied covenant of good faith and fair dealing, promissory estoppel and detrimental reliance and fraud. The franchisee sought compensatory and punitive damages and attorney's fees. Holiday filed a motion to dismiss on February 29, 2012, which was partially granted, and filed a counterclaim against AMTX and the individual guarantors of the License Agreement. In the Order ruling on Holiday's Motion to Dismiss, the Court dismissed the Breach of Contract and the Implied Covenant of Good Faith and Fair Dealing, and promissory estoppel claims. The Court ordered the parties to mediation on July 24, 2012. The case was subsequently settled. As part of the settlement, AMTX agreed to pay a portion of past due fees owing to Holiday and Holiday agreed to make a payment in the amount of \$112,148 to AMTX in exchange for mutual releases between the parties. The lawsuit was dismissed with prejudice on October 3, 2012.

HI Hotel Limited Partnership v. Holiday Hospitality Franchising, Inc., Court of Queen's Bench of Alberta, Judicial District of Calgary, Action No. 0601-04850 (April 20, 2006).

In April 2006, HI Hotel Limited Partnership, a former franchisee which purported to rescind its License Agreement with Holiday in May 2005 before its license was terminated by Holiday in the summer of 2005, filed a Statement of Claim against Holiday. The plaintiff claims that it was entitled to rescission of the franchise based upon Holiday's failure to provide a form of disclosure document that met the requirements of the Franchise Act and therefore failed to provide proper disclosure to a franchisee. Holiday has filed a Statement of Defense to the Claim and a Counterclaim seeking damages for breach of the Franchise Agreement. In October 2006, Plaintiff and Holiday each brought applications for Summary Judgment, both of which were appealed by both Plaintiff and Holiday to a Justice of the Court of Queen's Bench. On December 21, 2007, the Court of Queen's Bench granted plaintiff's motion for summary judgment, denied Holiday's motion for summary judgment and directed that there be an assessment of plaintiff's monetary claims against Holiday. Holiday filed a Notice of Appeal with the Court of Appeal of Alberta on January 8, 2008, and the court affirmed the summary judgment in franchisee's favor as to liability, which left the amount for franchisee's damages as the only remaining issue for trial. This case was settled with Holiday agreeing to pay the former franchisee \$94,000.

Paradise Lodgings, Inc. v. Holiday Hospitality Franchising, Inc.; MBR. InterContinental Hotels Group PLC, Superior Court of Fulton County, Georgia, Civil Action No. CV-123737 (October 4, 2006).

Paradise Lodgings, Inc. ("Paradise") filed suit against Holiday on October 4, 2006 seeking to enjoin Holiday from terminating Paradise's license to operate a Holiday Inn Express hotel located in Union City, Georgia. The lawsuit alleged breaches of the covenant of good faith and fair dealing, violations of the Georgia Deceptive Trade Practices Act, fraud, tortious interference with business relations, detrimental reliance and promissory estoppel. Paradise sought damages in excess of \$90,000 and rescission of Holiday's termination of the License Agreement. At an initial hearing, the court denied Paradise's motion for a temporary restraining order. Holiday subsequently filed a counterclaim seeking franchise fees and liquidated damages. Based upon Plaintiff's failure to attend a status conference, the Court struck the Plaintiff's pleadings and granted Holiday a judgment against Paradise in 2014 totaling \$534,627.51.

Dal Holdings Ltd. v. Holiday Hospitality Franchising, Inc., Alberta Court of Queen's Bench, Judicial Centre of Calgary, Action No. 0701-07393 (August 13, 2007).

On August 13, 2007, Holiday's former franchisee Dal Holdings, Ltd. ("Dal") served a Statement of Claim against Holiday alleging that Holiday improperly terminated the license agreement between Holiday and Dal without cause. Dal's License was terminated for its failure to comply with Holiday's quality and service requirements. The Statement of Claim asserted causes of action against Holiday for breach of contract and breach of the duty of good faith and fair dealing. Dal sought damages in excess of \$700,000. On September 5, 2007, Holiday served a Statement of Defense and a Counterclaim for breach of contract and a declaration that its termination of Dal's License was proper. Holiday was seeking monetary damages in excess of \$400,000 against Dal for unpaid fees and liquidated damages due under the License. Dal was seeking approximately \$2M in damages for the alleged breach of good faith and fair dealing and breach of contract, as well as punitive damages in the amount of \$250K. On August 2, 2011, the parties agreed to dismiss their respective claims. Holiday did not pay any money to Dal in exchange for its agreement to dismiss its claims against Holiday.

Hotel Associates, Inc. v. Holiday Inn Franchising, Inc. now known as Holiday Hospitality Franchising, LLC, Circuit Court of Crittenden County, Arkansas, Case No. CV2005-485 (August 2005).

In August 2005, Hotel Associates, Inc., a former franchisee, filed an action against Holiday for failing to renew its License Agreement at the end of term of the license for a hotel in Wichita Falls, Texas. The plaintiff alleged that it expended significant amounts of money to renovate the hotel property and then a different hotel was licensed as a Holiday Inn when its franchise expired. The lawsuit claims breach of contract, breach of the implied covenant of good faith and fair dealing, violation of the Texas and Arkansas Deceptive Trade Practices Act, and fraud. The case went to trial on July 6, 2009. On July 10, 2009, the jury returned a verdict in favor of the Plaintiff and awarded \$13M in compensatory damages and \$12M in punitive damages. Pursuant to the filing of post-judgment motions with the trial court, the total judgment was reduced by the trial court to \$11,056,000. Holiday filed an appeal of all of the trial court's rulings with the Arkansas Court of Appeals on October 9, 2009, and the Plaintiff filed a cross-appeal on October 14, 2009. On February 23, 2011, the Arkansas Court of Appeals affirmed the compensatory damages award of \$11,056,000 and reinstated the \$12 million punitive damages award. Holiday paid a portion of the judgment relating to compensatory damages in 2011 and filed a Petition for Writ of Certiorari with the U.S. Supreme Court on February 6, 2012, requesting review of the remaining portion of the judgment. This Petition was denied on March 18, 2012, and Holiday satisfied the remaining portion of the judgment on March 22, 2012.

Hi-Life Hotels SRL v. Six Continents Hotels, Inc. ("SCH") and InterContinental Hotels Group Services Company (Italy), Court of Bologna, Italy, Case No. R.G. 2384 / 2010 (March 11, 2011).

On March 11, 2011, Hi-Life, the former franchisee of the hotel formerly known as the Express by Holiday Inn Cesena (the "Hotel"), filed a claim against SCH and one of its affiliates, InterContinental Hotels Group Services Company (Italy) ("IHGSC"), in the Court of Bologna, Italy. The claim was made by Hi-Life after Hi-Life received a demand from SCH seeking liquidated damages of €805,000 following the early unilateral termination of the franchise agreement by Hi-Life. Hi-Life is claiming that its franchise agreement with SCH should be declared void, all amounts previously paid by Hi-Life to SCH and IHGSC should be returned to Hi-Life, and it should not be required to pay liquidated damages to SCH because SCH allegedly failed to comply with the franchise disclosure laws of Italy. Hi-Life sought damages in the amount of the total fees paid to SCH under the franchise agreement – approximately €600,000. SCH also contended that, since the franchise agreement is subject to English Law and disputes under the franchise agreement are subject to Arbitration in the International Chamber of Commerce in London, the Italian courts should not have jurisdiction over the claim and Italian law should not apply to the claim. The Court subsequently rejected Hi-Life's claims against SCH and IHGSC based upon the arbitration clause in the Franchise Agreement – the Judge also awarded costs in favor of SCH and IHGSC.

Holiday Hospitality Franchising, LLC (“Holiday”) v. Mahendra K. Patel and Hema K. Patel, United States District Court, Northern District of Georgia, Atlanta Division, Case No. 1:13-cv-02255-WSD (July 15, 2013).

In response to a lawsuit filed by Holiday against the defendants seeking liquidated damages relating to the termination of license agreement for a hotel that was to be operated in California, defendants filed a counterclaim against Holiday on July 15, 2013 alleging breach of contract, breach of the implied covenant of good faith and fair dealing, fraudulent inducement, negligent misrepresentation, promissory estoppel, and unjust enrichment. This case was settled without any payment by Holiday to the Defendants which resulted in a dismissal with prejudice of all claims on September 18, 2013.

Holiday Hospitality Franchising, Inc. v. Thomas Noons et al., District Court of Harris County, Texas, Civil Action No. 2010-03522 (2010).

In 2010, Holiday filed suit against Thomas Noons and other entities (“Noons”) in Texas seeking collection of an approximately \$1,500,000 judgment Holiday previously obtained against Thomas Noons in Georgia. On October 5, 2010, Thomas Noons filed a counterclaim against Holiday alleging that Holiday, in attempting to collect its judgment against Thomas Noons, has violated the Texas Debt Collection Act; engaged in unreasonable collection practices; defrauded Thomas Noons via its collection efforts; and, tortiously interfered with Thomas Noons’ business relations. On February 1, 2013, the Court entered an order granting Holiday’s motion for summary judgment on Noons’ counterclaims.

Holiday Hospitality Franchising, LLC, f/k/a Holiday Hospitality Franchising, Inc. v. 404980 Alberta, Ltd., Sadnidin S.D. Suleman, Kariama Suleman, and Shahsultan Suleman, U.S. District Court, Northern District of Georgia, Atlanta Division, Civil Action File No. 1:16-CV-01773-CAP (June 1, 2016).

On June 1, 2016, Holiday filed a complaint in Georgia against 404980 Alberta, Ltd., a former Holiday Inn® franchisee and guarantors Sadnidin S. D. Suleman, Karima Suleman and Shahsultan Suleman to recover unpaid system fees and liquidated damages from the former licensee (the “Georgia Matter”). In response to Holiday’s suit, defendants filed a separate action in Alberta on December 22, 2016 styled 404980 Alberta Ltd. and Karima Suleman v. Holiday Hospitality Franchising, Inc. and Holiday Hospitality Franchising, LLC, Court of Queen’s Bench of Alberta, Calgary, Court File No. 1601-17271 (the “Alberta Matter”). There, the former licensee and guarantors sought a declaratory judgment under the Alberta Limitations Act and Guarantees Acknowledgement Act. Both matters were resolved with no payment by Holiday. The Georgia Matter was dismissed with prejudice on April 20, 2017. The Alberta Matter was discontinued on April 19, 2017.

InterContinental Hotels Group PLC, Hotel Inter-Continental London Limited, Expedia, Inc. and Booking.com B.V.- United Kingdom’s Office of Fair Trading (“OFT”), Notice of decision to accept commitments to remove certain discounting restrictions for Online Travel Agents, Case No. CE9320/10 (January 31, 2014).

A Statement of Objections issued by the OFT on July 31, 2012 alleged that Booking.com BV and Expedia, Inc. each entered into separate agreements with InterContinental Hotels Group PLC and Hotel Inter-Continental London Limited (collectively referred to as “IHG”) which restrict the ability of Expedia, Inc. and Booking.com BV to discount the rates at which room-only hotel accommodation bookings are offered to consumers. The OFT then announced two periods of consultation on draft commitments proposed by the three businesses as a means of addressing the OFT’s competition concerns, and invited comments from third parties such as other businesses and consumers.

Following these consultation periods, on January 31, 2014, the OFT announced its decision to accept the commitments and brought about an end to its investigation without any finding of infringement or fine. On March 31, 2014, Skyscanner Limited (a price comparison website) lodged an appeal against the OFT’s decision with the Competition Appeal Tribunal (CAT), and on September 26, 2014, the CAT announced that it upheld the appeal and quashed the OFT’s decision to enter into the binding commitments. The Competition and Markets Authority (CMA), as the successor organization to the

OFT, decided not to appeal this decision. On September 16, 2015, the CMA announced that it had considered the strategic significance, impact, risks, and resource implications of continuing the investigation, and decided to close the matter on the grounds that it no longer constituted an administrative priority.

Laura McCabe and Latroya Simpson v. Six Continents Hotels, Inc., United States District Court, Northern District of California, San Francisco Division, Case No. 3:12-cv-04818 (July 3, 2012).

On July 3, 2012, two plaintiffs filed a class action complaint alleging violations of California Penal Code 632.7, based upon the alleged improper recording of cellular phone calls originating from California to customer care centers. Plaintiffs amended the complaint twice, first to include Six Continents Hotels, Inc. as a defendant, and later to allege improper recordings at additional customer care centers. The case was removed to Federal Court and SCH filed motions to dismiss the complaint, which were denied. SCH filed an answer to the original complaint on January 9, 2013 and filed an answer to the amended complaint on February 18, 2014. Following discovery and mediation, the parties reached a preliminary agreement to resolve this matter. On February 4, 2015 the parties filed a Notice of Settlement and Request to Vacate Calendar Dates. Following a hearing on February 3, 2016, the Court issued an Order and Judgment approving the parties' settlement. This matter was dismissed with prejudice on February 8, 2016.

In re: On-Line Travel Company (OTC) Hotel Booking Antitrust Litigation, Consolidated Civil Action No. 3:12-cv-3515-B (N.D. Tex.) (August 20, 2012).

On August 20, 2012, two plaintiffs filed a class action complaint against multiple Online Travel Companies ("OTCs") and hotel companies, including InterContinental Hotels Group Resources, Inc. ("IHGR"). Approximately 30 similar complaints subsequently were filed in federal courts around the country. Plaintiffs in all of the cases allege that the OTCs and hotel defendants conspired to restrain price competition by maintaining and enforcing resale price maintenance agreements and preventing competition by online discount retailers. Plaintiffs allege that Defendants unreasonably restrained trade in violation of 15 U.S.C. § 1, and violated various state laws, including state antitrust laws. On December 11, 2012, the Judicial Panel on Multidistrict Litigation issued an Order consolidating all cases for pre-trial proceedings in the Northern District of Texas. As a result, each individual case, except for the lead case of Smith v. Orbitz Worldwide, Inc., Case No. 3:12-cv-3515-B (N.D. Tex., filed Aug. 27, 2012), has been administratively closed. Defendants filed a motion to dismiss on July 1, 2013. Oral argument on the motion to dismiss took place on December 17, 2013. On February 18, 2014, the Court issued an Order granting Defendants' motion to dismiss without prejudice, and gave plaintiffs thirty days to seek to amend the complaint. On March 20, 2014, plaintiffs filed a motion requesting permission to amend the complaint. The proposed amended complaint does not name any hotel company as a proposed defendant. The OTC defendants opposed the plaintiffs' motion. On October 28, 2014 the Court dismissed the case with prejudice against all defendants. The Plaintiffs did not file a notice of appeal.

Metro Hospitality Partners, Ltd. v. Holiday Hospitality Franchising, LLC, United States District Court, Southern District of Texas, Civil Action No. H 13 2448 (August 21, 2013).

A lawsuit was filed on August 21, 2013 and served upon Holiday on December 18, 2013. Plaintiff is a party to a Crowne Plaza® license agreement with Holiday relating to a hotel located in Houston, Texas. The complaint seeks declaratory judgment for Holiday's alleged breach of contract. Plaintiff also seeks a temporary restraining order and preliminary and permanent injunction preventing Holiday from terminating its Crowne Plaza license agreement with the Plaintiff. This lawsuit was dismissed without prejudice on July 25, 2014.

Allied Hotels Limited v. Holiday Hospitality Franchising, LLC f/k/a Holiday Hospitality Franchising, Inc., and Six Continents Hotels, Inc., United States District Court, Northern District of Georgia, Atlanta Division, Case No. 1:12-cv-03086-rlv (September 4, 2012).

On September 4, 2012, Allied Hotels Limited (“Allied”), a former Crowne Plaza franchisee of Six Continents Hotels, Inc. (“SCH”), filed suit against SCH and Holiday Hospitality Franchising LLC, alleging breach of the License Agreement and breach of the implied covenant of good faith and fair dealing based upon SCH’s termination of its License Agreement with Allied. Allied also sought declaratory relief. In November 2012, SCH and Holiday filed an answer and SCH filed a counterclaim against the Plaintiffs alleging several claims relating to breach of contract, improper use of SCH’s marks and a demand for attorneys’ fees. The parties resolved this matter with SCH and Holiday making a payment of \$180,000 payment to Allied. The lawsuit was dismissed with prejudice on February 27, 2014.

Holiday Hospitality Franchising, LLC (“Holiday”) v. Rana Foods, Inc. and Tahir Salim, State Court of DeKalb County, Georgia, Civil Action No. 12-A-43277-3 (July 20, 2012).

In response to a lawsuit filed by Holiday on July 20, 2012 against the defendants seeking liquidated damages relating to the termination of a license agreement for a Candlewood Suites® hotel, defendants filed a counterclaim against Holiday alleging breach of contract, fraud, rescission, negligent misrepresentation, violation of a legal duty, promissory estoppel, set off, and attorneys’ fees. This case was settled without any payment by Holiday to the defendants which resulted in a dismissal with prejudice of all claims on November 21, 2012.

The Generation Companies, LLC v. Holiday Hospitality Franchising, LLC and InterContinental Hotels Group Resources, Inc., United States District Court, Eastern District of North Carolina, Civil Action No. 5:15-cv-220, transferred to United States District Court, Northern District of Georgia, Civil Action No. 1:15-cv-4052-LMM (April 20, 2015).

On April 20, 2015, a licensee of a Staybridge Suites® hotel filed suit against Holiday and InterContinental Hotels Group Resources, Inc., and alleged that defendants intentionally interfered with contractual relations, committed slander, and violated North Carolina’s Unfair and Deceptive Trade Practices Act. Plaintiffs sought compensatory damages and unspecified punitive damages. The parties resolved this matter with no money paid by defendants and the lawsuit was dismissed with prejudice on January 6, 2016.

Jesta Hospitality CT, LLC v. Holiday Hospitality Franchising, LLC, Superior Court of Dekalb County, Georgia, Civil Action File No. 16cv5092-1 (May 26, 2016).

A former licensee of a Crowne Plaza® hotel filed suit against Holiday alleging breach of contract, breach of the implied duty of good faith and fair dealing, promissory estoppel, and seeking a declaratory judgment. Holiday filed a counterclaim seeking damages related to its termination of the license agreement and seeking unpaid fees. This matter was resolved with no payment by Holiday and dismissed with prejudice on December 27, 2016.

Other than these actions, no litigation is required to be disclosed in this Item.

#### **ITEM 4**

#### **BANKRUPTCY**

No bankruptcy is required to be disclosed in this Item.

#### **ITEM 5**

#### **INITIAL FEES**

When you submit an application for a License, whether for a new development, conversion, change of ownership or re-licensing, you must pay Holiday an initial application fee (the “Application Fee”) of \$500

per guest room, but not less than \$75,000, regardless of the length of the License sought. For example, the Application Fee for a 200-room Vignette Collection™ Hotel is \$100,000.

See Item 6 for information relating to the requirements and fees for changes of ownership, franchisee name changes, re-alignment of the franchisee's ownership and re-licensing.

### **REFUNDABILITY:**

If Holiday does not approve your application for a License, or if you withdraw the application before Holiday approves or denies it, Holiday will return the Application Fee to you, less its processing fee of \$15,000. If Holiday approves the application subject to certain requirements, Holiday may revoke its approval if you fail to meet those requirements. Once Holiday approves the application (even if Holiday subsequently revokes its approval), the Application Fee is nonrefundable.

### **PIP:**

Before you submit an application for a conversion, re-licensing, change of ownership or brand change, you must arrange for Holiday to conduct an inspection of the Hotel so that Holiday can prepare written specifications for the upgrading, construction and furnishing of the Hotel in accordance with the Standards, in the form of a plan called a Property Improvement Plan ("PIP"). There is a nonrefundable \$8,500 fee for the inspection of your Hotel and the preparation of the PIP report (see also Item 6). In the case of a conversion Hotel, Holiday will not authorize your Hotel to open until you complete all PIP requirements, including submission of plans before the start of construction in accordance with the dates specified in your License and the attachments to your License (see Item 11). In the event the Hotel fails its opening inspection, Holiday may charge you up to \$5,000 for each re-evaluation and re-inspection.

### **TRAINING, EQUIPMENT AND MATERIALS:**

The Openings and Renovations program provides services and training required to open a Hotel in the System including IHG Concerto™ Ramp Up, Key Programs Training, post-opening support and other pre-opening consultations. The Openings and Renovations fee covers up to two participants per Hotel. This fee is \$8,000. The fee covers pre-opening support, including select training, materials and post-opening support.

IHG Concerto™ Ramp Up is a training class that provides basic instruction on the Reservation System and revenue management. Your General Manager and other individuals designated as your system experts at your property must attend the IHG Concerto™ workshop virtually or at an SCH designated location. No additional fees will be incurred for the workshop, however, additional attendees will be required to pay a separate registration fee, which will be \$250 per additional participant and participants from all Hotels are responsible for their own expenses for travel, meals and lodging if they attend the training in person. Your General Manager and front office staff must have access to IHG Concerto™ and complete necessary web-based training including: Get to know IHG Concerto™, IHG Concerto Home Page Overview, and Digital Check-In Training, all available at no cost on myLearning.

During the Hotel opening process, you may be required to pay additional fees for pre-and post-opening training, consultation and coaching services provided by SCH or designated representatives. These additional fees that are payable to SCH, and are associated with on-site visits rescheduling of those visits or extensions of your Hotel's opening date, will not exceed \$5,000 per visit and you must also pay for the expenses of the trainers' travel, living and lodging expenses while conducting the visit.

Your General Manager, Front Office Manager (or equivalent), Director of Sales and F&B Manager must each attend an initial certification training program. The cost for the initial certification training program will range from \$1,125 to \$1,500 per trainee. For in-person classes, you must pay for any travel or training expenses of your trainees. You must also purchase training materials for the training programs described in Item 11, which Holiday estimates will cost no more than \$5,000 per Hotel for all trainees combined.

Your General Manager and Guest Experience Champion must each complete the Leading the Brand Training for New Hotels certification prior to the Hotel opening. The cost for the training event, initial

training materials, and subsequent consulting support ranges from \$1,500 to \$2,000 for Vignette Collection™ Hotels. You may be required to purchase subsequent training materials to fulfill the ongoing training of new employees.

Holiday requires you to hire qualified, licensed, professional advisors in the form of a project team, which may consist of, depending on complexity and scope of the work, an architect, interior designer, engineer or other related specialist when building or renovating an IHG hotel. If you cannot find such licensed professional help, contact your Openings and Renovations Regional Director. All architects and interior designers must be approved by Holiday prior to the project commencing. Before your architect begins detailed construction plans, you must meet with your Openings and Renovations Regional Director and submit preliminary plans to Holiday for Plan Review comment. You, your architect, interior designer and general contractor must also attend a kick-off meeting in Atlanta, Georgia, or other locations that Holiday may designate. There are no fees for the kick-off meeting; however, you must pay for your travel, lodging and other miscellaneous expenses.

Holiday currently designates Oracle America, Inc. as the Property Management System (“PMS”) provider and requires you to operate the Opera or Opera Xpress PMS software (see Items 1, 6, 7, 8 and 11). The estimated costs for the equipment configuration, installation, software and training will vary depending on the number of guest rooms and technology needs at your Hotel. We estimate that the cost for the PMS installation and the purchase of required hardware devices (i.e., workstations and printers) will range from \$64,000 to \$75,000 for a Hotel with 1-100 rooms; \$83,000 to \$96,000 for a Hotel with 101-175 rooms; \$97,000 to \$130,000 for a Hotel with 176-250 rooms; \$124,000 to \$187,000 for a Hotel with 251-350 rooms; and, \$196,000 or greater for a Hotel with 351 rooms or more. For hotels which are managed by an affiliate of Holiday and have fewer than 150 rooms and six PMS workstations, a hosted PMS option is available. This hosted option is priced differently from the premise-based option which is offered to all Holiday hotels. All Hotels will require a custom quote at the time the deployment process begins to better determine estimated costs. You must pay these costs before any goods or services are delivered to the Hotel. These cost estimates include: the basic hardware for the PMS and access to the Reservation System, the basic software, the installation of equipment and software, an initial training for your employees on how to use the PMS with the Reservation System, and the purchase, installation of and training for the SPS, or such successor payments program as may be implemented by SCH, equipment and software. These estimated costs do not include other training, additional equipment, additional software, additional operational manuals, shipping and handling, taxes, insurance, food, travel and lodging expenses of your employees, vendor employees, SCH employees or contractors who install the PMS and Reservation System equipment and software at your Hotel and train your employees to use them or the cost of internal Hotel cabling or infrastructure. SCH requires that you refresh PMS hardware/software every 48 months.

**Vignette Collection™ R&B Concept Development:**

Developing a unique Restaurant and Bar (R&B) concept is your responsibility and your concept must be approved by Holiday. If you will be managing a full-service restaurant independently (i.e., you do not engage a third-party R&B manager to operate your Hotel’s restaurant), you must pay SCH a R&B Concept Development Fee (which may be up to \$125,000 (which varies depending on your individual needs and management company capabilities). This fee would typically include the following: overall concept development including a concept description, target demographics, description of look/feel/ambience, cuisine program/spectrum, beverage program/spectrum, tabletop design and selection. Additionally, this fee may include food and beverage menu ideation, food and cocktail recipe development, operations tools and opening and training support as needed.

**Vignette Collection™ R&B Brand Identity Services & Market Research Study:**

All Vignette Collection™ Hotels must use the R&B Brand Identity Services and receive a Market Research Study. Brand Identity Services typically include naming, logo development and creation of collateral (including menus, coaster, business cards, ephemera development), which is to be professionally created. Additionally, this may include tabletop suggestions and specifications; uniform

suggestions and specifications; and, OS&E suggestions and specifications. A Market Research Study is required to determine the best fit and initial direction for your Hotel's restaurant based on, though not limited to, location, size and local competition. These costs will range from \$15,000 to \$40,000.

Holiday may consider requests to alter the requirements described in this Item. Holiday will only consider changes under special circumstances and any changes must comply with applicable laws.

### ITEM 6

#### OTHER FEES

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
Royalty	5% of Gross Rooms Revenue ("GRR").	Monthly, on the 15th of the following month (Payable to Holiday)	Note 1
Services Contribution	3.5% of GRR (combined marketing, reservations & training fee).	Same as Royalty	Note 2
Initial Marketing Contribution to Loyalty Program	\$10.00 per approved guest room.	At same time as 1st Royalty Payment (one-time charge) (Payable to SCH)	Note 2
Special Marketing Contribution for the Loyalty Program	\$4.75 per enrolling stay with a flat 1,000 points issued.  4.75% of Qualifying Full Folio Revenue from Loyalty Program members.  1.425% of Qualifying Room and Meeting Revenue from Loyalty Program members.	Same date as Royalty (Payable to SCH)	Note 2
Technology Services Fee	\$16.08 per room, per month.	Monthly (Payable to SCH)	Note 2
IHG Concerto™, Yield & Price Optimization	Costs of between \$30 and \$60 per month may apply for competitive rate insight shopping. For Hotels currently subscribing to RevenueStrategy360 or Rate360, these costs may be waived.	Monthly (Payable to SCH)	Note 6 & Item 11
Workshops can include, for example: (a) Front Office Operations Training (b) Sales Workshop(s) (c) Service Workshop(s) (d) Revenue Management for Hire Certification as defined in the Standards	Pricing for workshops range from \$375-\$5,000 per workshop per participant depending on length, subject, content and delivery.	Upon attending (Payable to SCH)	Item 11

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
(e) Quality Workshop(s) (f) Food and Beverage Workshop(s) (g) Specialized Workshop(s) *Cancellation/no show penalties may apply.			
General Manager Certification Fee	\$1,500 for initial onboarding certification.	Upon completion (Payable to SCH)	Note 2 & Item 11
Director of Sales Certification Fee	\$1,125 to \$1,500 for initial orientation & solution selling certification.	Upon completion (Payable to SCH)	Note 2 & Item 11
Sales Manager Certification Fee	\$375 to \$1,125 per workshop per participant, based on length, subject, content and delivery. Fee based on length of program.	Upon completion (Payable to SCH)	Note 2 & Item 11
Guest Service Manager/equivalent Certification Fee	\$1125 for initial certification.	Upon completion (Payable to SCH)	Note 2 & Item 11
IHG® Way of Clean 5S Cleaning Program Leadership Certification Fee	\$375 for initial certification.	Upon completion (Payable to SCH)	Note 2 & Item 11
Maintenance Supervisor/equivalent Certification Fee	\$375 for initial certification.	Upon completion (Payable to SCH)	Note 2 & Item 11
Food and Beverage Director/equivalent Certification Fee	\$375 to \$1,995 per workshop per participant, based on length, subject, content and delivery. Fee based on length of program.	Upon completion (Payable to SCH)	Note 2 & Item 11
Owner and/or GM Conference	Up to \$2,500 per attendee, not including travel, lodging or other expenses.	Invoiced at time of registration (Payable to SCH)	Note 2
Opera PMS Software Maintenance:	<p>The following are estimates for the premise based and hosted options and do not include all items, which may be reflected in your Hotel's Oracle America, Inc. contract:</p> <p>Maintenance and/or hosting fees may be increased up to 5% per year.</p> <p>Costs will vary according to your technology needs.</p>	Annually (Payable to Oracle America, Inc.)	Note 3
Opera – Premise Based	\$17.60 per room, per year for Opera V5 Software Support.		Note 3

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
	<p>\$2.86 per room, per year for Oracle Technology Foundation Support.</p> <p>\$9.24 per interface, per year, within bundle for IFC8 Interfaces Annual Support.</p> <p>\$440.00 per interface, per year, out of bundle for IFC8 Interfaces Annual Support.</p> <p>\$0.09 per interface, per year for OXI 2-Way – IHG Concerto™ Support.</p> <p>\$0.00 per room, per year for Opera Commission Handling Support.</p> <p>\$0.03 each, for Opera Back Office Interface Support.</p> <p>\$0.02 each, for Opera Export Files Support.</p> <p>\$1.65 per room, per year for Opera Web Services Support (OWS).</p> <p>\$110.00 per interface, per year for eSocketPOS Interface Support (SPS).</p> <p>\$0.09 per interface, per year for OXI – IHGWS – LARs Functionality Support.</p> <p>An approved PMS Interface (currently Bellinta) is required to support digital guest experience (IHG EDGE).</p>		
Opera Xpress – Premised Based	<p>\$11.88 per room, per year for Opera Xpress V5 Software Support.</p> <p>\$2.42 per room, per year for Oracle Technology Foundation Support.</p> <p>\$9.24 per interface, per year, within bundle for IFC8 Interfaces Annual Support.</p> <p>\$220.00 per interface, per year, out of bundle for IFC8 Interfaces Annual Support.</p> <p>\$0.09 per interface, per year for OXI 2-Way – IHG Concerto™ Support.</p> <p>\$0.00 per room, per year for Opera Commission Handling Support.</p> <p>\$0.03 each, for Opera Back</p>		Note 3

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
	<p>Office Interface Support.</p> <p>\$0.02 each, for Opera Export Files Support.</p> <p>\$1.65 per room, per year for Opera Web Services Support (OWS).</p> <p>\$110.00 per interface, per year for eSocketPOS Interface Support (SPS).</p> <p>\$0.09 per interface, per year for OXI – IHGWS – LARs Functionality Support.</p> <p>An approved PMS Interface (currently Bellinta) is required to support digital guest experience (IHG EDGE).</p>		
Opera – Hosted	<p>\$2.88 per room, per month for Opera V5 Software Services &amp; Support.</p> <p>\$0.36 per room, per month, per interface for IFC8 Interface Services &amp; Support.</p> <p>\$72.00 per month, per interface for IFC8 Interface Services &amp; Support (200+ Rooms).</p> <p>\$1.00 per room, per month for OXI 2-Way – IHG Concerto™ Services &amp; Support.</p> <p>\$200.00 per month, per interface for OXI 2-Way – IHG Concerto™ Services &amp; Support (200+ Rooms).</p> <p>\$0.50 per room, per month for Opera Commission Handling Services &amp; Support.</p> <p>\$0.50 per room, per month for Opera Back Office Interface Services &amp; Support.</p> <p>\$0.50 per room, per month for Opera Export Files Services &amp; Support.</p> <p>\$1.25 per room, per month for Opera Web Services &amp; Support (OWS).</p> <p>\$0.50 per room, per month for Credit Card Interface Services &amp; Support.</p>		Note 3

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
	<p>\$100.00 per month, per interface for Credit Card Interface Services &amp; Support (200+ Rooms).</p> <p>\$1.00 per room, per year for OXI – IHGWS – LARs Functionality Services &amp; Support.</p> <p>\$200.00 per month, per interface for OXI – IHGWS – LARs Functionality Services &amp; Support (200+ Rooms).</p> <p>An approved PMS Interface (currently Bellinta) is required to support digital guest experience (IHG EDGE).</p>		
Opera Xpress – Hosted	<p>\$2.25 per room, per month for Opera Xpress V5 Software Services &amp; Support.</p> <p>\$0.36 per room, per month, per interface for IFC8 Interface Services &amp; Support.</p> <p>\$72.00 per month, per interface for IFC8 Interface Services &amp; Support (200+ Rooms).</p> <p>\$1.00 per room, per month for OXI 2-Way – IHG Concerto™ Services &amp; Support.</p> <p>\$200.00 per month, per interface for OXI 2-Way – IHG Concerto™ Services &amp; Support (200+ Rooms).</p> <p>\$0.50 per room, per month for Opera Commission Handling Services &amp; Support.</p> <p>\$0.50 per room, per month for Opera Back Office Interface Services &amp; Support.</p> <p>\$0.50 per room, per month for Opera Export Files Services &amp; Support.</p> <p>\$1.25 per room, per month for Opera Web Services &amp; Support (OWS).</p> <p>\$0.50 per room, per month for Credit Card Interface</p>		Note 3

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
	<p>Services &amp; Support.</p> <p>\$100.00 per month, per interface for Credit Card Interface Services &amp; Support (200+ Rooms).</p> <p>\$1.00 per room, per year for OXI – IHGWS – LARs Functionality Services &amp; Support.</p> <p>\$200.00 per month, per interface for OXI – IHGWS – LARs Functionality Services &amp; Support (200+ Rooms).</p> <p>An approved PMS Interface (currently Bellinta) is required to support digital guest experience (IHG EDGE).</p>		
FastConnect Plus And Access Control Manager	\$167.32	Monthly (Payable to AT&T)	Note 3
Secure Payment Solution (“SPS”) Maintenance & Support	<p>\$140.00</p> <p>\$0.075 transaction fee for each settled transaction.</p>	<p>Monthly</p> <p>(Payable to SCH).</p>	Note 3
Guest Internet Access – Bandwidth Service Subscription (IHG Connect)	<p>\$1,000 to \$2,800.</p> <p>Pricing is estimated and varies based on regional service providers.</p>	Monthly (Payable to SCH)	Note 3
Guest Internet Access – Hardware Maintenance & Guest Support (IHG Connect)	<p>\$1.50 per guest room.</p> <p>\$25.00 per meeting / conference room, plus \$20.00 per 2,000 sq. ft. of total meeting space, maximum of \$500.00 (meeting room support fees only apply if total meeting space exceeds 2000 sq. ft.).</p>	Monthly (Payable to SCH approved Integrator)	Note 3
Guest In-Room Entertainment– Hardware, Maintenance, Guest Support, & Content (IHG Studio)	<p>\$5.00 per room, per month for software, maintenance, and guest support.</p> <p>\$7.20 per room, per month for content.</p>	<p>Monthly (Payable to SCH or approved Integrator)</p> <p>Monthly (Payable to SCH or approved Integrator)</p>	Note 3

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
	\$1.25 per room, per month for HBO (where required)	Monthly (Payable to SCH or approved Integrator)	
Employee Safety Devices	Initial fee of \$125-\$150 per room in the first year of installation plus \$20.00 to \$25.00 per room, per year for software and maintenance support	Annually (Payable to SCH approved supplier)	Note 3
Security Software for Public Access Computers (Business Center)	\$495.00 to \$525.00 per workstation, per year for software, maintenance, and guest support  \$315.00 to \$399.00 per printer, per year for the "optional" mobile printing feature	Monthly (Payable to SCH or an approved supplier)	Note 3
Travel Agent Commissions (IHG Commission Services)	10% (minimum) commission on GRR (or other commission that Holiday designates).	Monthly (Payable to SCH)	Note 4
Third Party Distribution Connection Fees	See Note 4	Monthly (Payable to SCH)	Note 4
IHG Ignite Digital Marketing Fees	2.75% commission on all consumed direct digital revenue booked.	Monthly (Payable to SCH or intermediary)	Note 4
TMC (formerly known as BTA) Revenue Program	2.25% override fee (in addition to standard travel agency commission) on non-negotiated corporate contracted rates for consumed room nights, to a maximum of \$20,000 per year or \$25,000 per year for participating Luxury & Lifestyle program hotels.	Monthly (Payable to SCH)	Note 4
IHG Business Edge Program Booking Fees	4% of consumed transient revenue booked through the IHG Business Edge Program.	Monthly (Payable to SCH)	Note 4
Groups & Meetings Fee	3.5% of consumed or agreed room revenue for leads sent to hotels via IHG MeetingBroker (this fee will increase to 4.0% in 2022).  There will be a \$25,000 cap on the year-over-year increase in fees and a \$30,000 fee limit per booking. New hotels will have the fee cap applied after their first year as an	Monthly (Payable to SCH)	Note 4

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
	IHG hotel.		
Tax on Sales/Gross Receipts or Similar Taxes	Holiday's actual cost.	Upon notice from Holiday	Note 5
Standard Fee for Room Additions	\$500 for each new approved guest room.	With room addition (Payable to Holiday)	Note 6
Re-licensing/Changes of Ownership Fees	\$500 per guest room but not less than \$75,000.	Due with application to Holiday for re-licensing or change of controlling ownership (Payable to Holiday)	Note 6
Public Offering or Private Placement Processing Fee	\$25,000 plus additional costs incurred by Holiday.	When you or any of your owners submit request for approval of private placement or public offering (Payable to Holiday)	Note 8
Audit/Interest	Amount of deficiency, interest and \$3,000 audit fee (audit fee may be increased on System-wide basis).	Upon notice from Holiday	Note 9
Indemnification		Upon demand	Note 10
Quality Visits for guest satisfaction compliance or Standards evaluation failure, default or termination status	Up to \$10,000 per visit.	Before follow up inspection and/or special inspection (Payable to Holiday)	Note 11
Bi-Monthly "The Operator's View" ("TOV"), Management Action Plan ("MAP"), or Hotels that fall below the "At Risk" guest satisfaction brand threshold.	Up to \$10,000.	Upon notice (Payable to Holiday)	Note 11
PIP Inspection/preparation fee	\$8,500 (and \$5,000 for a re-inspection).	Before application, or upon request for PIP (Payable to Holiday)	Note 11
Plan and/or FF&E Extensions and Defaults	Up to \$5,000	Upon request due to extension and/or default (Payable to	See Item 8

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
<p>PIP Extensions and Defaults Travel</p> <p>Custom Design Review</p> <p>Non-Compliance with Soft Goods and Case Goods Renovation Requirements</p>	<p>Up to \$5,000</p> <p>Up to \$25,000</p> <p>Up to \$5,000</p>	<p>Holiday)</p> <p>Upon request due to extension and/or default (Payable to Holiday)</p> <p>Upon Request (Payable to Holiday)</p> <p>Upon request due to extension and/or default (Payable to Holiday)</p>	<p>Note 11</p> <p>Note 11</p> <p>Note 11</p>
<p>Realignment/name change processing fee</p>	<p>\$5,000 for franchisee name change or ownership realignment.</p>	<p>Upon realignment or name change, if approved (Payable to Holiday)</p>	
<p>Capital Reserve</p>	<p>Up to 5% of Gross Revenue (see Paragraph 13.N of the License).</p>	<p>Monthly (if required by Holiday)</p>	<p>Note 12</p>
<p>Revenue Management for Hire</p> <p>Completion of the appropriate level of IHG® Revenue Management for Hire certification (if hotel is not participating in the Revenue Management for Hire Program)</p>	<p>\$1,549-\$3,350 per month depending on total hotel room count, location type and annual occupancy. (These fees will apply until December 31, 2021, after which they may change). Plus, out of pocket travel expenses for SCH personnel. (These fees are modifiable with 90 days written notice).</p> <p>\$1,125</p>	<p>Monthly</p> <p>(Payable to SCH)</p> <p>Workshop fee payable to SCH upon registration</p> <p>Upon attending (Payable to SCH)</p>	<p>Note 13</p> <p>Note 13</p>
<p>IHG Voice Reservation Service</p>	<p>\$7.65 per net booking, which may be changed once annually.</p> <p>All Hotels must sign up and actively use this service for all rooms reservations calls.</p>	<p>Monthly (Payable to SCH)</p>	<p>Note 14</p>

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
	A commission of 10% may be applied to Hotels that transfer Hotel-direct calls to public IHG CRO toll-free numbers.		
Guest Relations Fees	Quality and Service contacts from Hotels will be handled by Guest Relations in the 'One Contact Resolution' process. Hotels will be charged a case management fee of \$150 per incident, plus the compensation amount of no greater than one night's room fee and tax. Non Service and Quality cases (such as billing or reservations issues) that not resolved within 48 hours by the Hotel will be handled by Guest Relations with a case management fee of \$150 per incident.	Upon notice  (Payable to Holiday)	Note 15
Promotions Required & Optional Advertising Materials		On request (payable to Holiday)	Note 15
IHG® Reward Measured Standards	Hotels are assessed for non-compliance to the measured loyalty standards as follows,  Hotels with 300 rooms or less: <ul style="list-style-type: none"> <li>• Fail first quarter = Cure (no penalty)</li> <li>• Fail second quarter = Assess \$1,000/standard</li> <li>• Fail third quarter = Assess \$2,000/standard</li> <li>• Fail fourth quarter = Assess \$3,000/standard</li> <li>• Capped at \$3,000 per quarter per standard.</li> </ul> Hotels with more than 300 rooms: <ul style="list-style-type: none"> <li>• Fail first quarter = Cure (no penalty)</li> <li>• Fail second quarter = Assess \$1,000/standard</li> <li>• Fail third quarter = Assess \$2,500/standard</li> <li>• Fail fourth quarter = Assess \$5,000/standard</li> <li>• Capped at \$5,000 per quarter per standard.</li> </ul>	Quarterly Assessment appears on invoice (Payable to SCH)	Note 16
Employee Engagement Survey	\$7 to \$12 per employee each year	Annually (Payable to	Note 17

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
		designated third party provider)	
Liquidated Damages Payment on premature termination by Holiday before it authorizes you to use System at Hotel (includes failure to perform the construction, upgrading and renovation work described in the License) (see License, Par. 13.I).	A lump sum equal to the monthly average of all amounts that would have been payable to Holiday under paragraphs 3.B(1), (3) and (4) of the License assuming the Hotel had collected GRR based on the average daily revenue per available room for all Hotels in Holiday's System in the System in the United States for the previous 12 months, multiplied by the greater of (a) 6 or (b) the number of full and partial months from the Term Commencement Date to the termination date of the License.	Promptly upon Termination (Payable to Holiday)	Note 1, Item 17 f., g., h. and Note 2 to Item 17
Liquidated Damages Payment on premature termination after Holiday authorizes you to use System at Hotel (applicable only if License terminates before expiration, in accordance with License, Par.12B and/or Par. 12C; includes termination resulting from failure to perform "The Work") (see License, Par. 13.I).	An amount equal to the total amounts required under License Paragraphs 3.B (1), (3) and (4) during the 60 calendar months of operation preceding the termination or during the preceding number of months equal to the unexpired License Term at the time of termination (if less than 60 months); or if the Hotel has not been in operation in the system for 60 months, an amount equal to the greater of (1) 60 times the monthly average of these amounts for the period during which the Hotel has been in operation in the System, or (2) 60 times these amounts as are due for the one month preceding the termination.	Promptly upon Termination (Payable to Holiday)	Note 1, Item 17f., g., h. and i. and Note 2 to Item 17
<b>Fees for Extensions of Construction Commencement ("CC"):</b>			
New Development or Conversions (Extensions >6 but less than or equal to 12 months from CC date included in original license)	\$10,000	With extension request (Payable to Holiday)	Note 7 & Item 11
New Development or Conversions (Extensions resulting in a CC date that is >12 months from the CC date included in original license)	50% of Application Fee	With extension request (Payable to Holiday)	Note 7 & Item 11
Room Additions (6-month extension)	50% of original room addition Application Fee.	With extension	Note 7 & Item 11

(1) TYPE OF FEE	(2) AMOUNT	(3) DUE DATE	(4) REMARKS
		request (Payable to Holiday)	

**Note 1:** Holiday can require you to make any payments due to Holiday to its parent, affiliates, subsidiaries or other designees. For example, many charges and fees shown on the table above are currently payable to SCH. Unless otherwise stated, all charges and fees on the table above are nonrefundable and the charge or fee or its formula is uniformly imposed on similarly-situated franchisees. The fees set forth in this Item 6 represent Holiday’s current fees, but are subject to change as Holiday, its parents, affiliates, subsidiaries and/or other designees may amend from time to time; at all times you are responsible for the then-current fees imposed.

“GRR,” or Gross Rooms Revenue, means the gross revenue and receipts of every kind attributable to or payable for rental of guest rooms and suites at the Hotel, including, but not limited to, any mandatory fee or surcharge charged to all or substantially all guests renting a room, such as resort fees or cancellation fees, with no deduction for any item, including, for example, no adjustment for the cost of any food and beverage items, room service, telephone charges, entertainment or any other items provided or made available to a guest as an incident of a guest room rental. The inclusion of any such fees or surcharges in GRR does not constitute approval by Holiday of such fees and surcharges, which may otherwise be limited or prohibited. GRR includes fees or payments you collect if a guest does not stay after making a reservation, which is often called “No-Show Revenue” as well as early departure or late check-out fees and other revenues allocable to rooms revenue under the Uniform System of Accounting for the Lodging Industry, Eleventh Revised Edition, 2014, as published by the American Hotel & Lodging Association Educational Institute, or any later edition, revision, or replacement that may be designated by Holiday. GRR also includes any awards, judgments or settlements representing payment for loss of room sales. The only permitted deductions are those for sales tax, value added tax, or similar room taxes on such revenues and receipts. No deductions shall be allowed for charge backs, credit card service charges, commissions, uncollectible amounts or similar items. GRR excludes sales tax, value added tax, or similar taxes on such revenues and receipts. Holiday may require you to settle all outstanding obligations payable to Holiday by direct account debit, electronic funds transfer, or other similar technology designed to accomplish the same purpose. Holiday may also charge royalties on revenues from any activity that you provide at the Hotel by mutual agreement with Holiday if such activity: (i) is not offered at System Hotels generally (at the time you enter into the License) and is likely to benefit significantly from, or be identified significantly with, the Vignette Collection™ brand name or other aspects of the System; or (ii) is designed by or developed by Holiday. Certain fees paid by franchisees, other than the royalties and related fees, are payable to SCH and either SCH or Holiday may collect those amounts from franchisees.

**Note 2:** You, all other System franchisees and all Hotels that Holiday’s affiliates own or manage must pay a Services Contribution as specified in this Item, in Item 11, and paragraph 3.B of the License. Holiday will use these funds as it determines to develop, support and/or administer marketing, reservations and training programs. The Services Contribution cannot be used to cover the cost of maintenance, repair, modernization, renovation, or upgrading of your Hotel. Holiday and its affiliates are not responsible for any of these costs. Besides being used in developing, supporting and/or administering marketing, reservations and training programs, funds from Services Contributions will typically be invested in activities that strengthen the brand such as awareness advertising, research, and the development of new or improved services, but may also include tactical marketing initiatives more focused on short term revenue enhancement and seasonal marketing programs. The Services Contributions do not include costs which you incur in the acquisition, installation or maintenance of reservations services, equipment or training, or costs associated with seasonal enhancements such as seasonal scents, sounds, tastes or in your own marketing activities. Holiday can change the Services Contribution from time to time. Holiday may, on 30 days advance written notice, at any time during the term of your License, and from time to time, increase the Services Contribution by up to 1% of Gross

Rooms Revenue. If Holiday increases the Services Contribution in this way, then Holiday cannot make another discretionary increase again for 24 months after the start of a prior increase. Holiday may increase the Services Contribution by a maximum of 2% of Gross Rooms Revenue over the term of your License.

Your Hotel must participate in the loyalty program (the "Loyalty Program") for as long as SCH chooses to market a Loyalty Program. As of the date of this disclosure document, the Loyalty Program is marketed to consumers under the names "IHG® Rewards", "InterContinental Ambassador", and "IHG® Business Rewards". You must pay the Initial and Special Marketing Contribution to SCH for the Loyalty Program. The Initial Marketing Contribution is payable when your Hotel first enters Holiday's System. The Loyalty Program is an incentive program which rewards members with awards for frequent qualifying stays at all Vignette Collection™ Hotels (and, as described in Holiday's separate disclosure documents, for Holiday Inn, Holiday Inn Express, Holiday Inn Resort, Crowne Plaza, InterContinental Hotels & Resorts, voco Hotels, EVEN Hotels, avid® hotels, Hotel Indigo, Atwell Suites, Candlewood Suites and Staybridge Suites brand group hotels as well as other hotel brands within the SCH hotel portfolio (including Kimpton® Hotels & Restaurants)).

The Loyalty Program includes alliances with airline frequent flyer programs and other Holiday brands. Through these alliances, Loyalty Program members may choose to collect and convert their Loyalty Program points into airline miles or choose to collect miles automatically with each stay. SCH may add to or delete airlines and alliances within other industries from the Loyalty Program.

SCH's Global Sales & Marketing department has established marketing relationships with airlines, rental car companies, banks and other types of companies, some of which include co-branding with IHG® Rewards. These alliances may produce revenue and income for SCH that do not result from any required purchases that you make.

The Special Marketing Contribution to the Loyalty Program is currently 4.75% of Qualifying Full Folio Revenue and 1.425% of Qualifying Room and Meeting Revenue. SCH can change these percentages in its sole judgment. All enrolling stays will be assessed a flat rate of \$4.75 to the enrolling Hotel and a flat 1,000 points will be issued to the member regardless of their qualified stay revenue. Qualifying Full Folio Revenue includes: (a) Qualifying Room Rates (defined below), (b) charges for food and beverage, telephone, laundry and pay-per-view movies, including applicable taxes, when charged to the member's room regardless of whether a Qualifying Room Rate was paid, and (c) at the Hotel's discretion any other items charged to the member's room not defined in the previous items (a) or (b). Property management systems certified as compatible by the SCH Information Technology department provide Full Folio Revenue data to the Loyalty Program through an automated interface.

Qualifying Room Rates include, for example: (1) non-discounted rates; (2) standard corporate rates; (3) leisure rates; (4) government rates; (5) Corporate Gold rates and worldwide sales negotiated rates; (6) conference and meeting rates; and (7) individual Hotel contract rates. If discounts on rates (6) and (7) exceed 30% of the Hotel's published rates, the Hotel may exclude the awarding of IHG® Rewards points for these discounted room rates. All negotiated group rates for business bookings are Qualifying rates. Guest rooms booked as part of a group, meeting or event block where the individual guest pays their own charges (room and incidentals) will qualify for points.

Qualifying Room and Meeting Revenue includes Hotel revenue from accommodation (room only booked on behalf of others via the Booker Loyalty Program) and/or Hotel revenue from rental of guest rooms, meetings, social, or catered events to include revenue from meeting room hire, food and beverage, and/or other revenue associated with the meeting or event at the Hotel's discretion (formerly known as IHG® Meeting Rewards). IHG® Business Rewards points are capped at 60,000 per meeting or event, while the Hotel has sole discretion to award more than 60,000 points for any such meeting or event. At three points per dollar payable at 1.425%, the amount contributed to the Loyalty Program is capped at \$285 per event, however the Hotel has discretion to award more than 60,000 points at the same 1.425% assessment rate (\$0.00475 per point).

In 2019, the Loyalty Program was extended until December 31, 2022 by a vote of all principal correspondents of Holiday licensed Hotels in good standing. Under this extension, Loyalty Program members can accumulate points through December 31, 2022, and may redeem them through June 30, 2023. If the Loyalty Program is extended beyond December 31, 2022, the foregoing dates will also be extended. Loyalty Program points will expire on a monthly basis for any Loyalty Program accounts which have been inactive during the prior rolling 12-month period.

Votes on changes to the Special Marketing Contribution or other Loyalty Program elements requiring a vote of System franchisees will be counted on a “negative option basis”, which means that those Hotels which do not respond by the specified voting deadline will have their votes counted as a vote for approval of the proposed change(s).

Hotels are required to allocate a certain percentage of their rooms inventory for reward night redemption by members of the Loyalty Program. The reimbursement amounts that Hotels will receive when members redeem their points for rewards stays is specified by the Loyalty Program. SCH reserves the right to modify the Loyalty Program at any time, including, without limitation, the costs, the reward night redemption reimbursement amounts and the calculation factors.

You must also participate in all other marketing and sales programs and policies that Holiday requires of its Vignette Collection™ franchisees. To participate in certain marketing programs and to comply with the Standards, you may be required to buy advertising materials, products, services, equipment or supplies or other proprietary materials, and you may have to offer promotions or services to guests that may result in expenses or costs to you. Sometimes, these advertising and proprietary materials will be available for purchase through Holiday or its affiliates.

You may also choose to participate in local and regional marketing programs, advertising cooperatives and related activities, but only at your expense and subject to Holiday’s requirements. Holiday may impose reasonable charges for advertising materials you choose to order from it for these programs and activities.

Holiday will use the Technology Services Fee to provide technology services, including IHG Concerto™. Holiday may increase the Technology Services Fee in an amount it judges to be reasonable, but not by more than 10% of the fee in effect at the beginning of the year. Except as specifically stated in the Master Technology Services Agreement, the Technology Services Fee does not include the costs of installation, maintenance or repair of equipment or training at the Hotel. IHG Concerto™ is a technology platform designed to enable many capabilities, including reservations, rate management, inventory management and yielding, guest relations and an interactive homepage. Your General Manager and front office staff must have access to IHG Concerto™ and complete necessary web-based training including; Get to know IHG Concerto™, IHG Concerto Home Page Overview, and Digital Check-In Training, all available at no cost on myLearning.

The fee for the initial onboarding certification for your General Manager is \$1,500. The fee for the Guest Service Manager, F&B Manager, Director of Sales and Sales Manager certification programs are between \$375 and \$1,995. The fee for the IHG® Way of Clean 5-S Process Leadership Certification for the Executive Housekeeper is \$375. The fee for the IHG® Way of Clean-Preventative Maintenance Program workshop for the Maintenance Supervisor is \$375. Most training programs range between \$375 and \$5,000. Costs are determined per program based on development costs, instructional method used and location. For in-person classes, you are responsible for any travel or training expenses of your trainees. The cost of training materials for the pre-opening training programs described in Item 11 is included in the registration fee, and the costs of the training materials for any additional training programs which Holiday requires will be included in the registration fee for those programs.

The franchisee (or a representative of the franchisee), General Manager, and/or designated operator, must attend the Owner and/or GM Conference and pay the registration fee, currently ranging up to \$2,500 per attendee, but such amount is subject to increase. Travel costs are not included. These conferences are generally held annually but are subject to adjustment.

**Note 3:** Currently, Vignette Collection™ Hotels must use the Opera or Opera Xpress PMS solution (see Items 1, 8 and 11). You must also obtain ongoing maintenance and support for the required PMS software, including upgrades and new versions (see Items 8 and 11) and other software including operating system upgrades and endpoint protection software. The endpoint protection software is part of the Total Protection for Network (ToPS), which will be administered and managed by AT&T via the FastConnect Plus solution. The PMS Provider will bill you and collect the fee from you for the required PMS software support and the PMS Provider provides the support. You must also obtain ongoing equipment maintenance for the PMS hardware as arranged through either SCH or an approved vendor. The costs will vary according to your technology needs and the costs listed on the table are estimates.

The PMS Provider will provide you with a third-party license and/or hosting agreement for the use of the PMS software. Therefore, you must sign a third party license and/or hosting agreement with Oracle America, Inc., the PMS provider for Opera and Opera Xpress, or with any other PMS provider designated by SCH (see Items 1, 8 and 11), which will be prepared for you after you complete the Oracle New Account Setup Form, the form of which is attached to this disclosure document as Exhibit I-7. This license agreement includes on-going maintenance and support for the PMS software. The PMS Provider will bill you annually for the support fee. The PMS Provider may not increase the maintenance and support fee more than once during any calendar year. You must also pay support fees for the other components of property-level systems, such as PMS equipment maintenance, and for other systems which interface to the Opera or Opera Xpress PMS system; such as the telecommunications system, the electronic door locking and keycard system, and the specialized sales software. Hardware and software maintenance fees may vary based on the number of rooms at the Hotel. The fees for local and long-distance telephone service and line charges are not included in the estimated fees on the chart. The costs will vary according to your technology needs, and the costs listed on the chart are an estimate.

Upon activation of the Secure Payment Solution (“SPS”) at your Hotel, SCH will immediately bill you monthly and administer support for the hardware and software. You must also obtain ongoing equipment maintenance for the SPS hardware, as arranged through either SCH or an approved vendor. The \$140.00 SPS Maintenance & Support fee paid to SCH may increase according to corresponding rises in PMS credit card support services from Oracle.

For Guest Internet Access (“GIA”) Bandwidth (IHG Connect), a Hotel will be required to utilize an approved SCH-certified provider and enter into a participation agreement with an approved provider (see Item 8 and the form of agreement attached as Exhibit I-5 to this disclosure document). Monthly service fees will vary based on regional telecommunication or cable company sources. Hotels with existing contracts with bandwidth providers must allow such contracts to expire or terminate by their own terms and not allow them to renew, by giving appropriate notice as soon as the terms of those contracts permit. If the contract term will extend more than one year after the effective date of the respective Standard, and the Hotel has a right to terminate for convenience (without cause) and without payment of any fees, then the Hotel must exercise that right so that the contract terminates within that year.

For Guest Internet Access (“GIA”) Hardware (IHG Connect), a Hotel will be required to install approved Wi-Fi related equipment, use an approved SCH-certified integrator to install the equipment and enter into a participation agreement with an approved integrator (see Item 8 and the form of agreement attached as Exhibit I-6). Monthly service fees will include a base per-suite fee for guest support and a variable fee for meeting room support based on the number of meeting rooms and the amount of meeting space that exceeds 2,000 square feet. Hotels with existing contracts with hardware providers must allow such contracts to expire or terminate by their own terms and not allow them to renew, by giving appropriate notice as soon as the terms of those contracts permit. If the contract term will extend more than one year after the effective date of the respective Standard, and the Hotel has a right to terminate for convenience (without cause) and without payment of any fees, then the Hotel must exercise that right so that the contract terminates within that year.

All Hotels are required to install and maintain In-Room Entertainment Hardware (IHG Studio). Your Hotel will be required to install approved TV sets and/or Set Top Boxes (“STBs”) that are compatible with IHG Studio, use an approved SCH-certified integrator to install the equipment, and must enter into an agreement with one of them. Monthly service fees will include a base per-room fee for guest support. Hotels with existing contracts with In-Room Entertainment providers must allow such contracts to expire or terminate by their own terms and not allow them to renew, by giving appropriate notice as soon as the terms of those contracts permit. If the contract term will extend more than one year after the effective date of the IHG Studio Standard, and the Hotel has a right to terminate for convenience (without cause) and without payment of any fees, then the Hotel must exercise that right so that the contract terminates within that year.

Hotels are responsible for installing an alert system that enables employees to notify Hotel management of an emergency with the push of a button (“Employee Safety Devices”). The Employee Safety Devices must be available to all employees that work in guest rooms, must instantly signal guest room and guest floor location when activated, must continuously update guest room and guest floor location, and must be tested every six months. In addition, all new employees, including contract and temporary, must receive training on the Employee Safety Devices, within the first 14 days of employment. Employee Safety Devices must be procured and installed by an approved supplier and meet defined requirements set forth in the Standards. You may be required to sign a participation agreement with an approved vendor for these services.

Hotels are required to install designated workstations and a multi-function printer, providing complementary internet access to Hotel guests, in the Business Center (“Public Access Computers”). The Public Access Computers must be available 24 hours a day, must utilize SCH-approved security protection software and must include enrollment in a 24x7 support program offered by an SCH-approved vendor. In addition, all Public Access Computers are required to be refreshed every four years, a minimum of one computer must have Microsoft Office, and all must operate at the same or greater bandwidth port speed as other internet enabled devices on the Guest Internet Access network. You may be required to sign a participation agreement with an approved vendor for these services.

**Note 4: Third Party Distribution Connection Fees:** Holiday requires that all Vignette Collection™ Hotels participate in the IHG Commission Services (“ICS”) program and the Global Distribution System (“GDS”). ICS was the first centralized commission payment program in the industry, and currently has over 165,000 participating travel agencies in 52 countries. SCH will provide you with a monthly invoice detailing all commissions and Distribution Connection fees that SCH pays for you. As a participant in ICS, you must pay the customary minimum of 10% of the GRR (or another percentage that Holiday designates) for the travel agent or other referral source booking. In some cases, Holiday is able to negotiate this percentage and it is subject to increase from time to time. As a participant in ICS, you are automatically enrolled in GDS, which provides reservation linkage with four major airline reservation systems. You must pay a GDS fee for any reservation through the GDS that is not cancelled. In some cases, Holiday is able to negotiate the GDS fee but the fee is set by third parties and is subject to change upon 30 days’ notice to you. GDS Fees are currently set at \$6.40 per reservation and are subject to change. Additionally, alternative connections may be developed between SCH and vendors which may be subject to transaction fees. Alternative connection transaction fees (such as the Direct Connect Fee and the Travel Management Company (“TMC”) Direct Connect Fee) are determined by the cost of operating the connection or by the cost of the third parties who provide the connections. Direct Connect fees are currently set at \$1.75 per reservation and are subject to change. TMC Direct Connect fees are currently set at \$5.00 per reservation and are subject to change. The GDS fee and TMC Direct Connect fee are mutually exclusive. This means that a Hotel can be charged one or the other, but not both. You may pay your commissions and transaction fees by direct debit through Onyx Commission Processing. If you decline this option, you must pay SCH \$2.00 per commissionable transaction billed in addition to the commission. Onyx rebates SCH 3.05% of commissions collected for their members and 3.50% of the total commission paid for non-members. Additionally, ICS may be used as a mechanism to bill for other SCH programs such as IHG Voice Reservation Service cross-sell fees. The programs in which SCH uses ICS for billing may change from

time to time. For reservations made through a travel agent or other referral source and processed for SCH or its subsidiaries by Onyx Commission Processing, SCH will receive a minimum of 2% of the commissions paid to Onyx Member agents to cover the costs of running the ICS program. These amounts are subject to change without notice.

**IHG Ignite Program:** All Hotels are automatically enrolled in the IHG Ignite Program (“IHG Ignite”). However, Hotels can opt-out if they do not want to participate in IHG Ignite. If they opt out, they will not be included in any of IHG Ignite’s marketing programs. IHG Ignite is designed to be a performance-based and self-funded Internet Marketing program that generates increased revenue potential for Hotels. IHG Ignite markets the System through SCH direct digital channels (SCH branded web sites and the SCH Mobile App). Internet users can click on advertising placed by SCH and be linked to SCH’s Internet reservations page or the SCH Mobile App to make reservations. Participating Hotels must pay SCH a commission equal to 2.75% of the revenue from consumed direct digital bookings, excluding employee rates, IHG Rewards nights and rooms booked under certain other rate codes. No GDS fee will be charged for these IHG Ignite transactions. A portion of the commissions paid by Hotels will be used by SCH to satisfy financial obligations to associated media companies and publishers which provided the advertising placements to SCH. Specific commission payment levels for each associated media company and publisher vary based on size, strategic value, and actual or potential revenue contribution.

**TMC Revenue Program:** Travel Management Company (“TMC”, formally known as Business Travel Agency (“BTA”)) refers to a subset of agencies that account for a significant portion of all travel delivered to SCH Hotels via travel agencies. TMC Revenue Programs are pay-for-performance marketing programs designed by SCH to drive incremental revenue and improve market share with SCH travel agency partners. The key focus of these programs is to reward agencies for increasing market share by driving non-negotiated rate and/or corporate contracted business to Hotels. Hotels pay a 2.25% override fee (in addition to standard travel agency commission) for non-negotiated corporate contracted rates on consumed room nights over the base amount, up to a maximum of \$25,000 per year). Commissions are paid through the ICS. SCH negotiates and executes a centralized global contract on behalf of all Hotels in the system. All Hotels are automatically enrolled in TMC; however, Hotels can opt-out if they do not want to participate in TMC prior to the start of the new program year.

**IHG Business Edge Program:** All Hotels are automatically enrolled in the IHG Business Edge Program (IHGBE); however, Hotels can opt-out if they do not want to participate in IHGBE. If they opt out, they will receive no bookings from IHGBE. The IHG Business Edge Program is designed to generate incremental revenue from mid-market and local accounts to IHG hotels by developing new accounts. Hotels agree to honor the discount percentage that is attached to the account. Discounts are based on the room revenue spend of the IHGBE client and calculated off the Best Flexible Rate (BFR). Discounts range from 4.0% to 14.5% off BFR. Hotels agree to pay a booking fee equal to 4% of the consumed transient room revenue for all IHGBE accounts booked at the IHGBE program rate. Hotels agree to pay any GDS or Third Party fees associated with IHGBE clients.

**Groups & Meetings (G&M) Fee:** The fee applies to definite room revenue sourced through MeetingBroker, even if the MeetingBroker status is not listed as “definite”. If the “definite” consumed revenue is not updated in MeetingBroker at the time of billing, the fee will apply to the contracted or “agreed” room revenue. The fee percentage will be 3.5% in 2021 and will then increase to 4.0% in 2022 and beyond. The funds collected through the Groups & Meetings Fee will be reinvested into improving G&M tools and technologies. New Hotels entering Holiday’s system will pay the full G&M fee without the cap in their first year. After year one, the annual caps will apply. Hotels agree to pay commissions due to third parties sourcing through MeetingBroker.

**Note 5:** You must pay Holiday an amount equal to any sales, gross receipts or similar tax that may be imposed on Holiday and calculated solely on payments required under the License, unless the tax is an optional alternative to an income tax otherwise payable by Holiday.

**Note 6:** The IHG Concerto™, Yield & Price Optimization uses Hotel historical data and future bookings to create a detailed forecast of future business for your Hotel over the next 50 weeks. IHG Concerto™, Yield & Price Optimization also produces inventory controls which are used in the sales process of your PMS and all direct (CRO, Brand Website) and indirect channels (such as GDS or online travel agencies (OTA)).

There are four types of IHG Concerto™, Yield & Price Optimization database builds: Standard (12 months of 2-way data), Proxy (90 days of 2-way data), NHOP (day of opening) and Early (during pre-sale, inventory defined). A Standard build needs a minimum of one year of consecutive 2-way data before activation. A Proxy build needs a minimum of 3 months of consecutive 2-way data and 9 months of data from a comparable hotel. A NHOP or Early build is available 1-60 days from the time the Hotel's inventory is fully activated and defined in the Reservation System.

IHG Concerto™, Yield & Price Optimization helps Holiday's hotels determine the best daily price. The system integrates local market demand forecasting, publicly available competitive data analysis, and price sensitivity modeling to make optimal pricing recommendations for its hotels.

Costs of between \$30 and \$60 per month may apply for competitive rate insight shopping. For Hotels currently subscribed to RevenueStrategy360 or Rate360, these costs may be waived.

See Item 11 for a more detailed discussion of IHG Concerto™, Yield & Price Optimization.

Holiday charges a standard Additional Room Application Fee for applications for approval of any guest rooms to be added to the Hotel (presently, \$500 per additional guest suite). If you withdraw the room addition application before Holiday approves it, or if Holiday denies the application, then Holiday will refund the Additional Room Application Fee, less direct expenses it incurred.

If you apply for re-licensing or change of ownership, you must pay Holiday a Re-licensing Application Fee or Change of Ownership Fee, as the case may be. If Holiday denies the re-licensing or change of ownership application, Holiday will retain \$15,000 and refund the balance of the Re-licensing Application Fee or Change of Ownership Fee to you.

**Note 7:** Your License will require you to commence and complete construction by certain deadlines. You may apply for an extension of the deadlines, but if your request is approved by Holiday, you must pay an extension fee in connection with same. Holiday must approve your extension in writing and such approval is not automatic. You must pay any expenses Holiday incurs in processing the extension request.

**Note 8:** If you propose a securities offering requiring registration under any federal or state securities law, you must apply to Holiday for approval of the offering and pay Holiday a nonrefundable securities offering fee of \$25,000 when you apply, plus additional costs incurred by Holiday.

**Note 9:** If an audit by Holiday discloses a deficiency in any payment and the deficiency is not offset by overpayment, you must immediately pay Holiday the deficiency and an audit fee of \$3,000. If the audit does not result in a deficiency being assessed, then you will not pay an audit fee. Amounts not paid when due will accrue interest, beginning on the first day of the following month, at 1.5% per month or the maximum interest permitted by law.

**Note 10:** You must indemnify Holiday, its parents and its subsidiaries and affiliates (including SCH) and their officers, directors, employees, agents, successors and assigns against, hold them harmless from, and promptly reimburse them for all payments of money (including fines, damages, legal fees and expenses) by reason of any claim, demand, tax, penalty, or judicial or administrative investigation or proceeding whenever asserted or filed (even where negligence of Holiday and/or its parents, subsidiaries and affiliates is alleged) arising from any claimed occurrence at the Hotel or any act, omission or obligation of yours or anyone associated or affiliated with you or the Hotel. At the election of Holiday, you will also defend Holiday and/or its parent, subsidiaries and affiliates and their officers, directors, employees, agents, successors and assigns against same. In any event, Holiday will have the right, through counsel of its choice, to control any matter to the extent it could directly or indirectly

affect Holiday and/or its parents, subsidiaries or affiliates or their officers, directors, employees, agents, successors or assigns. You agree to pay Holiday all expenses including attorneys' fees and court costs, incurred by Holiday, its parent, subsidiaries or affiliates, and their successors and assigns as a result of any claimed occurrence or to remedy any defaults of or enforce any rights under the License, to effect termination of the License or to collect any amounts due under the License.

**Note 11:** Holiday may charge you for all quality visits, re-evaluations and re-inspections at your Hotel that occur as a result of your Hotel's failure of any previous Standards Evaluation, your Hotel's failure under the quality system or under the guest satisfaction measurement system, your failure to complete PIP requirements by the specified interim or final milestone dates, your failure to complete the Bi-Monthly "The Operator's View" ("TOV") requirement, or your failure to complete the Management Action Plan. You must pay an escalating assessment of up to \$10,000 for each quality re-evaluation and re-inspection and you must pay an escalating assessment of up to \$10,000 for each subsequent visit due to consecutive failures. In addition, you must pay the room and board of Holiday's inspector(s) on all Standards Evaluations, action plan visits and revisits, as well as room and board and travel for all PIP or Plan reviews.

You must complete the mandatory Bi-Monthly TOV requirement. Failure to do so in any given month will result in an escalating assessment of up to \$10,000 for each occurrence and may result in a visit from a Quality Department Representative. You must complete all items in the Management Action Plan ("MAP") that is created during the Standards evaluation, action plan visits, re-evaluations and re-inspection at your Hotel. Failure to do so in the timeline defined within the MAP will result in an escalating assessment of up to \$10,000 and may result in a visit from a Quality Department Representative. In addition, you must pay the room and board of the Quality Department Representative(s) on all quality-related visits.

All Hotels that fall into any guest satisfaction measurement (currently known as "Guest Love") that is below the "At Risk" brand threshold must pay up to \$10,000 for each required re-inspection or default visit, and may be assigned two of Holiday's training workshops to attend at the Hotel's expense.

Holiday may charge a fee of up to \$25,000 for any Custom Design Review, which consists of \$10,000 for guest room design review, \$10,000 for public area review and \$5,000 for exterior reviews.

If your Hotel is subject to a PIP, it will be inspected after the required completion date to verify satisfactory completion of the PIP. You must pay an inspection fee of \$8,500. If the PIP is not completed to our satisfaction at the time of the inspection, you will be assessed a fee up to \$5,000 for the first re-inspection and any subsequent re-inspections we perform until the PIP work is completed to our satisfaction. You must also provide complimentary lodging at the Hotel for the inspector performing a re-inspection.

Your Hotel will receive communications about the scope of required Soft Goods and Case Goods renovation requirements and their due dates. If you fail to timely complete a required Soft Goods or Case Goods renovation, we may charge a renovation non-compliance fee up to \$5,000. Your Hotel will be inspected during and after the completion of the required renovation to verify satisfactory progress and completion. If your required renovation is not completed to our satisfaction at the time of inspection, the foregoing non-compliance fee will also be assessed for any extensions granted and any subsequent re-inspections we perform until the renovation work is completed to our satisfaction. You must also provide complimentary lodging at the Hotel for the inspector performing an inspection or re-inspection of your renovation work.

**Note 12:** Holiday may impose or change the capital reserve requirements for your Hotel from time to time. If Holiday requires a capital reserve (the "Capital Reserve"), you must establish a Capital Reserve account of up to 5% of Gross Revenue annually for capital expenditures and upgrading of the Hotel including renovation of public areas, guest rooms, guest room corridors and replacement of FF&E. The capital reserve, if required, must be funded monthly. Since the Capital Reserve may not be sufficient to maintain the Hotel as a first-class facility in accordance with the Standards, you must promptly provide any necessary additional funds to meet Holiday's product quality and consumer quality requirements.

Holiday will give you at least ninety days' notice of any establishment or change in Capital Reserve requirements (see also paragraph 13.N of the License).

**Note 13:** Each Hotel must have an SCH Certified Revenue Manager to oversee certain revenue generating practices for the Hotel. This service can be contracted through SCH for a monthly cost of \$1,549-\$3,350.

If your Hotel chooses not to participate in the Revenue Management for Hire program, your Hotel must have a dedicated revenue manager on site, be a part of a management company with an above property revenue management structure that has completed the appropriate level of IHG Revenue Management Certification, or use a certified third party revenue service. If a Hotel is operated by a first time Holiday owner-operator, the hotel will be required to join the Revenue Management for Hire (RMH) program at a minimum for the first two years of operation.

**Note 14:** Participation in the IHG Voice Reservation Service program is required. The IHG Voice Reservation Service program is a service whereby reservation calls to your Hotel will be referred to an offsite call center. Participation is defined as sending all rooms reservations calls to the IHG call center. Participation will be monitored for compliance to target benchmarks as available in IHG Voice Dashboard reports in the IHG Reporting platform. The offered services may include reservation services for all calls transferred from the Hotel including new reservations and modifications or cancellations of existing reservations; telephone connections between the Hotel and the reservation office; equipment, management and staffing for the reservation office; and monthly performance reports for the Hotel. These services will require you to pay additional fees (see Item 6 table) and you must sign the IHG Voice Reservation Service Agreement, attached as Exhibit I-1 to this disclosure document.

**Note 15:** One Contact Resolution is a Guest Relations process that allows for increased guest satisfaction by empowering Case Managers to handle calls quickly. Your Hotel is expected to resolve any guest relations issues of a service or quality nature during the guest's stay. Post stay contacts of a service or quality nature will be resolved by Guest Relations Case Managers who will resolve contacts of this nature on behalf of the Hotel, compensating the guest with up to one night's room fee and tax. You must pay a \$150 Case Management Fee per incident as well as any applicable compensation to the guest. Hotels can earn a quarterly fee waiver on service and quality cases by achieving a GR Index in the top 1/3 of the system. Any non-service or quality issues are referred to the Hotel for resolution.

To participate in certain other marketing programs and to comply with the Standards, you may be required to buy advertising materials, products, services, equipment or supplies or other proprietary materials, and you may have to offer promotions or services to guests that may result in expenses or costs to you. Sometimes, these advertising and proprietary materials are available for purchase through Holiday or its affiliates.

**Note 16:** IHG® Rewards Measured Standards are measured and enforced by the Loyalty Program to ensure consistency in the delivery of the program to its members. Standards are based on calendar quarter thresholds. Hotels are measured at the end of each calendar quarter for compliance. If a Hotel fails to meet the threshold for a quarter, it will have one quarter to cure. If a Hotel that has 300 rooms or less fails to cure within that first quarter, it will move to assessment and will be assessed a fee of \$1,000 for each standard failed beginning in the second failed quarter. If a Hotel fails in consecutive quarters, the penalty will escalate to \$2,000 for a failed third quarter and \$3,000 for a failed fourth quarter. The assessment is capped at \$3,000 per quarter per standard. If a Hotel that has more than 300 rooms fails to cure, it will move to assessment and will be assessed a fee of \$1,000 for each standard failed. If a Hotel fails in consecutive quarters, the penalty will escalate to \$2,500 for a failed third quarter and \$5,000 for a failed fourth quarter. The assessment is capped at \$5,000 per quarter per standard.

**Note 17:** Holiday may require your Hotel to participate in the brand's annual employee engagement survey and if so, you will be responsible for all charges associated with administering the program through the brand's designated third-party provider.

**General:** Holiday can require you to settle all outstanding obligations by electronic funds transfer, direct debit or other similar technology designed to accomplish the same purpose. Except as described above, all monthly payments must be made to Holiday by the 15th day of the following month, in Atlanta, Georgia, in U.S. currency, unless otherwise specified by Holiday.

Holiday may consider requests to alter the requirements described in this Item. Holiday will only consider changes under special circumstances and any changes must comply with applicable laws.

**ITEM 7**

**ESTIMATED INITIAL INVESTMENT**

The following table provides an estimate of the initial investment for a 200-room Vignette Collection™ Hotel.

**YOUR ESTIMATED INITIAL INVESTMENT  
FOR A 200-ROOM VIGNETTE COLLECTION™ HOTEL:**

(1) Type of Expenditure	(2) Amount	(3) Method of Payment and When Due	(4) To Whom Payment Is to be Made
Application Fee (Note 1)	\$100,000	With application	Holiday
Property Improvement Plan (“PIP”) fee (Note 1)	\$0 - \$8,500	Before you submit your application	Holiday
Land (2.5 to 5 acres) (Note 2)		As required	Third parties
Building Construction (Note 2) (Note 3)	\$22,000,000 – \$50,000,000  Or \$110,000 - \$250,000 per key	As required	Third parties
Furniture, Fixtures & Equipment (Note 2)	\$4,200,000 - \$8,500,000  Or \$21,000 - \$42,500 per key	As required	Suppliers
Operating Supplies & Equipment (Note 4)	\$600,000 - \$1,300,000	As required	Suppliers
PMS Equipment: Software; Installation & Training; IHG Concerto™ Access & Training; SPS/Payments Equipment; Software; Installation & Training (Note 5)	\$97,000 - \$130,000	Cash or commitment letter from SCH approved leasing or financing company before installation	SCH affiliates or 3rd parties

(1) Type of Expenditure	(2) Amount	(3) Method of Payment and When Due	(4) To Whom Payment Is to be Made
Guest Internet Access – Hardware (IHG Connect) (Note 5)	\$22,500 - \$49,000	Cash or commitment letter from SCH approved leasing or financing company before installation	3rd parties
Key Card System (Note 5)	\$10,000 to \$25,000	As required by suppliers	Suppliers
In Room Entertainment (IHG Studio) (Note 5)	\$15,000 to \$20,000	As required by suppliers	Suppliers
Employee Safety Devices (Note 5)	\$15,000 to \$25,000	As required by suppliers	Suppliers
Public Access Computers (Business Center) (Note 5)	\$3,000 to \$5,000	As required by suppliers or cash or commitment letter from SCH approved leasing or financing company before installation	Suppliers
Primary Identification Sign (including installation, freight, foundation and wiring)	\$50,000 - \$250,000	As required	Suppliers
Openings and Renovations services and training (consultation materials & shipping) to be invoiced within 60 days of license execution by Holiday (Note 6)	\$8,000 plus expenses (one-time charge)	Lump sum within 30 days of invoice	SCH
Initial Certification Training Program (Note 6)	\$9,500 - \$15,000 plus travel expenses	After opening	Holiday
Leading the Brand Training for New Hotels (Note 6)	\$1,500 - \$2,000	Before opening	SCH
Opening Date Extension Fee (Note 7)	Up to \$5,000 plus expenses	Lump sum within 30 days of invoice	SCH
Market Feasibility Study	\$15,000 - \$30,000	As required by Service Provider	Service Provider
Vignette Collection™ R&B Concept Development (Note 8)	\$0-\$125,000	At time of opening or major renovation	SCH or Service Provider
Vignette Collection™ R&B Brand Identity Services & Market Research Study (Note 8)	\$15,000-\$40,000	At time of opening or major renovation	SCH or Service Provider

(1) Type of Expenditure	(2) Amount	(3) Method of Payment and When Due	(4) To Whom Payment Is to be Made
License and Permits (Note 9)		As incurred	Local & State Authorities
Professional Fees (Note 10)	\$500,000 - \$2,000,000	As incurred	Third parties
Security Deposits (Note 11)	\$5,000 - \$35,000	As incurred	Third parties
Insurance (Note 12)	\$43,750 - \$187,500	Before opening	Carrier
Hotel Photography (Note 13)	\$15,000 - \$25,000	At time of opening and post renovation or structural change	Suppliers
Additional Funds and Prepaid Expenses during the initial phase (first 3 months after opening) (Note 14)	\$1,000,000 - \$2,000,000	As incurred	Employees      Suppliers, Utilities
<b>TOTAL</b>	\$28,725,250 - \$64,876,500 (exclusive of land, inestimable items and contingency funds) (Note 15)		

The above chart does not reflect all of your expenses in opening the Hotel, such as interest on construction loans, financing fees, appraisal fees, taxes or other similar costs. There may be other items which Holiday is unable to estimate. You should review these figures carefully with a business advisor before making any decision to purchase the franchise. In Holiday's experience, Hotels built in suburban locations have costs towards the lower half of these ranges while Hotels built in urban locations have costs towards the high end of these ranges.

To Holiday's knowledge, none of the expenditures described above are refundable, unless otherwise indicated.

The initial investment varies depending on, among other things, size, land cost, construction costs, delays, contingencies, amenities and economic conditions.

Holiday does not offer any formal program for direct or indirect financing. Holiday, SCH or its affiliate, General Innkeeping Acceptance Corporation ("GIAC") may furnish loans or guaranties to franchisees (See Item 10).

These estimates do not include the cost of land, and contingency funds or other items that Holiday cannot estimate.

**NOTES:**

**Note 1:** Certain fees paid by franchisees are payable to Holiday and either SCH or Holiday may collect those amounts from franchisees.

**Note 2:** Since land values vary so dramatically, it is not possible for Holiday to estimate the amount required to purchase or lease the land necessary to operate the Hotel. You can develop your own estimate by applying the acreage requirements to the local land sale or lease costs in the geographic area in which the Hotel will be situated. The cost estimates listed above for construction of the building and for furniture, fixtures and equipment are for newly developed Hotels rather than conversions. Holiday requires that qualified design professionals prepare specifications and décor schemes for all furniture, fixtures, and equipment for your specific site. You must commission and pay your designers

directly. Your land acquisition costs will vary depending upon a multitude of factors including whether the property is purchased or leased, the size and location of the property, and the availability of financing on commercially reasonable terms.

**Note 3:** Building construction costs vary greatly from state to state and region to region depending upon material, labor costs, and other variables. Construction costs may also vary depending upon soil and environmental conditions, availability of utilities to the site, and the topography of the site. The estimate does not take into account special local requirements such as earthquake requirements or impact fees, or specific local aesthetic requirements or remedial work that may be required to bring a building into regulatory compliance or within the Standards. An architect approved by Holiday must prepare plans for a specific site and construction type. You must commission and pay your architect directly. Holiday may in the future require use of prototype plans, however Holiday does not currently provide or mandate them. If Holiday requires you to use prototype plans, an architect approved by Holiday must adapt these plans for your specific site and construction type. Before commencing your architectural plans and specifications, you must attend a kick-off meeting for consultation and coordination with Holiday. Your plans and specifications must conform to the Standards, and must be approved by Holiday before you begin construction. You must provide Holiday with periodic milestone updates of your development progress as required by Holiday.

**Note 4:** The estimates for this category include the base supply and stock of equipment and supplies necessary to begin operations of the Hotel. Examples of these items would include: hardware, tools, linens, employee uniforms, housekeeping supplies, office and guestroom equipment, paper goods, office and cleaning supplies, shelving and storage, glass and china ware, utensils, banquet equipment, amenities, among others.

**Note 5:** The estimated cost of the Opera or Opera Xpress PMS assumes you purchase the equipment from or through SCH and includes the cost of the basic equipment installation and configuration; training in the use of the PMS; and IHG Concerto™ revenue functionality; and expenses for travel, meals and lodging related to the IHG Concerto™ training. It does not include additional IHG Concerto™ training, additional hardware or software, the cost of additional Manuals (approximately \$50 each), shipping and handling, insurance premiums or taxes. Hardware warranties are purchased at the initial time of procurement. Food, lodging and transportation expenses of your employees and/or Holiday employees and contractors are also not included and can range from \$500 to \$2,500 per person.

The estimated cost of the SPS solution assumes you purchase the equipment from or through SCH and includes the cost of the basic equipment, installation and configuration; training in the use of the payment program devices and software, and expenses for travel, meals and lodging. Hardware warranties are purchased at the initial time of procurement.

The Guest Internet Access (“GIA”) Hardware (IHG Connect) estimates for infrastructure needs can vary greatly by location and building type. Actual costs can only be obtained once Integrator site surveys are completed, due to the unique building and construction circumstances of a given property. The site survey will help determine the sizing, number of switches, number of access points, etc. through a WiFi heat map coverage diagram. You must purchase or lease all equipment from Integrators whose products and services meet Holiday’s specifications.

Vignette Collection™ Hotels must utilize an approved Keycard System that meets brand requirements. The estimated initial cost for the Keycard System solution purchase and installation will range from \$10,000 to \$25,000. This includes the server, key encoders, installation, and support. It does not include the cost of the locks for the doors themselves. You must obtain ongoing maintenance and support for the required Keycard System software, including upgrades and new versions. You must also obtain ongoing equipment maintenance for the Keycard System hardware. The Keycard System provider will bill and collect the fee from you for the required Keycard System hardware / software support. The costs will vary depending on the Hotel’s specific technology needs, including the number of key encoders and servers at the Hotel. The Keycard System must interface with the Property Management System (PMS).

The estimated costs for IHG Studio are driven by the number of guest rooms, servers, Chromecast devices, set top boxes, installation costs, etc.

The estimated costs for Employee Safety Devices will vary based on the number of Hotel rooms. Employee Safety Devices must be procured and installed by a SCH-approved vendor and meet defined requirements.

The estimated costs for Public Access Computers will vary based on the number of workstations and multi-function printers installed, as well as the vendor chosen. Public Access Computers must utilize SCH-approved protection software and include enrollment in a 24x7 support program offered by a SCH-approved vendor. You may be required to pay the costs associated with the Public Access Computers to SCH as a pass through, whereby SCH will collect the amount due from franchisees on behalf of, and remit same to, the suppliers.

**Note 6:** The Openings and Renovations program provides services and training required to open a Hotel in the System including IHG Concerto™ Ramp Up, Key Programs Training, post-opening support and other pre-opening consultations. The Openings and Renovations fee covers up to two participants per Hotel. This fee is \$8,000. The fee covers pre-opening support, including select training, materials and post-opening support. Additional attendees will be required to pay a separate registration fee, which will be \$250 per additional participant for the IHG Concerto™ Ramp Up program if they attend the training in person. Participants from all Hotels are responsible for their own airfare, lodging, meals and other miscellaneous expenses for the program or workshop for their brand group.

Your General Manager, Front Office Manager, Director of Sales and F&B Manager must each attend an initial certification training program. The cost for the training program will range from \$1,125 to \$1,995 per trainee. For in-person classes, you must pay for any travel or training expenses of your trainees. In addition, your General Manager and Guest Experience Champion must each complete the Leading the Brand Training for New Hotels certification prior to the Hotel opening. The cost for the training event, initial training materials, and subsequent consulting support ranges from \$1,500 to \$2,000 for Vignette Collection™ Hotels. You may be required to purchase subsequent training materials to fulfill the ongoing training of new employees.

**Note 7:** These fees will only apply if it is necessary to reschedule your Hotel's opening date. In the event that you need to reschedule your opening, you may be charged a fee of up to \$5,000 per extension. Holiday must approve your extension request in writing and you must pay any expenses Holiday incurs in processing the extension request.

**Note 8:** The Restaurant and Beverage (R&B) Concept Development Fee only applies if you will be managing a full-service restaurant independently and would not apply if you engage a third party R&B manager to operate your Hotel's restaurant. The R&B Concept Development Fee is determined by your individual needs and management company capabilities. Developing a unique R&B concept is your responsibility and your concept must be approved by Holiday. This fee would typically include the following: overall concept development including a concept description, target demographics, description of look/feel/ambience, cuisine program/spectrum, beverage program/spectrum, tabletop design and selection. Additionally, this fee may include food and beverage menu ideation, food and cocktail recipe development, operations tools and opening and training support as needed.

All Vignette Collection™ Hotels must use the R&B Brand Identity Services and receive a Market Research Study. Brand Identity Services typically include naming, logo development and creation of collateral (including menus, coaster, business cards, ephemera development), which is to be professionally created. Additionally, this may include tabletop suggestions and specifications; uniform suggestions and specifications; and, OS&E suggestions and specifications. A Market Research Study is required to determine the best fit and initial direction for your Hotel's restaurant based on, though not limited to, location, size and local competition.

**Note 9:** The licenses and permits you must obtain to operate the Hotel vary depending upon the state, county or other political subdivision in which the Hotel is situated.

**Note 10:** The estimates for this category include charges imposed by your insurance carriers, attorneys, accountants, architects, engineers, interior designers and various technical services expenses. You are required to hire a professional interior designer and architect. Your selection of a professional interior designer must be approved by Holiday before you commence construction of your Hotel. The actual amount will depend solely upon arrangements you make, including whether your Hotel is newly constructed or being converted. Fees are tied to scope of work (size and complexity).

**Note 11:** The security deposits you must pay to utilities, lessors, and vendors or suppliers of other products or services will depend on the location of the Hotel.

**Note 12:** Holiday's specifications for the amount and type of insurance coverage required are in paragraph 9.B of the License. If you fail to procure or maintain the insurance coverages and limits set forth in paragraph 9.B, Holiday will have the right and authority (but not the obligation) to procure such insurance at your cost, including any costs incurred by Holiday for procurement and maintenance of such insurance. Holiday currently requires that you obtain a commercial general liability insurance policy (including coverage for product liability, completed operations, contractual liability, host liquor liability and fire legal liability) and business automobile liability insurance policy (including hired and non-owned liability) with single limit coverage for personal and bodily injury and property damage of at least \$15,000,000 per occurrence naming Holiday, its parent, subsidiaries and affiliates as additional insureds. In connection with all construction at the Hotel, you must require your general contractor to maintain commercial general liability insurance (including coverage for product liability, completed operations and contractual liability) and business automobile liability insurance (including hired and non-owned liability) with limits of at least \$15,000,000 per occurrence for personal and bodily injury and property damage naming Holiday, its parents, subsidiaries and affiliates as additional insureds. Holiday also requires you to maintain employment practices liability insurance (including coverage for harassment, discrimination and wrongful termination and covering defense and indemnity costs) naming Holiday, SCH and their parents, subsidiaries and affiliates as additional insureds with a minimum limit in the aggregate of \$1,000,000. The holder of the liquor license must maintain liquor liability insurance with single limit coverage for personal and bodily injury and property damage of at least \$15,000,000 for each occurrence naming Holiday and its parent, subsidiaries and affiliates, (and the Licensee if applicable) as additional insureds. You must also obtain: (i) employer's liability with minimum limits of \$1,000,000 per occurrence; (ii) worker's compensation insurance; (iii) business interruption insurance to ensure the royalties, Service Contributions and any other sums payable to us (the policy should insure against 'all risks' of physical loss or damage, and be endorsed to provide for payments to be made directly to Holiday). Currently, liability insurance premiums for required coverages can range from \$43,750 - \$187,500 or higher depending on such factors as jurisdiction, exposures, type of hotels, loss history, location and size of hotels, payroll size and other factors.

**Note 13:** You will be responsible for contracting with a brand identified and approved Hotel photography supplier to produce a minimum of thirty-four brand specified Hotel photographs for use in the brand and SCH sales and marketing materials. Additional photos may be required depending on room types, if rooms are sold with an attribute and for new room inventory types. Photographs must be completed in accordance with IHG photography guidelines within 45 days of opening as a Vignette Collection™ Hotel, as well as within 45 days after significant Hotel renovations.

**Note 14:** This estimates your initial operating expenses for three months after opening. These figures include opening advertising programs, payroll costs, royalties, Services Contribution payments, hardware/software support, utility charges, and other supply costs. These figures are estimates and Holiday cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as: how closely you follow Holiday's methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for Vignette Collection™ Hotel services; the prevailing wage rate; competition; and sales level reached during the initial period.

**Note 15:** This total estimated initial investment does not include any real estate costs, contingency, finance charges, interest or debt service obligations. You should review these figures carefully with a business advisor before purchasing the license.

In compiling these estimates, Holiday has relied upon over 50 years of experience in the hotel franchise industry. The above chart may not reflect all of your expenses in opening the Hotel. There may be other items which Holiday is unable to estimate. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.

## ITEM 8

### **RESTRICTIONS ON SOURCES OF PRODUCTS AND SERVICES**

Except as described below, you are not required to purchase or lease products or services from Holiday or its affiliates, or from suppliers approved by Holiday, or under Holiday's specifications.

#### **Standards and Specifications:**

You must build, design, furnish, equip, decorate and supply the Hotel subject to Holiday's approval of your plans. You must equip the Hotel with products which meet the Standards and specifications, including those described in the License and the Standards (see also Item 11). All modernization, renovation and upgrading of your Hotel must also meet the Standards and specifications. Holiday issues specifications by brand of product and in many instances by brand "or equivalent," by physical characteristics and by other methods, depending on the product or service involved. Holiday can make changes to the Standards. These changes will become binding on you as if originally set forth in the Standards. Holiday will provide you with explanation of any change, in writing, at least 30 days before it goes into effect.

Holiday estimates that the Standards and specifications will apply to 90% to 95% of your purchases and leases in establishing your Hotel and its continued operation during the Term of the License Agreement. If you purchase or lease any equipment or supplies not previously approved by Holiday, it may require you or the manufacturer to submit a written request for Holiday's approval. Holiday reserves the right to require removal of any non-approved product installed at the Hotel. While Holiday has no obligation to respond within a certain time frame, it expects to do so within 45 to 60 days from receipt of your request. Holiday may require certain information, tests and inspections, at no expense to Holiday, as a condition of approval.

Holiday requires you to hire qualified, licensed, professional advisors in the form of a project team, which may consist of, depending on complexity and scope of the work, an architect, interior designer, engineer or other related specialist when building or renovating an IHG hotel. If you cannot find such licensed professional help, contact your Openings and Renovations Regional Director. All architects and interior designers must be approved by Holiday prior to the project commencing. Any design work submitted by unqualified individuals hired by you will be rejected and your Hotel can be subject to Plan default, resulting in an assessment of fees under the terms of your License. The fee for such Plan default will be up to \$5,000. At our sole discretion, you may be required to remove any non-approved product installed in your Hotel that has not been approved by IHG Plan Review explicitly in writing before installation.

At the time Holiday and you sign a License and before your Hotel opens, SCH may determine to fund your purchases from approved suppliers and then invoice you. You must reimburse SCH for these purchases. If Holiday funds your purchase before your Hotel opens, Holiday will not receive fees from approved suppliers.

#### **Suppliers:**

If Holiday requires you to purchase equipment, furnishings, supplies or other products for the Hotel from a designated or approved supplier or service provider in the License, the Standards, or other communication to you, then you must purchase the mandated product unless you receive prior approval from Holiday to purchase such products from another source whose products meet such specifications.

Holiday can designate the designers, architects, contractors and suppliers who will perform Renewal Work and brand refresh work at your Hotel and who will provide brand specified products, such as fixtures or furniture, and services. You may otherwise purchase your equipment, furnishings and supplies for the Hotel from any source, provided that the products meet the specifications in the Standards, except for suppliers of certain components of the property-based technology and telecommunications systems and as may be noted elsewhere in this disclosure document. Holiday may provide you with information and recommendations concerning firms which offer products and services (which the License and/or the Standards require you to use) which are necessary and useful to the operation of a Hotel, or which meet the Standards and specifications. However, Holiday has no ongoing obligation to provide purchasing information to you, and Holiday's practice and approach to this activity may change at any time. Your License does not require Holiday to engage in or continue these voluntary activities.

In furnishing supplier or service provider information and making recommendations, Holiday uses its business judgment regarding the long-term interests of the System as a whole, based on its information at that time concerning quality, performance, competitive pricing and similar factors. However, by identifying or recommending a supplier or service provider, Holiday makes no warranty to you of these or any other factors. Your use of an identified or recommended supplier or service provider, selling products or services meeting the Standards and specifications may make it easier for you to comply with the Standards and specifications, but it is not a substitute for compliance.

While Holiday may, from time to time, communicate with you or your suppliers/service providers regarding supply/service provider issues and take steps to improve performance or resolve complaints, Holiday has no responsibility for the financial condition or performance of any supplier or service provider.

Suppliers may offer Holiday the opportunity to take advantage of funds to support co-op marketing, training and other services that support the System at national and Hotel levels. When these options are available and selected, Holiday uses these funds as designated, and to the extent possible to benefit the System, and the systems of Holiday's other brands which purchase from suppliers. SCH and its affiliates may enter agreements with suppliers and receive revenue attributable to purchases by franchisees and by SCH and its affiliates.

Nothing in your License prevents Holiday from having an ownership interest in any other business, including firms providing products or services to you or providing procurement services to you. If Holiday has, or later acquires, an ownership interest in a product or service provider, Holiday has no obligation to maintain that interest or to refrain from disposing of it as Holiday sees fit.

No officer of Holiday currently owns any interest in an approved supplier or service provider.

SCH currently utilizes a mixed resource model for the supply chain management functions. In the future, the procurement program may be comprised solely of SCH employees. The procurement program develops and supports purchasing programs and provides System franchisees with several valuable services. You can contact the procurement program by mail c/o IHG Procurement Program, Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346 or by telephone during normal business hours of Monday – Friday 8:30AM – 5:00PM at its toll free support line 855-466-7877. Purchasing professionals will be available to assist you with any questions you may have regarding sourcing of products or services through the IHG Procurement Program.

IHG runs a procurement program, named the "IHG Procurement Program", with the endorsement of the IHG Owners Association. The IHG Procurement Program seeks to deliver value and lower cost purchasing opportunities and options to its customers ("Programs"), including Holiday's franchisees, as explained below. You are, however, under no obligation to use the IHG Procurement Program.

If you become an IHG Procurement Program participant, you will purchase goods and services directly from suppliers at the IHG Procurement Program's negotiated prices. The relationship between franchisee and supplier is that of buyer and seller. You are not required to purchase from the IHG

Procurement Program's suppliers or participate in the IHG Procurement Program in any way and you are free to purchase goods and services from any supplier, so long as the supplier fully complies with Holiday's and SCH's specifications and the Standards, unless Holiday requires you to purchase a product from a designated or approved supplier in the License, the Standards or other communication to you.

The IHG Procurement Program operates on a cost recovery basis with fees for both procurement and technical ordering transaction services included in the supplier invoiced price. Prices paid by franchisees for goods and services as a participant of IHG Marketplace and/or under a Brand Standard/Specification Program will include up to a 3% cost recovery fee. These fees cover the resource, travel, technology and Program related costs for the IHG Procurement Program. Occasionally, the prices will include allowances and rebates paid to the IHG Procurement Program or franchisees directly by suppliers on your purchases. Allowances and rebates received by the IHG Procurement Program or properties directly from suppliers will generally range from approximately 1% to 5% of the amount of the invoice price for the goods and services purchased by you from suppliers participating in the Programs. All supplier allowances and rebates will be fully transparent to the franchise buyers and distributed to the Hotels either directly from suppliers or through the IHG Procurement Program administrative group.

**Signage:**

Your Hotel must display a primary sign that meets Holiday's specifications. The total signage package, including all additional signage, must also meet Holiday's specifications and it must be purchased from a Holiday approved sign vendor. A post-installation inspection fee will be included in the price from the Holiday approved sign vendor. Only Holiday approved sign suppliers are authorized to manufacture and install exterior signage.

**Reservation System and Computerized Enhancements:**

You must purchase equipment, software and services for property-level technology and telecommunications systems from third-party vendors whom Holiday designates or who meet Holiday's specifications. See Item 11.

**Long-Distance Telecommunications, Program Management Commissions and Miscellaneous Services:**

SCH has negotiated rates which are on file with the Federal Communications Commission with certain providers of long-distance telecommunication services to System franchisees, such as AT&T and Verizon, in consideration for assistance, program support or other services SCH renders to the providers in connection with their sales to franchisees. You do not have to use these providers.

**Insurance:**

Holiday's specifications for the amounts and types of required insurance coverage are specifically described in paragraph 9.B of the License. If you fail to procure or maintain the insurance coverages and limits set forth in paragraph 9.B, Holiday will have the right and authority (but not the obligation) to procure such insurance at your cost, including any costs incurred by Holiday for procurement and maintenance of such insurance. Holiday currently requires that you obtain a general liability insurance policy (including coverage for product liability, completed operations, contractual liability, host liquor liability and fire legal liability) and business automobile liability insurance policy (including hired and non-owned liability) with single limit coverage for personal and bodily injury and property damage of at least \$15,000,000 per occurrence naming Holiday, SCH and their parents, subsidiaries and affiliates as additional insureds. In connection with all construction at the Hotel, you must require your general contractor to maintain commercial general liability insurance (including coverage for product liability, completed operations and contractual liability) and business automobile liability insurance (including hired and non-owned liability) with limits of at least \$15,000,000 per occurrence for personal and bodily injury and property damage naming Holiday, its parents, subsidiaries and affiliates as additional insureds. Holiday also requires that you obtain employment practices liability insurance (including coverage for harassment, discrimination and wrongful termination and covering defense and indemnity

costs) with a limit of \$1,000,000 per occurrence and in the aggregate. The holder of the liquor license must maintain liquor liability insurance with single limit coverage for personal and bodily injury and property damage of at least \$15,000,000 per occurrence naming Holiday and its parent, subsidiaries and affiliates, (and the Licensee if applicable) as additional insureds. You must also obtain: (i) employer's liability with minimum limits of \$1,000,000 per occurrence; (ii) worker's compensation insurance; (iii) business interruption insurance to ensure the royalties, Service Contributions and any other sums payable to us (the policy should insure against 'all risks' of physical loss or damage, and be endorsed to provide for payments to be made directly to Holiday). Currently, liability insurance premiums for required coverages can range from \$43,750 - \$187,500 or higher depending on such factors as jurisdiction, exposures, type of hotel, loss history, location and size of hotel, payroll size and other factors.

#### **“Private Network” Connecting Services:**

You must purchase “private network” connecting services, or another solution Holiday specifies, for use in communicating with the Reservation System from Holiday's designated vendor. Your Hotel's private network will be connected to a fully managed router service with a certified interface to SCH's proprietary systems.

#### **Property Management System:**

You must install the certified equipment specified for the PMS as required by SCH. You must request a waiver to use an alternative source. The PMS equipment is also used for accessing the Reservation System. PMS equipment software and maintenance are described in the Master Technology Services Agreement (Exhibit C). You must purchase PMS training, implementation, and hardware and software support services (see Item 6). You must also enter into a Joinder Agreement (can be found within Exhibit C) with Hewlett-Packard Inc. (“HP”) in order to obtain the PMS system, hardware, software and deployment services at your Hotel and for the procurement and installation of hardware, software, and installation services of a credit card solution at your Hotel.

Hotels will operate a computerized property management system (“PMS”) that has been certified by SCH and must maintain the PMS in conformance with the Standards of SCH. The PMS must have a database schema and shell which is approved by SCH, in order for the interface from the PMS to the Reservation System to work correctly. Hotels will be responsible for establishing and maintaining proper application access control to align with Payment Card Industry Data Security Standards (PCI-DSS). Operating systems, database, and other programs must be maintained with current approved security patches that are fully supported by the software vendors. The PMS must be periodically updated and maintained to conform to SCH approved software versions, technology advancements and security requirements. This may require certain hardware and/or software components to be replaced or upgraded. At a minimum, the PMS hardware and software must be replaced at least every 48 months. PMS hardware includes server(s), workstations, printers, monitors, ups, back-up device, and associated network components.

In the twelve months ending December 31, 2020, SCH and its subsidiaries' net revenue from franchise purchases of PMS and Reservation System equipment, software, training and support services (“information technology program purchases”) was \$588,444, as indicated in the year-end financial statement of the Deployment Profit and Loss Statement for the Global Technology division. SCH retains a portion of the project management charges from franchisee information technology program purchases. Holiday estimates that more than 95% of the gross revenues from franchisee information technology program purchases are therefore paid over directly to information technology program vendors and are not retained by SCH or Holiday. (The financial information provided in the Profit and Loss Statement for the Global Technology division is not generally available to franchisees).

SCH has selected Opera or Opera Xpress PMS solution as the required property management system to interface with and access the Reservation System for Vignette Collection™ Hotels. You must enter into a license agreement with the supplier for this PMS option. You must also obtain from the supplier of the PMS, for a fee, ongoing maintenance and support for all other PMS components, including

software, PMS software upgrades and required brand standard system interfaces to the PMS (see Item 11). Oracle America, Inc. is the PMS Provider for the Opera property management system.

You must also pay support fees for the other components of property-level systems, such as PMS equipment maintenance, and for other systems which interface to the Opera or Opera Xpress PMS system; such as the telecommunications system, the electronic door locking and keycard system, and the specialized sales software. Hardware and software maintenance fees may vary based on the number of rooms at the Hotel.

SCH's criteria and procedures for approval of this required supplier of the PMS software and its ongoing maintenance and support are not readily available to System franchisees, but SCH will provide them at your request. SCH will notify you of any discontinuation of these services.

#### **Secure Payment Solution:**

SCH administers a computerized payment card processing program, Secure Payment Solution ("SPS"). SPS is a data security process designed to remove certain credit card information from IHG systems. Using PCI certified payment terminals, credit card data will be encrypted and converted to tokens before entering the PMS. SCH had previously contracted with ACI Worldwide Corp. ("ACI") to provide the tokenization application services. This contract is in the process of winding down. Following a review of the program and after engaging with several potential vendors, SCH contracted with FreedomPay to be the new service provider for the SPS. Implementation of FreedomPay's technology solution started in 2021 and will continue until the second half of 2023. During this phased rollout, the number of hotels being serviced by ACI will gradually diminish. All hotels are required to use SPS or such successor payments program as may be implemented by SCH. Hardware and software systems required to connect must be fully operational when the hotel opens, with appropriate management and staff trained and competent to operate SPS at all times. Each franchisee will be required to enter into a merchant processing application and agreement with FDS Holdings, Inc. (aka 'First Data', as successor in interest to Banc of America Merchant Services, LLC and First Data Services, LLC), the SCH-approved merchant service provider, and a participation agreement with SCH (see Exhibit I-4). The fees paid to FreedomPay include a \$0.075 per settled transaction fee, of which \$0.070 is paid to SCH as the IHG Security Fee.

#### **Guest Internet Access – Bandwidth (IHG Connect):**

For Guest Internet Access ("GIA") Bandwidth, a Hotel will be required to use an approved SCH-certified provider and to sign an IHG Direct Hotel Participation Agreement with AT&T, Beyond Reach A CCR Company, Century Link, Circle Computer Resources, Comcast, Cox, GTT, Shaw Telecom, Spectrum, Verizon or such other provider as may be approved by SCH from time to time, the form of which is attached as Exhibit I-5 to this disclosure document. Estimates for infrastructure needs can vary greatly by location. Actual costs can only be obtained once vendor site surveys are completed, due to the unique building and construction circumstances of a given property.

#### **Guest Internet Access – Hardware (IHG Connect):**

For Guest Internet Access ("GIA") Hardware, a Hotel will be required to install SCH-approved Wi-Fi equipment and use an SCH-approved integrator (an "Integrator") for the installation of Wi-Fi equipment. Hotels are required to enter into an agreement with one of the following Integrators (or such other Integrators as may be approved by SCH from time to time): Hospitality Wi-Fi, Ovation Networks, NCR, Parity Technology Solutions, Single Digits and Sonifi Solutions. Estimates for infrastructure needs can vary greatly by location and building type. Due to unique building and construction of any given property, actual costs can only be obtained once Integrator site surveys are completed. The site survey will help determine the number and types of Wi-Fi equipment through a Wi-Fi heat map coverage diagram (see Item 6, Note 3).

### **Keycard System:**

Vignette Collection™ Hotels must utilize an approved Keycard System that meets brand requirements. The estimated initial cost for the Keycard System solution purchase and installation will range from \$10,000 to \$25,000. This includes the server, key encoders, installation, and support. It does not include the cost of the locks for the doors themselves. You must obtain ongoing maintenance and support for the required Keycard System software, including upgrades and new versions. You must also obtain ongoing equipment maintenance for the Keycard System hardware. The Keycard System provider will bill and collect the fee from you for the required Keycard System hardware / software support. The costs will vary depending on the Hotel's specific technology needs, including the number of key encoders and servers at the Hotel. The Keycard System must interface with the Property Management System (PMS).

### **Televisions:**

Hotels are required to provide televisions that meet the technical specification requirements and minimal diagonal screen size for in-room and public spaces.

### **In-Room Entertainment (IHG Studio):**

Hotels are required to install and maintain approved TV sets and/or STBs that are compatible with IHG Studio, use an approved SCH-certified integrator to install the equipment, and must enter into an agreement with one of them. Monthly service fees will include a base per-room fee for guest support.

### **Employee Safety Devices:**

Hotels are responsible for installing an alert system that enables employees to notify hotel management of an emergency with the push of a button ("Employee Safety Devices"). The Employee Safety Devices must be available to all employees that work in guest rooms, must instantly signal guest room and guest floor location when activated, must continuously update guest room and guest floor location, and must be tested every six months. In addition, all new employees, including contract and temporary, must receive training on the Employee Safety Devices within the first 14 days of employment. Employee Safety Devices must be procured and installed by an approved supplier and meet defined requirements set forth in the Standards. You may be required to sign a participation agreement with an approved vendor for these services.

### **Public Access Computers:**

Hotels are required to install designated workstations and a multi-function printer, providing complementary internet access to Hotel guests in the Business Center ("Public Access Computers"). The Public Access Computers must be available 24 hours a day, must utilize SCH-approved security protection software and must include enrollment in a 24x7 support program offered by an SCH-approved vendor. In addition, all Public Access Computers are required to be refreshed every four years, a minimum of one computer must have Microsoft Office, and all must operate at the same or greater bandwidth port speed as other internet enabled devices on the Guest Internet Access network. You may be required to sign a participation agreement with an approved vendor for these services.

### **IHG Merlin System:**

SCH has designed a communication service, (<http://ihgmerlin.com>) known as "IHG Merlin", and its messaging tool, currently known as "Hotel Bulletin", which are the primary means of sending information from Holiday and SCH to franchisees and in some cases, this may be the only manner in which Holiday and SCH communicate with Hotels and franchisees. IHG Merlin and Hotel Bulletin will require you to access the Internet via third-party computer network communications service ("Internet Service Provider" or "ISP").

IHG Merlin is an electronic information library providing up-to-the-minute information and documentation from SCH at your fingertips. IHG Merlin was created solely for Holiday's various brand groups of hotels and their employees. In some cases, information may be distributed to System Hotels only through IHG

Merlin. Information may include: the Standards, PMS Manual, newsletters and informational memos from Holiday or SCH, Marketing Solicitations, etc.

To access IHG Merlin, you must select and pay a monthly fee for an ISP which meets the minimum specifications established by SCH. The monthly fee will include Internet access and support. This access will provide you with an e-mail account and access to sites on the Internet and World Wide Web. You may select an ISP from any source as long as it meets SCH's exact specifications.

IHG Merlin requires a Microsoft Windows based (Windows 10 Professional or newer OS) PC and printer configured to SCH's specifications. You may purchase the equipment from any source as long as it meets SCH's exact specifications. SCH requires ongoing maintenance and support services of equipment that you may purchase from a third party.

IHG Merlin houses proprietary information to Holiday and its brands. Information you receive from IHG Merlin may be used exclusively in performance of your rights and obligations under your License with Holiday regarding an IHG-branded hotel only. All such information must otherwise be treated as proprietary to Holiday and SCH and confidential. Your use and access will be limited in accordance with Holiday's or SCH's express terms and conditions.

Other than as described above, neither Holiday nor SCH derives any other income from your purchase or use of the above described computer systems.

### **Coca-Cola® Agreement:**

Pursuant to the Standards, you are required to serve and/or provide Coca-Cola carbonated beverage brands exclusively. All Hotels must serve Simply Orange Juice unless an alternative, freshly squeezed orange juice is provided.

You must sign an Participation Agreement with an authorized bottler of The Coca-Cola Company ("TCCC"), a copy of which is attached as Exhibit I-3. With respect to bottled/canned beverages, this only applies to Hotels that are located in the geographic territory in which a given bottler is authorized to distribute, promote, market, and sell Bottler bottled/canned beverages.

You may not serve or sell carbonated or juice beverages that are in competition with Coca-Cola beverages. Vending machine offerings must be Coca-Cola bottled/canned beverages. At meetings and events, carbonated and juice beverages must be Coca-Cola brands unless an individual client insists otherwise. When minibars are provided, they must include Coca-Cola bottled/canned beverages. Non-leased restaurant and retail shops must include Coca-Cola branded beverages. You must participate in Coca-Cola promotional programs as directed by Holiday. Hotels with IHG approved leased and/or franchised outlets are not required to comply with the Coca-Cola requirements in those establishments, but may do so at their discretion.

Fountain beverages, bottled/canned beverages, juices, teas, and smoothies manufactured by PepsiCo are not permitted. There are certain permitted exceptions that may be granted by Holiday pursuant to a waiver application process.

TCCC provides certain funding that is based on the volume of Coca-Cola products sold in System Hotels. Most of such funding is administered by a cross-functional Business Partnership Team with representatives from TCCC and Holiday, who work together to identify and execute opportunities to create value for TCCC and for the System. Some funding is received by SCH on behalf of the System and utilized by SCH for the benefit of the System and/or to promote the sale of Coca-Cola Beverages and Bottler bottled/canned beverages throughout the System.

### **OTHER PURCHASES:**

Holiday or its affiliates may also offer you, on a non-exclusive basis, additional advertising materials, products, services, equipment or supplies. Holiday may earn a profit from these sales, but you have no obligation to purchase any of these products, services, equipment or supplies from Holiday or its

affiliates. Holiday does not currently provide any material benefits (i.e., re-licensing or granting additional licenses) to a franchisee based on its use of a designated or approved supply source.

## ITEM 9

### FRANCHISEE'S OBLIGATIONS

This table lists your principal obligations under the License and other agreements. It will help you find more detailed information about your obligations in these agreements and in other items of this disclosure document.

Obligation	Section In Agreement	Item in Disclosure Document
a. Site selection and acquisition/lease	License: 1.A, Attachment A	Items 7 & 11
b. Pre-opening purchases/leases	License: 3.A & 8.B MTSA: 4.3, 4.4 & Attachment 4-3 to Schedule 4	Items 5, 6 & 7
c. Site development and other pre-opening requirements	License: 13.I & Attachment B MTSA: 4.3, 4.4 & Attachment 4-3 to Schedule 4	Items 7 & 11
d. Initial and ongoing training	License: 3.A & 4.A MTSA: Attachments 4-1 and 4-3 to Schedule 4	Items 5, 6, 7, 8 & 11
e. Opening	License: 13.I & Attachments A & B	Items 5 & 11
f. Fees	License: 3.B MTSA: 5.0 & Attachment 4-3 to Schedule 4	Items 5, 6 & 7
g. Compliance with the Standards and policies/Operating Standards	License: 3.A, 4.E & F & 5	Item 11
h. Trademarks and proprietary information	License: 3.A, 6 & 12.B MTSA: 6.0	Items 13 & 14
i. Restrictions on products/services offered	License: 3.A MTSA: 3, 4, Schedules 2 and 3 & Attachments 4-1 and 4-3 to Schedule 4	Items 8 & 16
j. Warranty and customer service requirements	License: 3.A MTSA: 9.2.1	Item 11
k. Territorial development and sales quotas	None	
l. Ongoing product/service purchases	License: 3.A & 8.B MTSA: , 4.3 & Attachment 4-1 to Schedule 4	Item 8
m. Maintenance, appearance and remodeling requirements	License: 3.A, 3.D, 4.E, 10, 13.I and 13.N MTSA: 4 & Attachments 4-1 and 4-2 to Schedule 4	Items 5, 6 & 11
n. Insurance	License: 8.B & 8.C MTSA: 2.1	Item 7
o. Advertising	License: 3.A & 3.B	Items 5, 6 & 11
p. Indemnification	License: 8.A MTSA: 2.1 & 8.1.5	Item 6
q. Owner's participation/management/staffing	License: 9.J & 9.K	Items 6, 11 & 15
r. Records/reports	License: 7	Item 6
s. Inspections/audits	License: 3.A, 7.C & 13.I MTSA: 12 & 13.1	Items 6 & 11
t. Transfer	License: 9 & 13.O	Item 17

Obligation	Section In Agreement	Item in Disclosure Document
u. Renewal	None	Item 17
v. Post-termination obligations	License: 11.D & E MTSA: 8.1.3(iii), 8.1.3(iv), 13.1 & Attachment 4-1 to Schedule 4	Item 17
w. Non-competition covenants	License: 3.A (13)	Items 16 & 17
x. Dispute resolution	License: 13.A-H, J & K MTSA: 2.1	Item 17
y. Other: Capital Reserve <sup>1</sup>	License: 13.N and 3.A(7)(i)	Item 6
z. Other: Guaranty	Attached to the License	Item 17

## **ITEM 10**

### **FINANCING**

Holiday does not offer any formal program for direct or indirect financing. Holiday, SCH or its affiliate, General Innkeeping Acceptance Corporation (“GIAC”) may furnish loans or guaranties to franchisees. Holiday, SCH and GIAC consider making loans or guaranties under terms and conditions that would be negotiated on a case by case basis with the prospective franchisee and any decision to make a loan or provide a guaranty would be made in the judgment of Holiday, SCH or GIAC alone, and conditioned upon approval of the Executive Committee and Board of Directors. It is your responsibility alone to obtain adequate financing for all expenses related to the development, opening and operation of the Hotel.

## **ITEM 11**

### **FRANCHISOR’S ASSISTANCE, ADVERTISING, COMPUTER SYSTEMS AND TRAINING**

**Except as listed below, Holiday is not required to provide you with any assistance.** Holiday can perform any or all of its obligations to you directly, or through its parents, affiliates, subsidiaries or other designees. For example, SCH performs many of the activities described in this disclosure document.

#### **Assistance Before the Hotel Opens:**

Holiday is not responsible for acquiring the site for the location of your Hotel (paragraph 1.A of the License). Holiday’s representative may make a personal inspection of the site and the surrounding area. Although Holiday does not grant site approval, it may deny site approval for a Hotel. Conforming the site to federal, state and local laws, ordinances, and building codes and obtaining required permits (i.e. health, sanitation, building, driveway, utility and sign permits, etc.) is your responsibility.

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<sup>1</sup> In addition to your obligation to repair and maintain the Hotel on an ongoing basis, and regardless whether Holiday has required you to establish a Capital Reserve, you must complete significant renovations of the Hotel, including, but not limited to, the public areas, guest rooms and guest room corridors. The mandatory renovations include replacement of Soft Goods at least every five (5) to six (6) years after such Soft Goods were installed and replacement of Case Goods at least every ten (10) to twelve (12) years after such Case Goods were installed, although earlier or more frequent renovations or replacements may be required to maintain compliance with the Standards, quality and guest satisfaction programs or to remove risk of injury to persons or property and to comply with legal requirements.

If the Hotel experiences a change of ownership, the dates of these obligations may be adjusted at the time a change of ownership License is signed. You must submit your plans for such upgrading and remodeling to Holiday for its review and approval before you start upgrading or remodeling and upon completion of the upgrading or remodeling, you must provide to Holiday a written opinion from your architect, licensed professional engineer, or other third-party expert on the Americans with Disabilities Act (“ADA”) certifying that the Hotel as renovated complies with the ADA and with any other applicable laws, codes, ordinances, or regulations governing accessibility to persons with disabilities.

Within 3 months after the date of the License, you must submit preliminary plans. Holiday will approve your construction plans for conversion or new development if they meet the requirements of the Standards. You may not start construction until you obtain Holiday's approval. Construction or remodeling costs and arrangements are your responsibility alone. Holiday may in the future require use of prototype plans, but Holiday does not currently provide or mandate them. You must commission and pay your architect directly.

You will have 6 months from the date of the License to submit final plans, specifications and drawings for the Hotel, including its proposed equipment, furnishings, facilities and signs, with the detail and containing the information that Holiday requests, and to commence construction. Unless Holiday grants your request for an extension to your construction completion deadline, you must complete construction and furnishing and obtain Holiday's authorization to open a new development Hotel for business within 12 months from the date of commencement of construction and within 18 months from the date of the License.

You may apply for an extension of the construction commencement or completion deadlines. Holiday will consider various factors which may influence your extension request, including the ability to obtain financing or building permits, zoning and local ordinances, weather conditions, shortages or delayed installation of equipment, fixtures and signs. Holiday's approval of extension requests is not automatic. You will be responsible for any expenses incurred by Holiday in processing the extension request. As Note 7 to Item 6 describes, there is a fee for extending these deadlines.

#### **Vignette Collection™ Standards:**

Before you purchase a franchise, you will have the opportunity to review a copy of the Standards. Thereafter Holiday may make the Standards available to you in hard copy, or, at Holiday's option, in digital, electronic or other computerized form. The Standards contain mandatory and suggested specifications, standards, and procedures. All Hotels in the System are subject to the Standards. Holiday will notify you of each change in the Standards at least 30 days before it goes into effect. These notifications can be by digital, electronic, computerized or other means. The Standards are confidential and remain Holiday's property and are protected by applicable copyright laws (see Paragraphs 3, 5 and 13 of the License).

#### **Specifications:**

Before detailed construction documents are started by your architect, representatives of your Hotel must attend a kick-off meeting for consultation and coordination with Holiday. Various members of the Vignette Collection™ team will be present to review all related business plans, target markets for operation, and building plans as well as scheduled timelines for the completion of these plans. Members of the Vignette Collection™ team may include senior operations management and representatives from other areas, including, for example, sales and marketing, purchasing, information technology, and other franchise support systems. Holiday requires the following representatives of your Hotel to attend the kick-off meeting: Principal Contact (franchisee), General Manager (if appointed), Designer, Architectural Representative, General Contractor, and all other principals involved in the construction, development and marketing of the property. There is no charge for the kick-off meeting. However, you must pay your representatives' travel, lodging and living expenses.

Holiday will review your construction working drawings to check for compliance with the Standards of the Vignette Collection™ System. Holiday does not review the drawings for compliance with any local, state and federal law, including any obligations imposed by the Americans with Disabilities Act since this legal compliance is your responsibility.

Holiday provides written specifications for products and materials for you to use in the upgrading, construction and furnishing of the Hotel, in the form of a Product Improvement Plan or "PIP", which will be Attachment "B" to your License. The PIP provides: (i) specific renovations and alterations required to meet the requirements of the Standards and Holiday's quality requirements; (ii) specific dates by

which you must submit plans and drawings; and (iii) beginning dates and interim milestone and completion dates for constructing the Hotel and for opening the Hotel for business. Any design work submitted by unqualified individuals hired by you will be rejected and your Hotel can be subject to Plan default, resulting in an assessment of fees under the terms of your License. The fee for such Plan default will be up to \$5,000. You may be required to remove any non-approved product installed in your Hotel that has not been approved by IHG Plan Review before installation.

**Holiday's Inspection Before Opening:**

Holiday inspects and approves your Hotel before Holiday authorizes it to open, to confirm that you have completed all of the requirements under paragraph 13.I and/or Attachment "B" (the PIP) of the License. If Holiday uses a Standards Evaluation method that reports results numerically, all Hotels must reach a minimum Standards Evaluation score of 95% or its equivalent. If Holiday uses a Standards Evaluation method that does not report results numerically, the Hotel must pass all areas of the evaluation. In the event the hotel fails its opening inspection, Holiday may charge you up to \$5,000 for each re-evaluation and re-inspection. In the event that you need to reschedule your opening date or any visits that have not yet been made by Holiday, you may be charged a fee of up to \$5,000. Holiday must approve your extension request in writing and you must pay any expenses Holiday incurs in processing the extension request.

Holiday may authorize you to use the System at the Hotel before completion of the construction, upgrading and renovation work (paragraph 13.I and Attachment "B" of the License), if you are in full compliance with the requirements of Attachment B of the License.

You may acquire the signage, furnishings, fixtures, opening inventory and supplies from any source that meets Holiday's specifications. Holiday does not deliver or install any of these items. For your convenience, Holiday has approved certain suppliers meeting its specifications, but you do not have to use those suppliers except for suppliers of certain components of the property-based technology and telecommunications systems and as may be noted elsewhere in this disclosure document (see Item 8).

Holiday estimates that the length of time between signing of the License and the opening of your new development Hotel will be 18 to 24 months under normal circumstances. For conversion Hotels, the length of time between the signing of the License and the completion of construction or upgrading typically ranges from 12 to 15 months. However, each license is subject to the agreed upon construction commencement and completion (otherwise known as opening) dates contained in that specific license.

Other than the computerized property management and reservation system equipment (see below in this Item 11), Holiday and its affiliates do not deliver or install any of the construction items and/or furnishings. The factors that will affect the actual time needed include obtaining the financing, preparing final construction and site plans, securing necessary governmental approvals, constructing and furnishing the Hotel and participating in the necessary initial training program.

**Access to IHG Merlin:**

Through the IHG Merlin site, Holiday's parent, SCH, will provide documents, information and other materials including the Standards documentation; sales and marketing tools; information about operations; quality and brand initiatives; news and announcements that are pertinent to your brand, IHG and the hospitality industry; training tools and resources, and technology support information to you through a web portal that you will access on IHG Merlin ([www.ihgmerlin.com](http://www.ihgmerlin.com)). Through this web portal, you will be able to access the forms and information that will assist you with opening and operating your Hotel. Your team will be able to access IHG Merlin regularly to use the sales tools and information resources that support your Hotel. You will be able to view and copy materials relating to the brand, the hotel System and other industry information. The terms and conditions of using IHG Merlin are disclosed on Exhibit H of this disclosure document. You must agree to keep all materials you receive from this program confidential.

## **TRAINING:**

Holiday does not assist in the hiring of your employees, but it offers training, guidelines and resources on interviewing skills for certain of your management and supervisory employees either at your Hotel, at Holiday's headquarters in Atlanta, Georgia, or at various other locations which Holiday designates including, for example, other Vignette Collection™ properties. You must pay any travel and living expenses of your trainees.

### **TRAINING PROGRAM**

<b>Program</b>	<b>Time of Training</b>	<b>Location</b>	<b>Instructional Materials</b>	<b>Hours of Training</b>	<b>Method</b>
Technical Support Training	Before and at Opening (with New Hotel Opening below)	Virtual, Atlanta or other designated regional location	Technology implementation materials	Class length will vary	E-learning, on property, and classroom instruction by implementation team
IHG Concerto™ Ramp Up (Note 5)	30-60 days before opening	Virtual or Atlanta	Workshop participant guide training materials	Up to 9 hours	Location and number as determined by Holiday
Property Management System Training	Before and at opening	Your Hotel	Computer based pre-install e-learning and on-site classroom training just prior to opening day	Opera 12-28 man days	SCHPMS Vendor, or training contractor
Guest Internet Access (GIA) Hardware (IHG Connect)	Before and at Opening	Your Hotel, virtual option, videos	Functionality, Usage & Support Procedures	Up to 4 hours	Lead Technician
In-Room Entertainment (IHG Studio)	Before and at opening	Your Hotel or virtual/video options	Functionality Usage & Support Procedure	Up to 4 hours	Lead Technician
Employee Safety Devices	Before and at opening	Your Hotel or virtual/video options	Functionality Usage & Support Procedure	Up to 2 hours	Lead Technician
Public Access Computers	Before and at opening	Your Hotel or virtual/video options	Functionality Usage & Support Procedure	Up to 2 hours	Lead Technician
General Manager Program (Note 1)	Attend learning event 3-6 months after opening. For turnover - within 180 days after hire date	Virtual, Atlanta or other designated regional location	Online Onboarding Learning Plans, GM Training Materials	5 days	Senior Trainer
Director of Sales and/or Sales Account	IHG Sales Professional Onboarding within 30	Virtual, Atlanta or other designated regional location	DOS Training Materials	Class length will vary	Senior Trainer

<b>Program</b>	<b>Time of Training</b>	<b>Location</b>	<b>Instructional Materials</b>	<b>Hours of Training</b>	<b>Method</b>
Manager Training (Note 2)	days of hire or assuming the position.  IHG® Way of Sales – Solution Selling within 90 days of hire or assuming the position.  Director of Sales Orientation for Lifestyle Brands within 120 days of hire assuming the position.				
Guest Service Manager Training (Note 3)	Front Office Operations Training within 180 days of hire or assuming the position.	Virtual, Atlanta or other designated regional location	Guest Service Manager Program	4 days	Senior Trainer
On-site property consultations (Note 6)	Varies	Your Hotel	Varies with consulting & training visits	1-3 days	Varies
Field support Consulting and Training/ Workshops (Note 4)	Varies	Your Hotel	Varies with consulting and training visits	Class length will vary	Varies with consulting and training visits
Chief Engineer/ Maintenance Supervisor/ Equivalent	Role specific certification within 180 days	Virtual, Atlanta or other designated regional location	Operations Strategies and Action Plans	Class length will vary	Location and provider as determined by Holiday
IHG® Way of Clean 5S Cleaning Program Leadership Certification for Executive Housekeeper	Within 90 days after hire date  And  Role specific certification within 120 days	Virtual, Atlanta or other designated regional location	Operations Strategies and Action Plans	Class length will vary	Location and provider as determined by Holiday
Leading the Brand Training for	Within 30 days of opening	Your Hotel	Leading the Brand Training Materials	2 days	Senior Trainer

Program	Time of Training	Location	Instructional Materials	Hours of Training	Method
new Hotels (Note 2)					

**NOTES:**

**Note 1:** Every General Manager must satisfactorily complete the initial onboarding certification training program for General Managers within the dates required per the Standards. Holiday conducts the General Manager training virtually, in Atlanta or at other designated regional locations. General Manager training focuses on areas of operation unique to the System and to management functions. Holiday will certify satisfactory completion by the General Manager. The fee for the initial onboarding certification training of the first and any subsequent General Manager is \$1,500 (see Items 5 and 7). Every General Manager must complete annual retraining requirements designated by Holiday. For in-person classes, you must pay any travel or training expenses of your trainees. Within 180 days after you employ a replacement General Manager for your Vignette Collection™ Hotel, that General Manager must successfully complete the General Manager initial certification training program described above. Management personnel will also be required to attend other educational “General Manager” programs and conferences.

**Note 2:** Directors of Sales/Sales Manager/equivalent must also satisfactorily complete the appropriate sales initial certification training program for Vignette Collection™ hotels within the dates required per the Standards. Holiday will conduct the initial certification training program at a location determined by Holiday. The training program focuses on areas of sales that are unique to the System and to sales functions. The fee for the initial certification training program for the first and any subsequent Director of Sales/Sales Manager/equivalent ranges between \$1,125 and \$1,500 (see Items 5 and 7). For in-person classes, you must pay any travel, living and training expenses of your trainees. Also, each replacement Director of Sales or Sales Manager must complete the Sales initial certification training program described above within the dates required per the Standards. In addition, your Director of Sales, Sales Manager or equivalent must complete annual retraining requirements as Holiday may designate. Further, your Director of Sales must complete the Director of Sales Orientation for Lifestyle Brands within 120 days of hire.

General Managers and designated Guest Experience Champion or equivalent must also attend the Leading the Brand Training for new Hotels to be held prior to Hotel opening. The cost of this on-site training is between \$1,500 to \$2,000 per Hotel.

**Note 3:** Guest Service Managers/equivalent must satisfactorily complete the Front Office Training Program within 180 days of assuming the position. Holiday will conduct Front Office Training Programs virtually, in Atlanta or other designated regional locations. Training costs for your initial and all subsequent Guest Service Managers or equivalent is \$1,125. For in-person classes, you must pay any travel, living and training expenses of your trainees.

The PMS provides a computerized front desk operation, and is designed to increase speed and productivity of front desk operational tasks (i.e. Check-In, Check-Out, Night-Audit, Housekeeping, Management Reports, etc.).

The IHG Concerto™ software and Revenue Management System (RMS) functionality with Price Optimization are proprietary to SCH, and must be used only in conjunction with the operation of the Reservation System and PMS in your Hotel. SCH will install, maintain and provide training and implementation support for IHG Concerto™. The RMS performs a task called “forecasting.” Using data related to your Hotel from past years and a snapshot of your future bookings, RMS creates a detailed forecast of future business for your Hotel for the upcoming year. The RMS also produces inventory controls which are used in the sell process of your PMS and Reservation System. The forecast and inventory controls are updated a minimum of once a day and sometimes more often depending on reservation activity. The Hotel has access to RMS data via a User Interface, and therefore may view or change data as necessary.

There are four types of IHG Concerto™, Yield & Price Optimization database builds: Standard (12 months of 2-way data), Proxy (90 days of 2-way data), NHOP (day of opening) and Early (during pre-sale, inventory defined). A Standard build needs a minimum of one year of consecutive 2-way data before activation. A Proxy build needs a minimum of 3 months of consecutive 2-way data and 9 months of data from a comparable hotel. A NHOP or Early build is available 1-60 days from the time the Hotel's inventory is fully activated and defined in the reservation system.

IHG Concerto™ RMS functionality with Price Optimization creates pricing recommendations based on competitive pricing, Hotel demand forecasting, and Hotel booking activities. The integration of Competitive Data into the RMS with Price Optimization may require a subscription fee to such competitive data.

Costs of between \$30 and \$60 may apply for competitive rate insight shopping. For Hotels currently subscribing to RevenueStrategy360 or Rate360, these costs may be waived.

No rights of ownership in or to the IHG Concerto™ or any component of the PMS, including all component software and design features (including any software or equipment owned by third parties) are transferred to you or a Hotel upon joining the System. You will not acquire any rights to the IHG Concerto™ or any PMS component except a limited right to their access and use in accordance with the Master Technology Services Agreement and any third party software licenses, and the License during your term as a franchisee in good standing.

You may install only approved system components and software, and no other computer hardware or software.

Holiday and SCH have the right, at any time, to require immediate upgrade, supplement or replacement of computers and/or peripheral equipment or software that they determine has become obsolete. Currently there are no contractual limitations on the frequency or cost of this upgrading, supplementing or replacement or of equipment or software.

Holiday and SCH have independent access to the information and data collected by the PMS and Reservation System. There are currently no contractual limitations, other than confidentiality of guest history information, on Holiday's or SCH's right to access the information and data.

**Note 4:** Food and Beverage Directors/equivalent must attend the Brand Orientation within 30 days of hire. Holiday will conduct these trainings at a designated location. Training costs for your initial and all subsequent Food and Beverage programs will range between \$375 and \$5,000 based on length, subject, content and delivery. You must pay any travel, living and training-related expenses of your trainees.

The minimum experience of the instructors that is relevant to the subjects taught and Holiday's operations is from 5 to over 25 years. Holiday personnel or consultants will provide on-site consulting and/or training visits to your Hotel as needed. Topics for review and discussion may include the Reservation System, Revenue Management, Service Management, Marketing and Training Programs/Promotions, brand service delivery and other operational and customer service areas. The General Manager, department heads and designated staff will develop Market Analysis, Revenue Planning, Sales Planning, Service Planning strategies and action plans during visits. You will receive these for review and follow-up with your General Manager. Your Hotel must participate in the on-site consulting and/or training visits or workshops. The General Manager, designated department heads and designated staff must attend and participate. You must provide food, lodging, meeting accommodations, and equipment expenses for Holiday's designated trainers. Holiday develops operations and customer support training programs for staff at Hotels. The training is likely to include classroom, on-property and on the job training and will be mandatory.

The Guest Services manager or team members in other positions may participate in a 1-3 day hands-on learning program at a designated Vignette Collection™ Hotel. Travel and living expenses are the responsibility of the attendee.

Holiday conducts training at periodic intervals depending upon the need and availability of trainees. Holiday's instructors are experienced within the industry and are trained to be effective instructors. You must pay all costs for attendance by your personnel in Holiday's courses. These costs include tuition, materials, travel and living expenses, whenever applicable.

**Note 5:** The Openings and Renovations program provides services and training required to open a Hotel in the System including IHG Concerto™ Ramp Up, Key Programs Training and other pre-opening consultations. The Openings and Renovations fee covers up to two participants per Hotel. This fee is \$8,000. The fee covers pre-opening support, including select training, materials and post-opening support. Your General Manager and other individuals designated as the system experts for your Hotel must attend the IHG Concerto™ Ramp Up Program virtually or at an SCH designated location. No additional fees will be incurred for the workshop, however, additional attendees will be required to pay a separate registration fee, which will be \$250 per additional participant and participants from all Hotels are responsible for their own expenses for travel, meals and lodging if they attend the training in person. In addition, your General Manager and front office staff must have access to IHG Concerto™ and complete necessary web-based training including: Get to know IHG Concerto™, IHG Concerto Home Page Overview, and Digital Check-In Training, all available at no cost on myLearning.

**Note 6:** Holiday's employees will provide on-site consulting and/or training visit(s) to your Hotel each year. During the visit(s), Holiday's employee will engage in the Focus consulting process. Topics will include, for example: the Reservations and channel Systems, Revenue Management, Service Management, Marketing Programs/Promotions, IHG Concerto™ system and other operational and customer service areas. The General Manager, department heads and designated staff will develop Market Analysis, Revenue Planning, Sales Planning, Service Planning strategies and action plans during the on-site visit; you will receive these for review and follow-up with the General Manager after each on-site visit. Your Hotel must participate in the on-site consulting, with mandatory attendance and participation by the General Manager, designated department heads and designated staff and suggested attendance by representative of Licensee and/or owner. You must provide food, lodging, meeting room, and equipment expenses for Holiday's employees.

**Other Assistance During the Operation of the Hotel:**

After the opening of the Hotel (see Paragraph 4 of the License), Holiday will:

(a) seek to maintain high standards of quality, cleanliness, appearance and service at all Hotels using the System, to promote, protect and enhance the public image and reputation of the Vignette Collection™ name, and to increase the demand for services offered by the System. Holiday's judgment in these matters will be controlling in all respects, and it will have wide latitude in making these judgments;

(b) provide required and optional training programs at various locations, including Holiday's principal place of business;

(c) provide access to reservation services, if you are in compliance with your material obligations under the License;

(d) use the "Services Contribution" (see Item 6) for costs associated with advertising, promotion, publicity, market research, sales and marketing support, payroll and other sales and marketing programs and related activities, reservations and training programs, and disseminating marketing funds to the national media (including radio, television and/or printed materials) through any of its independent national or regional advertising agencies;

(e) if Holiday determines to do so, communicate to you improvements and developments in the System, including developments in reservation services, marketing operations, and administrative technical and support functions, facilities and programs. Holiday may enter into arrangements with any other entity for developments to the System and may use any of these facilities, programs, services or personnel in connection with the System or in connection with any business activities of its parents, subsidiaries, divisions or affiliates; and

(f) make available to you consultation and advice pertaining to problems you encounter in operations, facilities and marketing.

**Services Contribution; Advertising, Marketing and Promotion:**

Hotels that SCH or its affiliates own and manage and all System franchisees must pay the Services Contributions specified in Paragraph 3.B of the License and summarized in Item 6 of this disclosure document. Holiday will use these funds as it determines to develop, support and/or administer marketing, reservation and training programs. The Services Contribution cannot be used to cover the cost of maintenance, repair, modernization, renovation, or upgrading of your Hotel. Holiday and its affiliates are not responsible for any of these costs. Funds from Services Contributions will typically be invested in activities that strengthen the brand such as awareness advertising, research, and the development of new or improved services, but may include tactical marketing initiatives more focused on short term revenue enhancement and seasonal marketing programs. The Services Contributions do not include costs which you incur in the acquisition, installation or maintenance of reservations services, equipment or training, or in your own marketing activities. Holiday can change the Services Contribution from time to time. Holiday may, on 30 days advance written notice, at any time during the term of your License, and from time to time, increase the Services Contribution by up to 1% of Gross Rooms Revenue. If Holiday increases the Services Contribution in this way, then Holiday cannot make another discretionary increase again for 24 months after the start of a prior increase. Holiday may increase the Services Contribution by a maximum of 2% of Gross Rooms Revenue over the term of your License.

Funds used for marketing programs will be used for developing, preparing, producing, directing, administering, conducting, maintaining and disseminating advertising, marketing, promotional, and public relations materials, programs and campaigns, publishing a directory of Hotels and conducting market research. Advertising conducted under Holiday's marketing programs may be national, regional or local in scope. Holiday will use all types of media that it determines are appropriate, including print, radio, television and outdoor billboards. Any advertising Holiday creates will be created either by its in-house advertising department or outside advertising agency.

Holiday will maintain all Services Contribution sums paid by you, other System franchisees and company owned Hotels, plus any interest or other income earned from these contributions, in a separate account from other funds. Holiday will not use these monies to defray any of its general operating expenses, except for the reasonable administrative costs and overhead expenses Holiday incurs in directing and administering the Reservation System, and Holiday's sales, marketing and training programs.

The Loyalty Program and your required contributions to the Loyalty Program are described in Item 6. Holiday's Senior Vice President, Global Loyalty and Partnerships administers the Loyalty Program. The financial information of the Loyalty Program is included within an audited Statement of Revenues and Expenses that is made available for review to the appropriate IHG Owners Association's brand marketing committee under a confidentiality agreement, and is not generally available for distribution. In the most recently concluded twelve-month period ended December 31, 2020, the Loyalty Program contributions were used as follows: 55% on award costs, 29% on member communication/promotions, 11% on administrative expenses, and 5% on services from corporate allocations such as Information Technology Data Warehouse, and the Service Center.

The audited Statement of Revenues and Expenses will be prepared each year; however, it is not generally available for review by franchisees, and Holiday does not provide periodic accounting reports.

Holiday pools Services Contributions from Vignette Collection™ Hotels together with the Services Contributions from hotels operating under one or more of Holiday's and its affiliates' current and/or future portfolio of brands (see Item 1) ("IHG Portfolio Brands"). The Services Contributions will be distributed for marketing, reservations, and other related activities which, in Holiday's and its affiliates' sole business judgment, support marketing, reservations and other related functions and/or purposes on a local, regional, national, continental or international basis for all, or a group of, IHG Portfolio Brands. Holiday has no obligation to spend any amounts on advertising in the vicinity of your Hotel nor does it have any obligation to expend any amounts for marketing or reservation services greater than the amounts it

receives from franchisees using the System and the funds it contributes. Services Contributions are not intended to benefit any specific market or Hotel. Holiday and its affiliates have no obligation to spend from Services Contributions, or otherwise, any amount fixed or proportionate to the amount of Services Contributions you pay, nor does Holiday or any of its affiliates have any obligation to ensure that you, your Hotel, the Vignette Collection™ brand or any other particular IHG Portfolio Brand or group of IHG Portfolio Brands benefit directly or proportionately from Services Contributions paid or expenditures made from collected Services Contributions. Holiday anticipates that all Services Contributions will be expended during the taxable year within which the contributions are made. Any year-end surplus or deficit sums are carried over to the following year. Holiday does not use any Services Contribution monies to promote the sale of franchises.

Because as of the issuance date of this disclosure document, we did not yet have any Vignette Collection™ Hotels open for business, we have not collected nor expended any Services Contributions specific to the Vignette Collection™ brand as of December 31, 2020.

Unless you participate in any optional marketing programs that Holiday may offer, neither Holiday nor its affiliates will receive payment from additional marketing contributions other than those mentioned in Paragraph 3 of the License and Item 6 of this disclosure document.

You may conduct local and regional marketing programs and related activities, but only at your expense and subject to Holiday's requirements, such as proper usage of its trademarks, etc. Holiday may make reasonable charges for optional advertising materials that you order or use for these programs and activities. Your participation in a Hotel Marketing Association ("HMA") or Co-op Program is voluntary. HMAs and co-ops are marketing arrangements which franchisees form to achieve greater marketing power through their combined resources within a common geographic area. Holiday does not currently intend to establish an advertising council composed of franchisees or to establish local or regional advertising cooperatives. Consequently, Holiday will not, nor does it intend to, have any controlling voting power in any cooperatives, although it reserves the right to do so.

### **Reservation System, Revenue Management, Telecommunications Systems and Property Management Technology:**

The property management system and telecommunications system include the following components, which you must purchase from designated third-party vendors or third-party vendors whose equipment and software meet Holiday's specifications:

- Access to Holiday's Reservation System, IHG Concerto™, and the GDS
- Access to Revenue Management System (RMS) functionality through IHG Concerto™ platform
- Property Management System (PMS) hardware, software training and support from PMS Provider
- PMS interface to SCH systems
- All required workstations and printers
- Local area network and wide area network connectivity
- HSIA for Hotels operations (front operations network)
- Access to IHG Merlin, the internet-based information delivery service for Holiday's various brand group Hotels
- Presence on the Hotel brand internet sites.
- Approved IHG Admin Program for personal computers and servers on the IHG Network.
- A computerized payment card processing program, Secure Payment Solution ("SPS") or such successor payments program as may be administered by SCH (see Item 8).

In connection with the PMS and IHG Concerto™ equipment and software, you must enter into the Master Technology Services Agreement with IHG Technology Solutions LLC (see Exhibit C). You must also purchase all private network connecting services equipment needed to communicate with the Reservation System from any vendor designated by Holiday.

At the same time you sign the MTSA (Exhibit C), you must also enter into certain third party license agreements under which you receive a license to use certain software, including the PMS software from the PMS Provider. You must also enter into support agreements with certain technology support vendors or their designated agents and pay the fees described in Item 6 for maintenance and support services. You must also enter into a Joinder Agreement (can be found within Exhibit C) with Hewlett-Packard Inc. for the use of the PMS system for your Hotel.

Currently, Vignette Collection™ Hotels must use the Opera or Opera Xpress property management system. Oracle America, Inc. (“Oracle”) of 7301 Columbia Gateway Drive, Columbia, Maryland 21046-2289 (whose phone number is 443-285-8000) is the only supplier of Opera software licenses and support services. As you will use the Opera property management system, before it is installed and activated, certain members of your staff may participate in e-learning prior to trainer’s arrival on-site at the hotel. Once trainers arrive, the staff will receive on-site training and certification from Oracle America, Inc. in the use of the PMS. The staff that must be trained and certified varies with the size or your Hotel. The cost for this training and certification is included in the projected license fee and installation cost estimates – see the estimated costs for the equipment, installation, software and training for the PMS and Reservation System in Item 5 of this disclosure document.

Through one of more “Private network” connecting services, or another solution as specified, the PMS enables you to receive reservations from the Central Reservation Centers, or any other Holiday brand group Hotel, travel agencies and your own Hotel. The Reservation System software is proprietary to SCH. You may install only computers, components or peripheral devices and equipment meeting SCH’s specifications for the PMS and Reservation System. You may obtain the hardware from SCH or any third-party vendor that meets SCH’s specifications. You must periodically upgrade the equipment to accommodate enhanced versions of PMS, as provided in the Master Technology Services Agreement. SCH will provide or arrange for training and implementation support, as described in the Master Technology Services Agreement, and has entered into agreements with service providers for maintenance for the PMS (see Item 6 under “PMS Hardware” for fees). SCH or the provider will bill you for these services. See Item 7 for expenses relating to travel and on-site support.

The PMS provides a computerized front desk operation, and is designed to increase speed and productivity of front desk operational tasks (i.e. Check-In, Check-Out, Nigh-Audit, Housekeeping, Management Reports, etc.).

### **IHG Communication to System:**

IHG’s online system (<http://www.ihgmerlin.com>) and its messaging tool, currently known as Hotel Bulletin, is the primary means of sending information from Holiday and IHG to franchisees, and in some cases, this may be the only manner in which Holiday and IHG communicate to Hotels and franchisees.

Secondary means of communication may include, for example, correspondence through either expedited or standard mail delivery, multimedia platforms such as Video, CD and DVD, fax service, regional meetings and conferences, and personal meetings.

### **Web Sites:**

You may operate an independent website at your expense but it must follow the guidelines contained in the Standards for Independent Hotel Web Sites. If you choose to operate an independent website, you or your agent, must follow the Standards when marketing an independent website (e.g. the Standards for Search Engine Marketing and the Standards for Email). Further, if Holiday is already marketing your Hotel via its global Performance Marketing programs, and if you choose to do additional online marketing for your independent website, you may be driving up your performance marketing costs and lowering your ROI because there may be two competing websites. You may not register any

of the Marks (defined in Item 13), as part of any domain name or Uniform Resource Locator (“URL”), and/or display or use any of the marks or other intellectual property rights related to the System or to any of the other brands franchised by Holiday in connection with any web site, without Holiday’s advance written approval. You must comply with all of Holiday’s web site requirements in connection with any web sites you develop and maintain relating to your Hotel.

Other than as described in this disclosure document, Holiday is not bound by the License or related agreements to provide supervision, assistance or services to you before opening or during operation of your Hotel.

## **ITEM 12**

### **TERRITORY**

Holiday does not typically grant franchises for exclusive areas or territories. The License will be for a specific site only and for the licensing of one Hotel. The License applies to the location specified in it and to no other location. You will not receive an exclusive territory. You may face competition from other franchisees, from Hotels that Holiday or its affiliates own, or from other channels of distribution or competitive brands that Holiday or its affiliates control.

You may not promote, implement or be responsible for any web site relating to your Hotel without Holiday’s advance written approval. You may not register any of the Marks (defined in Item 13), as part of any domain name or Uniform Resource Locator (URL), and/or display or use any of the marks or other intellectual property rights related to the System or to any of the other brands franchised by Holiday in connection with any web site, without Holiday’s advance written approval. You must comply with all of Holiday’s web site requirements in connection with any web sites you develop and maintain relating to your Hotel. The License does not otherwise limit the channels through which you may solicit customers for your Hotel.

The License does not limit Holiday’s right or the rights of its parents, or any subsidiary or affiliate, to use or license the System or any part of the System, to engage in or license any business activity (including business activities referenced in Item 1 which sell similar products and services) or to license any other Hotels (or any other hotel brands). These rights include, for example, the licensing, franchising, ownership, operation and/or management of lodging facilities and related activities under the names and marks associated with the System and/or any other names and marks. There is no restriction in the License on Holiday’s using any channel of distribution to solicit customers for Holiday’s and its affiliates’ Hotels, whether operating under the marks licensed to you or other marks. Holiday and its affiliates are not restricted from establishing other franchises or company-owned outlets or other channels of distribution through which services or franchises under different trademarks might be offered. The License creates no rights of any kind for you in these other hotel brands and/or businesses at any other location. The License grants you no options, rights of first refusal or other rights to acquire additional franchises.

In special circumstances, when, in Holiday’s judgment, special considerations warrant, Holiday may grant exclusive or protected areas within which it will not license another Vignette Collection™ Hotel; however in such cases the License would still be for a specific site only and for the Licensing of one Hotel only.

Holiday licenses numerous hotel brands – see Item 1. Holiday may license other hotel brands in the future. There may currently be franchised, company-owned hotels or company-managed hotels operating under Holiday’s brands situated in or near your area. Holiday and its affiliates may establish new franchised, company-owned or company-managed hotels operating under Holiday’s brands in or near your area. You may compete with any other hotels operating under Holiday’s brands in or near your area. Hotels operating under Holiday’s brands (including the same brand as your Hotel) may solicit reservations from customers in your area for which you will receive no compensation.

Holiday uses the same principal business address for its operation of all its hotel brands and Holiday does not maintain physically separate offices for its various brands. Holiday does offer some physically separate training facilities for some hotel brands. There is no mechanism for resolving any conflicts that may arise between your Hotel and other franchised, company-owned hotels or company-managed hotels operating under Holiday’s brands. Any resolution of conflicts regarding location, customers, support or services will be entirely within the business judgment of Holiday and its affiliates.

**ITEM 13**

**TRADEMARKS**

Holiday grants you the right to operate a Hotel under the trade names, trademarks, service marks and logos used to identify your Hotel. In accordance with the Master License (see Item 1), Holiday has obtained from SCH, for a constantly renewing 25-year term, the right to use and license the use of marks associated with the System. If either Holiday or SCH elect not to renew the Master License, expiration will take place 25 years from the date of the non-renewal notice.

The following trademarks, service marks, trade names, logotypes, and other commercial symbols (“Marks”) are currently registered on the Principal Register of the United States Patent and Trademark Office:

Trademark	Reg. No.	Reg. Date
*IHG® Rewards	3,544,074	December 9, 2008
IHG CONCERTO	6,048,065	May 5, 2020

\*Incontestable Registrations

There are currently applications pending on the Principal Register of the United States Patent and Trademark Office for the following Marks (the “Pending Marks”):

Trademark	App. No.	App. Date
VIGNETTE (Class 35)	90893357	August 20, 2021
VIGNETTE (logo)	97019749	September 9, 2021
VIGNETTE (Class 43)	90893365	August 20, 2021

We do not have a federal registration for our principal trademark. Therefore, our principal trademark does not have as many legal benefits and rights as a federally registered trademark. If our right to use the principal trademark is challenged, you may have to change to an alternative trademark, which may increase your expenses.

There are no agreements currently in effect which may significantly limit Holiday’s rights to use or license the use of its principal trademark, and it believes that there are no infringements of its principal trademark that could materially affect your use in this state or in the state where your Hotel is located.

In addition, except with respect to the pending applications set forth above, there are presently no effective determinations of the U.S. Patent and Trademark Office, any trademark trial and appeal board, any state trademark administrator or any court, any pending interference, opposition, or cancellation proceeding, or any pending material litigation involving any of the above-referenced Marks which is relevant to your use. There is no pending material federal or state court litigation regarding our use or ownership rights in the Marks.

The “Marks” consist of the name and mark “VIGNETTE” and the other service marks, trademarks, trade names, slogans, commercial symbols, logos, trade dress, copyrighted material and intellectual property

associated with the System, including those which Holiday may designate in the future and those which Holiday does not designate as withdrawn from use.

Other than the Master License (see Item 1) and the SCL License Agreements (see Item 1), there are no agreements currently in effect which may significantly limit Holiday's rights to use or license the use of its principal trademark, and it believes that there are no infringements of its principal trademark that could materially affect your use in this state or in the state where your Hotel is located.

There are presently no effective determinations of the U.S. Patent and Trademark Office, any trademark trial and appeal board, any state trademark administrator or any court, any pending interference, opposition, or cancellation proceeding, or any pending material litigation involving any of the above-referenced Marks which is relevant to your use. There is no pending material federal or state court litigation regarding our use or ownership rights in any Mark.

The License restricts your use of the Marks, and you must use the Marks and all forms of identification that are seen by members of the consuming public or used to identify the Hotel to actual or prospective consumers only in compliance with Holiday's requirements. The restrictions and requirements that limit your use of the Marks and identifications apply to all formats (including print, electronic and other media) and include domain names, Uniform Resource Locator ("URL"), and other identifications or elements used in electronic commerce. You may not register any of the Marks as part of any internet domain name or URL, and/or display or use any of the Marks or other intellectual property rights related to the System in connection with any web site (see Item 11).

You may use the Marks only in connection with the operation of the Hotel during the License Term, following opening of the Hotel in the System or at any earlier time that Holiday authorizes. You may use the Marks only in the manner that Holiday authorizes, and in no way that would tend to allow the Marks to become generic, lose their distinctiveness, become liable to mislead the public or be detrimental to or inconsistent with the good name, good will or favorable reputation and image of the Marks or Holiday. Under the License, any unauthorized or unpermitted use of the Marks will be considered infringement of Holiday's rights.

You must notify Holiday immediately when you learn of an infringement, or a challenge to your use of the Marks. You must also notify Holiday promptly of any objections, demands, controversies, allegations or actions asserted or taken by third parties involving any of the Marks or any part of the System of which you become aware and of any potentially infringing or unauthorized uses of any of the Marks or any part of the System of which you become aware. You must sign any documents Holiday or its counsel consider necessary to protect the Marks or any part of the System and obtain or maintain their continued validity and enforceability. However, the License does not require Holiday to take action against infringers or to indemnify or defend you if you are a party to a proceeding involving the Marks.

SCH, Holiday and their affiliates have the right to control any administrative proceedings or litigation involving a trademark licensed by Holiday to you. SCH, Holiday and their affiliates have the right and responsibility to handle disputes concerning use of all or any part of the System, at their expense. You must cooperate fully with SCH, Holiday and their affiliates in these matters. Any sums SCH, Holiday or their affiliates recover as a result of disputes with third parties regarding use of the System is theirs. You may not initiate litigation against infringers to enforce or protect the System.

If Holiday modifies or discontinues use of any of the Marks licensed to you as a result of any proceeding or settlement, then you must comply with Holiday's instructions in order to implement the modification or discontinuation. You will have no right to any compensation or other remedies from Holiday or any of its subsidiaries, affiliates or parents due to any modification or discontinuation of any of the Marks.

The naming of the Hotel is Holiday's sole decision. Unless Holiday otherwise agrees in writing, the name of the Hotel will be the name set forth at the beginning of the License. The name of the Hotel may not be changed except at Holiday's sole decision.

## **ITEM 14**

### **PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION**

Holiday and/or its affiliates claim copyrights on the proprietary information in the Standards and certain computer software, forms, advertisements, promotional materials, printed materials, slogans, displays and other written materials. If you learn of any unauthorized disclosure or use of Holiday's proprietary information, you must inform Holiday immediately. Holiday and you must comply with each other's reasonable requirements concerning confidentiality of information.

On September 19, 2019 the USPTO issued SCH a utility patent for a "Universal Redemption Vehicle" (which vehicle supports the "Redeem Anywhere" concept) under Patent No. 10,417,645. This patent is valid until April 20, 2026.

On June 24, 2014, the USPTO issued SCH a utility patent for "Promoting Green Initiatives in Hotels" under Patent No. 8,761,951. This patent is valid until December 27, 2032.

On September 16, 2016, the USPTO issued SCH utility patent for the "BOSS" system and method for searching for hotel rooms, entitled "Bottom-Up Optimized Search System and Method" relating to Global Technology, under Patent No. 9,443,208. This patent is valid until September 13, 2030. Coverage for this invention has been filed in the United Arab Emirates, China, Brazil and India. The patent protection is valid in Canada and Singapore.

There are no currently effective determinations or proceedings pending in the USPTO or any court with respect to any copyright.

The obligations of Holiday and you under the License to protect their respective rights to use the above-referenced copyrights parallel those described in Item 13 of this disclosure document pertaining to the Marks.

## **ITEM 15**

### **OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS**

Whether you are an individual, corporation, partnership or other entity, Holiday requires you to retain and exercise direct management control over the Hotel's business at all times unless otherwise approved by Holiday. However, Holiday does not require that you participate personally in the direct operation of the Hotel. Holiday may include conditions in your License requiring you to hire a duly qualified and experienced (i) management company acceptable to Holiday or (ii) General Manager, Director of Sales or Food and Beverage Director with at least two years prior experience in such position at a hotel operated under any of Holiday's upscale brands or at a hotel in a similar brand segment as the Hotel, as defined by Smith travel Research, Inc. Regardless of whether you or a third party management company operate your Hotel, a General Manager, Director of Sales, Food and Beverage Director, Guest Services Manager, Chief Engineer, Executive Housekeeper and Sales Manager employed by you or your management company must each work exclusively for your Vignette Collection™ Hotel at all times, and if you own more than one Vignette Collection™ Hotel or other hotels, you must have a separate, qualified General Manager and Director of Sales for each Hotel including all hotels that are dual branded. You must obtain Holiday's written consent before entering into any lease, management agreement or other similar arrangement for the operation of the Hotel or any part of the Hotel with any entity. Holiday may require that any management company you hire have experience in managing hotels similar to Vignette Collection™ Hotels.

If Holiday requires that you hire a management company, General Manager, Director of Sales, or Food & Beverage Director to operate your Hotel, it may require that you hire this company or person within a specific period of time either after signing your License or before the date your Hotel opens in the System. You must notify Holiday in the designated timeframe before hiring or changing your

management company for any reason. These conditions would be determined by Holiday and contained in your License. Holiday may reject a proposed management company if Holiday determines that it is inexperienced in the hospitality business, generally unqualified to operate the Hotel or unwilling or unable to: (1) comply with all requirements of Holiday under the License and the Standards, (2) cease operating the Hotel as a Holiday licensed Hotel once the License terminates or (3) treat the terms of the License as superior over any conflicting terms in the agreement between you and your management company.

Holiday may determine that you are not qualified to operate the Hotel, and if so, Holiday will require you to retain a management company to operate the Hotel. Normally, Holiday does not require that you engage it or one of its affiliates as the management company in order to obtain a License. Occasionally, because of the distribution of company managed hotels in a particular geographic area, or other factors, Holiday may determine that the development or conversion of a Hotel is appropriate only if one of its affiliates manages the Hotel. In that case, Holiday may condition the granting of a License on one of its affiliates managing the Hotel.

You may hire a General Manager and all staff members and/or employees of your own choice without Holiday's advance approval. The General Manager and other department heads and staff, including Directors of Sales, must attend Holiday's training programs (see Item 11 of this disclosure document).

Holiday does not impose restrictions, nor does it require you to impose restrictions, on any of your employees. However, Holiday and you agree to comply with each other's reasonable requirements concerning confidentiality of information, and in particular, you may not disclose without Holiday's written permission information pertaining to Holiday's marketing and reservation programs that has not yet been disclosed to the public.

Holiday requires that any management agreement between you and a management company be in writing, and that the agreement contain certain provisions including, for example the following: the management company accepts, agrees to abide by, and is subject to all rules, regulations, inspections and requirements of Holiday; you and the management company will cease operating the Hotel as a Vignette Collection™ Hotel if the License terminates; you and the management company must agree that the License prevails over the terms of the management agreement if there is any conflict in terms; you and the management company must agree that Holiday's consent to the management agreement or approval of the management company does not relieve you or any guarantor of any obligations under the License; and, you and the management company must keep the confidentiality of trade secrets described in Item 14, and follow the covenants not to compete described in Item 17. Holiday may request at any time a copy of your management agreement for review to determine compliance with requirements of the License.

Holiday will require that you enter into a IHG Voice Reservation Service or Revenue Management for Hire service contract with Holiday's parent, SCH, if Holiday's Franchise Approval Committee determines that its approval of your application should be conditioned upon one or more of those services being obtained (see Item 6, Notes 15 and 16 and Exhibit I-1).

If you hire a management company, General Manager or Director of Sales to operate the Hotel for you, whether or not Holiday required you to hire these positions, you and any of your guarantors remain liable to Holiday and IHG Technology Solutions LLC under the terms of the License, the Master Technology Services Agreement and any Guaranty.

Even though any management company must be acceptable to Holiday, you remain solely responsible for the selection, conduct and performance of any required management company, General Manager and all staff members and employees and Holiday has no responsibilities or liability in connection with your selection and its, his or her conduct or performance.

Holiday does not require the on premises management company or General Manager to have an equity interest in the franchised business.

You or your management company, whichever may be applicable, will be the sole employer of the employees working at the Hotel. Holiday does not direct or control employment policies, discipline, recruitment or termination. You or your management company will be solely responsible for all employment decisions, regardless whether you have received guidance with respect to such matters from Holiday.

If you are an entity, then, based on Holiday’s examination of your financial reports and the financial reports of any proposed guarantor, Holiday may require your shareholders, partners, members or affiliates to sign a “Guaranty” of the License, a copy of which appears as part of the License in Exhibit B to this disclosure document. This document guarantees immediate payment and performance of each of your obligations under the License if you default.

**ITEM 16**

**RESTRICTIONS ON WHAT THE FRANCHISEE MAY SELL**

You must provide the hotel services described in Attachment “A” to your License and must ensure that no part of the Hotel or the System is used to facilitate or promote a competing business. There are no restrictions as to the customers to whom you may sell guest rooms or other goods or services that are related to your Hotel business.

**ITEM 17**

**RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

**This table lists certain important provisions of the License and related agreements. You should read these provisions in the agreements attached to this disclosure document. See Exhibit B and Exhibit C.**

**THE FRANCHISE RELATIONSHIP**

<b>Provision</b>	<b>Section In Agreement</b>	<b>Summary</b>
a. Length of the franchise Term	License: 11.A MTSA: 2.1	The term begins on the Term Commencement Date and expires 20 years from date Hotel opens in the System for a new development; 10 years from date Hotel opens in the System for a conversion; and 10 years from Term Commencement Date for a change of ownership or re-licensing.
b. Renewal or extension of term	N/A	The License does not provide for renewal or term extensions.
c. Requirements for you to Renew or Extend	N/A	The License does not provide for renewal or term extensions. If we agree to Re-license, you may be asked to sign a contract with materially different terms and conditions than your original contract.
d. Termination by you	N/A	
e. Termination by Holiday without Cause	License: N/A MTSA: 10.1	
f. Termination by Holiday with Cause (Notes 1 and 2)	License: 11.B, 11.C, 13.I & Attachment B MTSA: 10.2	Holiday may terminate with cause. You pay liquidated damages if Holiday terminates under Paragraphs 12.B, 12.C or 13.I.

Provision	Section In Agreement	Summary
g. "Cause" defined – defaults which can be cured (Note 2)	License: 11.B MTSA: 10.2	Any default other than those listed in h.
h. "Cause" defined – non-curable defaults	License: 10, 11.C, 13.I & Attachment B MTSA: 10.2	Non-curable defaults: bankruptcy; non-dismissed judgments exceeding \$50,000; trademark misuse, or if you contest Holiday's ownership of trademarks; loss of possession of the property; dissolution of the franchisee entity; failure to identify or operate the Hotel as a Holiday brand hotel; violation of Licensor's proprietary rights; unapproved transfers; conviction of felony; false books and records; failure to comply with safety, security or privacy of your guests or reputation standards; condemnation or casualty occurs and Hotel does not reopen when required; unauthorized use of Marks; and, refusal to allow inspection or audit.
i. Your obligations upon termination/non-renewal	License: 11.D, 11.E, 13.I, & Attachment B MTSA: 8.1.3(iii), 8.1.3(iv), 13.1 & Attachment 4-1 to Schedule 4	Obligations include de-identification and payment of amounts due.
j. Assignment of License by Holiday	License: 9.A MTSA: 13.10	Holiday has rights of assignment to any person or legal entity.
k. "Transfer" by you-definition	License: 9.B & 9.I MTSA: 13.10	Includes transfer of contract or assets (including real estate) or ownership changes.
l. Holiday's approval of transfer by you	License: 9 MTSA: 13.10	Holiday has the right to approve all transfers.
m. Conditions for Holiday's approval of transfers	License: 9.G and 9.H	The prospective new owner of the Hotel or Licensee must submit an application and all fees to keep the Hotel in the System. Holiday will evaluate the application using then-current procedures and criteria such as credit, operational abilities, market feasibility, previous business dealings and other factors it considers relevant. If Holiday approves the new owner, Holiday will require upgrading, signing of a License using the then-current form of License and the signing of a Guaranty. You must pay Holiday a non-refundable \$25,000 processing fee at least 60 days before public offering, private placement or other sale of securities.
n. Holiday's right of first refusal to acquire your business	License: 13.O	If you receive an offer to purchase the Hotel, then, if Holiday requires it, you must give Holiday written notice within 10 days of your receipt of the offer, and you must offer to sell the Hotel to Holiday on the same terms and conditions as the offer. Holiday will notify you within 30 days if it intends to accept the offer.

Provision	Section In Agreement	Summary
o. Holiday's option to purchase your business	N/A	See "n" above.
p. Your death or disability	License: 9.F	If adequate provision acceptable to Holiday is made for the management of the Hotel, and Holiday gives written consent, decedent's interest in the License may be transferred to decedent's spouse, parent, siblings, nieces, nephews, descendants or spouse's descendants and heirs or legatees if they promptly advise Holiday and sign a new License, and Guaranty, if any, and decedent's executor or estate administrator signs a termination agreement of the License on Holiday's then current form.
q. Non-competition covenants during the term of the franchise	License: 3.A(13)	No part of the Hotel may be used to promote a competing business.
r. Non-competition covenants after the License is terminated or expired	N/A	
s. Modification of License	License: 4.E, 5 & 13.D MTSA: 13.12	No modifications generally but the Standards are subject to change.
t. Integration/Merger Clause	License: 13.D MTSA: 13.11	The integration/merger clause does not disclaim the representations in this Disclosure Document.
u. Dispute resolution by arbitration or Mediation	N/A	
v. Choice of forum	License: 13.B	Association with Holiday in Georgia permits, but does not require, all suits to be filed in Georgia, subject to state law.
w. Choice of law	License: 13.B MTSA: 13.8	Georgia law applies, subject to state law.

**NOTES:**

**Note 1:** The Master Technology Services Agreement attached as Exhibit C may be terminated by IHG Technology Solutions LLC when the License is terminated, as well as for other reasons.

**Note 2:** Termination of License by Holiday for Breach of Obligations Before Holiday Authorizes You to Use System at your Hotel: If Holiday terminates your License due to your breach of any of your obligations under the License before Holiday authorizes you to use the System at the Hotel (for example, due to your failure to perform the construction, upgrading and renovation work described in Attachment "B" of the License), then you must pay Holiday a lump sum equal to the monthly average of all amounts that would have been payable to Holiday under paragraphs 3.B(1), (3) and (4) of the License assuming the Hotel had collected Gross Rooms Revenue based on the average daily revenue per available room for all "mature hotels" in the System in the United States for the previous 12 months, as determined by Holiday, multiplied by the greater of (a) 6 or (b) the number of full and partial months from the Term Commencement Date to the termination date of the License. For purposes of this paragraph, "mature hotels" means Hotels which were open for two full years or longer; were franchised or, alternatively, owned and/or managed by Holiday or one of its affiliates; and, were not in financial or quality default of their applicable franchise or management agreement obligations as of the applicable date.

Termination of License by Holiday for Breach of Obligations After Holiday Authorizes You to Use System at your Hotel: If Holiday terminates the License under paragraph 11.B or 11.C (see table, sections g and h), you must promptly pay Holiday (as liquidated damages for the premature termination only, and not as a penalty nor as damages for breaching the License or in lieu of any other payment) a lump sum equal to the total amounts required under paragraphs 3.B(1), (3) and (4) of the License during the 60 calendar months of operation preceding the termination or during the preceding number of months equal to the unexpired License Term at the time of termination (if less than 60 months); or if the Hotel has not been in operation in the system for 60 months, an amount equal to the greater of (1) 60 times the monthly average of these amounts for the period during which the Hotel has been in operation in the System, or (2) 60 times these amounts as are due for the one month preceding the termination.

### **ITEM 18**

#### **PUBLIC FIGURES**

Holiday does not use any public figures to promote the sale of franchises. Public figures may appear in consumer marketing for the System.

### **ITEM 19**

#### **FINANCIAL PERFORMANCE REPRESENTATIONS**

The FTC's Franchise Rule permits a franchisor to provide information about the actual or potential financial performance of its franchised and/or franchisor-owned outlets, if there is a reasonable basis for the information, and if the information is included in the disclosure document. Financial performance information that differs from that included in Item 19 may be given only if: (1) a franchisor provides the actual records of an existing outlet you are considering buying; or (2) a franchisor supplements the information provided in this Item 19, for example, by providing information about possible performance at a particular location or under particular circumstances.

Holiday does not make any representations about a Vignette Collection™ franchisee's future financial performance or the past financial performance of company-owned or franchised outlets. Holiday also does not authorize its employees or representatives to make any such representations either orally or in writing. If you are purchasing an existing outlet from Holiday, however, Holiday may provide you with the actual records of that outlet. If you receive any other financial performance information or projections of your future income, you should report it to the franchisor's management by contacting, Holiday Hospitality Franchising, LLC, Attn: Financial Performance Representation Administrator, c/o Vice President, Franchise Operations, Suite 100, Three Ravinia Drive, Atlanta, Georgia 30346 (404) 770-2000, the Federal Trade Commission, and the appropriate state regulatory agencies.

**ITEM 20**

**OUTLETS AND FRANCHISEE INFORMATION  
FRANCHISED STORE STATUS SUMMARY**

**Table No. 1  
Systemwide Outlet Summary  
For Years 2018 to 2020**

<b>Column 1 Outlet Type</b>	<b>Column 2 Year</b>	<b>Column 3 Outlets at the Start of the Year</b>	<b>Column 4 Outlets at the End of the Year</b>	<b>Column 5 Net Change</b>
Franchised	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
Company- Owned	2018	0	0	0
	2019	0	0	0
	2020	0	0	0
Total Outlets	2018	0	0	0
	2019	0	0	0
	2020	0	0	0

**Table No. 2  
Transfers of Franchised Outlets to New Owners (Other than the Franchisor)  
For Years 2018 to 2020**

<b>Column 1 State</b>	<b>Column 2 Year</b>	<b>Column 3 Number of Transfers</b>
All States	2018	0
	2019	0
	2020	0
Total	2018	0
	2019	0
	2020	0

**Table No. 3  
Status of Franchised Outlets  
For Years 2018 to 2020**

<b>Column 1 State</b>	<b>Column 2 Year</b>	<b>Column 3 Outlets at Start of Year</b>	<b>Column 4 Outlets Opened</b>	<b>Column 5 Terminations</b>	<b>Column 6 Non- Renewals</b>	<b>Column 7 Reacquired by Franchisor</b>	<b>Column 8 Ceased Operations - Other Reasons</b>	<b>Column 9 Outlets at End of the Year</b>
All States	2018	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0
Total	2018	0	0	0	0	0	0	0
	2019	0	0	0	0	0	0	0
	2020	0	0	0	0	0	0	0

**Table No. 4  
Status of Company-Owned Outlets  
For Years 2018 to 2020**

<b>Column 1 State</b>	<b>Column 2 Year</b>	<b>Column 3 Outlets at Start of Year</b>	<b>Column 4 Outlets Opened</b>	<b>Column 5 Outlets Reacquired from Franchisee</b>	<b>Column 6 Outlets Closed</b>	<b>Column 7 Outlets Sold to Franchisee</b>	<b>Column 8 Outlets at End of the Year</b>
All States	2018	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2020	0	0	0	0	0	0
Total	2018	0	0	0	0	0	0
	2019	0	0	0	0	0	0
	2020	0	0	0	0	0	0

**Table No. 5  
Projected Openings as of December 31, 2020**

<b>Column 1 State</b>	<b>Column 2 Franchise Agreements Signed But Outlet Not Opened</b>	<b>Column 3 Projected New Franchised Outlet in the Next Fiscal Year</b>	<b>Column 4 Projected New Company-Owned Outlet in the Next Fiscal Year</b>
All Other States	0	0	0
Total	0	0	0

As of the date of this disclosure document and as further reflected in Exhibit F, there are no current Vignette Collection™ licensees. As such, there are no licensees that have had an outlet terminated, canceled, not renewed or otherwise voluntarily or involuntarily ceased to do business under the License as of December 31, 2020, or that has not communicated with Holiday within 10 weeks of the issuance date.

If you buy this franchise, your contact information may be disclosed to other buyers when you leave the franchise system.

The IHG Owners Association was created by Holiday's predecessor in interest in 1956. The IHG Owners Association is endorsed by Holiday and SCH and receives some sponsorship from SCH. Under the terms of the License, you, other System licensees, and Holiday are eligible for membership in the IHG Owners Association and are entitled to vote at its meetings on the basis of one Hotel, one vote. The IHG Owners Association represents the franchisee community of Holiday's various franchise systems and, through a series of committees, give advice and counsel to Holiday regarding the expenditures for the marketing, reservations and IHG® Rewards funds. Holiday and SCH personnel administer the system funds and report system funds activities to the IHG Owners Association. The IHG Owners Association also provides educational opportunities to its members, organizes regular meetings and provides additional membership benefits. The address, telephone number, and web address of the IHG Owners Association are Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346, (770) 604-5555 (or toll free 1-866-826-5808), and [www.owners.org](http://www.owners.org).

## **ITEM 21**

### **FINANCIAL STATEMENTS**

Exhibit G1 to this disclosure document includes Holiday's audited Financial Statements for the fiscal years ended December 31, 2020, December 31, 2019 and December 31, 2018, as well as Holiday's unaudited Financial Statements for the period ending June 30, 2021.

Our parent, SCH, commits to perform certain post-sale obligations for us. Exhibit G2 includes SCH's audited Financial Statements for the fiscal years ended December 31, 2020, December 31, 2019 and December 31, 2018, as well as SCH's unaudited Financial Statements for the period ending June 30, 2021.

## **ITEM 22**

### **CONTRACTS**

The following copies of all proposed agreements regarding the franchise offering are attached and made a part of this disclosure document:

Exhibit A	Application Letter Form
Exhibit B	Vignette Collection™ License Agreement and State Addenda
Exhibit C	Master Technology Services Agreement & Joinder Agreements
Exhibit H	IHG Merlin Terms and Conditions
Exhibit	Ancillary Agreements
I-1	IHG Voice Reservation Service Agreement
I-2	Revenue Management for Hire Agreement
I-3	Coca-Cola Participation Agreement
I-4	SPS Participation Agreements
I-5	Form IHG Direct Hotel Participation Agreement
I-6	Form IHG Wi-Fi Connect Agreement
I-7	Oracle New Account Setup Form

## **ITEM 23**

### **RECEIPTS**

Exhibit L contains two copies of a detachable receipt.

# EXHIBIT A

# IHG Hotels & Resorts Franchise Application

IHG<sup>®</sup>

HOTELS & RESORTS

LUXURY & LIFESTYLE



REGENT



KIMPTON  
HOTELS & RESTAURANTS

HOTEL  
INDIGO

PREMIUM

VOCO



ESSENTIALS



SUITES

ATWELL  
SUITES



IHG<sup>®</sup> REWARDS

## Instructions For Submitting Franchise Application

- Sign and date the "Receipt" page at the end of the current Franchise Disclosure Document for the applicable brand and return it immediately to your IHG (InterContinental Hotels Group) development representative. The Receipt should be signed and dated upon receipt by an authorized signer for the Applicant (see below).
- Complete the Application (please type or print) and have the authorized signer(s) for the Applicant sign and date the Application Letter.
- Attach the supporting documents and information requested in the Application and summarized on the attached checklist, and submit the entire package along with the Application Fee described below.

**NOTE: The Applicant should not sign or submit the Application or payment of the Application fee until at least the fourteenth (14th) day after the date the receipt of the Franchise Disclosure Document was signed and dated.**

### Authorized Signers

Authorized signers for the Receipt and Application Letter include the following:

#### Applicant Signer(s)

Individual(s):	Each individual
Corporation:	President, Vice President, or other Authorized Officer
General Partnership:	Each General Partner or Authorized General Partner
Limited Partnership:	Each General Partner or Authorized General Partner
Limited Liability Company:	Managing Member(s), Authorized Member(s), or Manager(s)
Trust:	Trustee(s)
Estate:	Executor/Executrix, Administrator/Administratrix

### Application Fee

Payment of the Application Fee must be made when you submit your Application. The Application Fee becomes non-refundable upon IHG approval of your Application.

For a **New Development, Conversion, Re-licensing, and Change of Ownership Application**, please calculate your Application Fee as follows (all fees are in US Dollars):

<b>avid hotels:</b>	\$500 per guest room/suite but not less than \$50,000
<b>Holiday Inn:</b>	\$500 per guest room/suite but not less than \$50,000
<b>Holiday Inn Express:</b>	\$500 per guest room/suite but not less than \$50,000
<b>Holiday Inn Resort:</b>	\$500 per guest room/suite but not less than \$50,000
<b>Staybridge Suites:</b>	\$500 per guest room/suite but not less than \$50,000
<b>Atwell Suites:</b>	\$500 per guest room/suite but not less than \$50,000
<b>Candlewood Suites:</b>	\$500 per guest room/suite but not less than \$50,000
<b>EVEN Hotels:</b>	\$500 per guest room/suite but not less than \$75,000
<b>voco:</b>	\$500 per guest room/suite but not less than \$75,000
<b>Vignette Collection:</b>	\$500 per guest room/suite but not less than \$75,000
<b>Hotel Indigo:</b>	\$500 per guest room/suite but not less than \$75,000
<b>Crowne Plaza:</b>	\$500 per guest room/suite but not less than \$75,000
<b>InterContinental:</b>	\$500 per guest room/suite but not less than \$75,000

## Application Checklist - Required Items

A complete Franchise Application package will expedite the Application Process. To ensure that your Franchise Application Package is complete, please use the following checklist:

- Franchise Disclosure Document Receipt signed and dated by an authorized signer for the Applicant on the day on which it was received.
- Application Letter signed and dated no earlier than the day after the 14th day following the date that the Applicant signs the Receipt contained in the Franchise Disclosure Document.
- A check or wire transfer for the Application Fee payable to Holiday Hospitality Franchising, LLC.
- Certified Personal Financial Statement for each sole proprietor, general partner, managing tenant in common, and/or major owner/shareholder (owners/shareholders owning beneficially 25% or more of the equity interest/stock) of the proposed licensee and any individual/entity who will serve as an additional guarantor of the proposed license.
- A copy of the deed, lease, sales contract, option agreement, or other instrument evidencing the proposed licensee's control of the proposed hotel site or property.
- A copy of a current resume for the primary the Applicant, the person who is in charge of the conversion/new hotel development process, and the person or management entity who will manage the day-to-day operations of the hotel.
- A copy of the proposed management agreement, if applicable, and information concerning the proposed management company.
- Description of all interests each individual and entity named herein has in other hotels/motels.
- Site plan, aerial, and location map with proposed hotel site identified. (not required for change of ownership or relicensing for an existing hotel.)
- Please enclose renderings or photographs of the hotel/site and a city area map with the site and competitive hotel facilities marked.
- Copies of Organizational Documents (including all amendments) for the Applicant entity and each of its principal entities, including general partner(s), managing member(s), controlling shareholders, or similar direct and indirect controlling interests, as follows:
  - Private Corporation: Articles of Incorporation (with filing stamp or certification from the jurisdiction of incorporation)
  - Limited Liability Company: Articles of Organization (with filing stamp or certification from the jurisdiction of formation) and signed Operating Agreement
  - Limited Partnership: Certificate of Limited Partnership (with filing stamp from the jurisdiction of formation) and signed Partnership Agreement
  - General Partnership: Signed Partnership Agreement
  - Trust: Signed Trust Agreement
  - Estate: Letters Testamentary/of Administration (where applicable)
- Completed Ownership Structure Form (see page 5) for the Applicant, its underlying ownership entities, and the fee title holder or lessor/sublessor of the Hotel/Hotel Site if related to the Applicant.
- A copy of the last two (2) Quality Assurance reports for all hotels not licensed by InterContinental Hotels Group but owned/managed by the Applicant within the last 12 months.
- Other pertinent project details (please attach as needed).

If proposed hotel is a conversion, please add:

- Conversion Indemnity Letter (if applicable)
- 3 Years' Hotel Operating Statistics (use table on page 11 if possible)

Note: This Application is to request a license to operate all brands licensed by Holiday Hospitality Franchising, LLC or Six Continents Hotels, Inc. Any reference to the InterContinental Hotels Group is considered to mean Holiday Hospitality Franchising, LLC and/or Six Continents Hotels, Inc., as appropriate. This Application is intended to obtain certain pre-qualifying information. Any offer to sell and any solicitation of an offer to buy a license (franchise) for all brands is made only by means of the Franchise Disclosure Document and only in states or jurisdictions where such offers and solicitations are permitted by law.

# Application Letter

**Brand (check one):**

- |                                                            |                                                        |                                                     |
|------------------------------------------------------------|--------------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> InterContinental Hotels & Resorts | <input type="checkbox"/> Crowne Plaza Hotels & Resorts | <input type="checkbox"/> voco                       |
| <input type="checkbox"/> EVEN Hotels                       | <input type="checkbox"/> Holiday Inn                   | <input type="checkbox"/> Hotel Indigo               |
| <input type="checkbox"/> Holiday Inn Express               | <input type="checkbox"/> Holiday Inn Express & Suites  | <input type="checkbox"/> Holiday Inn Hotel & Suites |
| <input type="checkbox"/> avid hotels                       | <input type="checkbox"/> Staybridge Suites             | <input type="checkbox"/> Holiday Inn Resort         |
| <input type="checkbox"/> Vignette Collection               | <input type="checkbox"/> Atwell Suites                 | <input type="checkbox"/> Candlewood Suites          |

Holiday Hospitality Franchising, LLC. ("HHFL"):

The undersigned hereby applies for a license to operate a hotel licensed by the InterContinental Hotels Group to be located at:

\_\_\_\_\_ (Street)

\_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_ (Country)

The undersigned understand(s) that "HHFL" relies on the information provided in the Application and all documents submitted by the undersigned and co-owners in connection with or in support thereof, including, but not limited to, all financial statements and this Application letter (all hereinafter referred to as the "Application").

1. All information contained in this Application is true, correct and complete as of this date. The Application does not fail to include any fact which would be necessary in order to make the information furnished therein not misleading. The undersigned will inform HHFL promptly of any material change in any of the information furnished in the Application.
2. The undersigned has/have the authority to make the Application and to enter into the other documents contemplated thereby, including, without limitation, a license agreement. Neither the making of the Application nor the execution of such other documents will conflict with the terms of any agreement to which the undersigned is/are a part or by which the undersigned is/are bound. The undersigned has/have not been induced by HHFL to terminate or breach any agreement with respect to the above mentioned location.
3. Information concerning the system of the hotel brand being licensed, including, without limitation, the appropriate license agreement (the "License Agreement"), has been made available to the undersigned. The undersigned is/are familiar with the system of the hotel brand being licensed and its requirements. If the Application is approved the undersigned will execute and comply with the terms of the License Agreement.
4. The undersigned understand(s) and acknowledge(s) that:
  - (a) HHFL does not enter into oral agreements or understandings with respect to licenses or matters pertaining to the granting of a license.
  - (b) A contract or agreement with respect to a proposed license shall come into effect only upon the execution of the License Agreement.
  - (c) As of this date, there are no oral agreements or understandings whatsoever between the undersigned and HHFL with respect to any proposed license.
  - (d) The Applicant authorizes HHFL and Six Continents Hotels, Inc. to check, at any time the credit history, references and other financial and background data of the Applicant, the proposed licensee, the undersigned and co-owners, including background checks for US OFAC compliance, and to answer questions about their credit history with HHFL.
  - (e) An Application fee has been paid to HHFL. Such Application fee may be invested, commingled with other funds of HHFL, or otherwise used by HHFL as it deems appropriate in its discretion.
  - (f) If the Application is not approved by HHFL, or if the Application is withdrawn by the Applicant, the Application fee will be returned less the Application Processing Fee for expenses incurred by HHFL, as solely determined by HHFL, in the processing the Application. If the Application is approved, the Application fee will not be returned.
  - (g) HHFL reserves the sole right to approve or disapprove the Application for any reason it may determine. In the event HHFL disapproves the Application, it will have no liability to the undersigned other than to return the Application fee, less its expenses in processing the Application as hereinbefore provided.

The undersigned, jointly and severally (if applicable), agree(s) to indemnify HHFL and its affiliates, directors and employees, agents, representatives, and assignees and to hold them harmless from all losses, consequently, directly or indirectly incurred (including legal and accounting fees and expenses) and arising from, as a result of or in connection with the breach of any representation or warranty contained in the Application or arising from, as a result of or in connection with HHFL's reliance on such representation or warranties. HHFL shall have the right independently to take any action it may deem necessary in its sole discretion, to protect and defend itself against any threatened action subject to the undersigned's indemnification, without regard to the expense, forum or other parties that may be involved. HHFL shall have sole and exclusive control over the defense of any such action (including the right to be represented by counsel of its choosing) and over the settlement, compromise or other disposition thereof.

**For Individual:**

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date (required): \_\_\_\_\_

**For Business Entity:**

Signature: \_\_\_\_\_

Print Name & Title: \_\_\_\_\_

Date (required): \_\_\_\_\_



## Applicant

**Name of the Applicant:** First: \_\_\_\_\_ Middle: \_\_\_\_\_  
Last: \_\_\_\_\_

**Name of Entity:** \_\_\_\_\_

The Proposed Licensee:  Existing Entity  To be formed as an entity after submitting this Application  
 Other (explain) \_\_\_\_\_

### Entity Address:

Address: \_\_\_\_\_ City: \_\_\_\_\_

State/Province: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

### Type:

Corporation  Limited Partnership  General Partnership  
 Limited Liability Company  Sole Proprietor  Trust  
 Other (specify) \_\_\_\_\_

### Corporation / Entity Formation Information:

Month/Day/Year: \_\_\_\_\_ State/Province: \_\_\_\_\_ Country: \_\_\_\_\_

## Principal Correspondent

### For Legal Notice

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_

State/Province: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

Business Phone: \_\_\_\_\_ Mobile Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

## Management Information

The proposed hotel will be managed by:

A General Manager to be employed by the Applicant

The General manager (if known) will be: \_\_\_\_\_

A Management Company under a Management Agreement with the Applicant

Company Name: \_\_\_\_\_

Contact: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State/Province: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_ Country: \_\_\_\_\_

Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_ Email: \_\_\_\_\_

### Attachments:

1. List of Hotels owned or managed by the Management Company.

**Hotel Experience**

*(attach additional pages if needed)*

Please complete the information below describing facilities operated, number of rooms, age of hotel, status, position held, dates purchased/sold if applicable, and level of involvement. Please attach additional pages if necessary.

**1. Current and prior InterContinental Hotels Group branded hotels owned/managed**

	Hotel Name	Loc# or HOLIDEX Code	# Rooms	Age of Hotel	Status (open or under construction)	Position	Other (include dates purchased/sold if applicable)	Percentage of Ownership
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								

**2. Most recent non-IHG branded hotels owned/managed**

	Hotel Name	Hotel City	STR ID#	Age of Hotel	Status (open or under construction)	Position	Other (inc. dates purch/sold if applicable)	Percentage of Ownership
1.								
2.								
3.								
4.								
5.								
6.								
7.								
8.								

**Attachments:**

1. A copy of the last two (2) Quality Assurance reports for all hotels not licensed by IHG but owned/managed by the Applicant within the last 12 months.

## Personal Information

The following questionnaire is intended to provide IHG with the information needed to evaluate your new business venture as a potential franchisee for the brand you selected. IHG is recognized as a global leader and offers one of the best franchise opportunities available in the lodging industry. Our successful heritage of quality and service is carried on around the globe by a unique group of entrepreneurial spirited people - our franchise owners and operators.

We welcome the opportunity to review your request to join the IHG portfolio of brands.

1. Do you now or have you ever owned, co-owned, or managed a hotel that was part of any IHG franchise system?

Yes     No

If yes, please provide details: \_\_\_\_\_

2. Have you ever applied for a franchise with IHG in the past?

Yes     No

If yes, please provide details: \_\_\_\_\_

3. What is your background in the hotel business? (attach resume)

\_\_\_\_\_

4. Please list all franchise/hotel licensing or affiliation agreements that you have ever entered.

\_\_\_\_\_

5. Who will be in charge of the conversion/new development process (development, construction, renovation)? (attach resume)

\_\_\_\_\_

6. If someone other than you or your General Manager has responsibility relative to the development, construction, conversion into any IHG System, or operations of your hotel, please specify that person and describe their background: (attach resume)

\_\_\_\_\_

7. Is or was the proposed licensee or any direct or indirect owner of the proposed license the subject of a voluntary or involuntary bankruptcy, receivership, foreclosure, or other insolvency proceeding either currently pending or filed within the three-year period immediately preceding this Application?

Yes If yes, please explain on a separate sheet.       No

8. Is or was the proposed hotel site or the current owner of the proposed hotel site the subject of any bankruptcy, receivership, foreclosure, or other insolvency proceeding either currently pending or filed with the three-year period immediately preceding this Application?

Yes If yes, please explain on a separate sheet.       No

9. Please list all pending or concluded litigation with a franchiser over the past five (5) years in which the Applicant, the proposed licensee or their respective principals, owners, affiliates, or guarantors have been a party.

\_\_\_\_\_

10. Will any employee, officer or director, or one of their relatives, of any IHG company participate in management or ownership of the entity to be licensed or one of its affiliates? If yes, please explain, while providing detailed information.

Yes     No

If yes, please provide details: \_\_\_\_\_

### Attachments:

1. Applicant's resume.
2. If applicable, resume of person in charge of development process and resume of person in charge of your hotel if other than General Manager.
3. If applicable, please provide details of voluntary or involuntary bankruptcy, receivership, foreclosure, or other insolvency proceeding.

## Ownership Structure Information

Each sole proprietor, general manager, managing tenant in common, and major owner/shareholder (owners/shareholders owning beneficially 25% or more of the stock) of the proposed licensee and any individual/entity who will serve as an additional guarantor of the proposed license is required to submit a Personal Financial Statement with this Application including a list of all hotels/motels in which the individual has an interest. Facility name, location, and the nature and percentage of the individual's interest must be indicated.

Please follow any of the examples provided below to help you complete your ownership structure on the following page.

### Example #1: Corporation

Licensee Name: CAPITAL HOSPITALITY, INC

Entity/Person's Name	Description of Interest	% Interest	Business Address & Telephone
Ideal Hospitality Inc. - Jane Smith, member 100%	Shareholder	35%	123 Brook Lane, Atlanta GA 30039 Tel: (123) 456-7890
George Williams, LLC - Paul Doe, member 50% - Lucy Doe, member 50%	Shareholder	28%	333 Cricket Drive, Atlanta GA 30346 Tel: (123) 456-7890
A. Moore	Shareholder	37%	50-51 Tree Street, Atlanta GA 30346 Tel: (123) 456-7890
	Total	100%	

#### Items Needed for Execution

- Proof of Current State Filing

### Example #2: Limited Partnership (LP)

Licensee Name: WEBSTER HOLDINGS, LP

Entity/Person's Name	Description of Interest	% Interest	Business Address & Telephone
Prestige Hotels, LLC - Mohammed Singh, member 100%	General Partner	1%	111 Court Ave, Atlanta GA 30039 Tel: (123) 456-7890
Capital Investments, Inc. - Jim Thomas, member 50% - Susan White, member 50%	Limited Partner	30%	23 Bird Street, Atlanta GA 30346 Tel: (123) 456-7890
Stanley Watson	Limited Partner	69%	345 Willow Road, Atlanta GA 30014 Tel: (123) 456-7890
	Total	100%	

#### Items Needed for Execution

- Executed Partnership Agreement
- Proof of Current State Filing

### Example #3: General Partnership

Licensee Name: GROUND HIGH HOLDINGS, GP

Entity/Person's Name	Description of Interest	% Interest	Business Address & Telephone
Wendy Jones	General Partner	32%	8241 Tree Lane Road, Atlanta, GA 30346 Tel: (123) 456-7890
Greg Finn	General Partner	38%	745 Auburn Court, Atlanta, GA 30313 Tel: (123) 456-7890
Kelly Price	General Partner	30%	2011 Lake Hearn Court, Atlanta, GA 30014 Tel: (123) 456-7890
	Total	100%	

#### Items Needed for Execution

- Executed Partnership Agreement
- Proof of Current State Filing

### Example #4: Limited Liability Corporation (LLC)

Licensee Name: TFB HOTELS, LLC

Entity/Person's Name	Description of Interest	% Interest	Business Address & Telephone
General Hospitality, LLC - Bruce Johnson, member 100%	Member	35%	1122 Big Road, Atlanta GA 30039 Tel: (123) 456-7890
Paul Moore, LLC - Pat Davis, member 50% - Ben Brown, member 50%	Member	28%	500 Brook Crossing, Atlanta, GA Tel: (123) 456-7890
Andrew Patel	Member	37%	56-78 Causeway Avenue Atlanta, GA Tel: (123) 456-7890
	Total	100%	

#### Items Needed for Execution

- Executing Operating Agreement
- Proof of Current State Filing



# Ownership Structure Information *continued*

## Loan & Financing Information

Do you have a loan or loan commitment for this project?  Yes  No

Name of proposed/existing lender(s): \_\_\_\_\_

	Debt	Equity
Source		
Amount		
% of Total Development Cost		

Do you have, or do you anticipate seeking Small Business Administration (SBA) backed financing?

Yes. Describe: \_\_\_\_\_  No

Is the loan (or will the loan be) cross-collateralized by other hotels/real estate assets or cross-defaulted to any other loan(s)?

Yes. Describe: \_\_\_\_\_  No

Please describe the existing or anticipated financing of this project:

# Proposed Hotel Summary

**Street Address\*:** \_\_\_\_\_  
*\*If no street address, provide coordinates or other location description*

**City:** \_\_\_\_\_ **State/Province:** \_\_\_\_\_ **Country:** \_\_\_\_\_ **Zip/Postal Code:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Brand (check one):**

- |                                                            |                                                        |                                                     |
|------------------------------------------------------------|--------------------------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> InterContinental Hotels & Resorts | <input type="checkbox"/> Crowne Plaza Hotels & Resorts | <input type="checkbox"/> voco                       |
| <input type="checkbox"/> EVEN Hotels                       | <input type="checkbox"/> Holiday Inn                   | <input type="checkbox"/> Hotel Indigo               |
| <input type="checkbox"/> Holiday Inn Express               | <input type="checkbox"/> Holiday Inn Express & Suites  | <input type="checkbox"/> Holiday Inn Hotel & Suites |
| <input type="checkbox"/> avid hotels                       | <input type="checkbox"/> Staybridge Suites             | <input type="checkbox"/> Holiday Inn Resort         |
| <input type="checkbox"/> Vignette Collection               | <input type="checkbox"/> Atwell Suites                 | <input type="checkbox"/> Candlewood Suites          |

**Development Type:**

- |                                                                     |                                      |                                           |
|---------------------------------------------------------------------|--------------------------------------|-------------------------------------------|
| <input type="checkbox"/> New Development (new build/adaptive reuse) | <input type="checkbox"/> Conversion  | <input type="checkbox"/> Room Adjustments |
| <input type="checkbox"/> Change of Ownership                        | <input type="checkbox"/> Relicensing |                                           |



## Estimated Open Date

Projected Construction/Reno Start Date: \_\_\_\_\_

Projected Construction/Reno Completion Date: \_\_\_\_\_



## Hotel Facilities, Building, Site Information

Total Guest Units: \_\_\_\_\_

# Guest rooms: \_\_\_\_\_ # Guest suites: \_\_\_\_\_

Floors: \_\_\_\_\_

Year Built: \_\_\_\_\_

Meeting Space:  Yes \_\_\_\_\_ total sq. ft. Total # Rooms: \_\_\_\_\_  No

Ballroom/Largest Room:  Yes \_\_\_\_\_ sq. ft.  No

Condominium Residences:  Yes # \_\_\_\_\_  No

Pool:  Yes \_\_\_\_\_ Indoor \_\_\_\_\_ Outdoor  No

Gym:  Yes  No

Other Amenities (please explain or attach): \_\_\_\_\_

Total square footage of site: \_\_\_\_\_

Zoned for hotel development?  Yes  No (if No, please provide details): \_\_\_\_\_

Maximum height allowed by zoning code: Feet: \_\_\_\_\_ Floors: \_\_\_\_\_

# Proposed Hotel Summary *continued*

## Food & Beverage Facilities

### Restaurants

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

### Bars / Lounges

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_

Name: \_\_\_\_\_

Capacity: \_\_\_\_\_



## Hotel Affiliation

Has there ever been a franchise, branded management, affiliation, or similar agreement pertaining to this hotel or site?

Explain: \_\_\_\_\_

If the hotel is currently affiliated with a hotel chain, what chain? \_\_\_\_\_

Hotel's current name: \_\_\_\_\_

Original open date: \_\_\_\_\_



## Proposed Hotel Summary *continued*

Owned by the Applicant

Leased to the Applicant

Optioned to the Applicant

Under purchase agreement by the Applicant

Other. Explain: \_\_\_\_\_

Lease Holder: \_\_\_\_\_

Beneficial Holder: \_\_\_\_\_

Option expires: \_\_\_\_\_

Beneficial Holder: \_\_\_\_\_

Option expires: \_\_\_\_\_

### Operating Projections

Assumptions	Year 1	Year 2	Year 3	Year 4	Year 5
% Occupancy					
ADR*					
RevPAR*					

\* US Dollars

### Hotel Performance (If Existing Facility) Last 5 Years

Please enter corresponding year.

Historical	20_____	20_____	20_____	20_____	20_____
% Occupancy					
ADR*					
Total Rooms Revenue*					

\* US Dollars

# Proposed Hotel Summary *continued*

## Competitive Information

Identify all hotels/motels in your market area that are/would be considered competitive to the proposed hotel/site. Specifically include those within a five-mile radius of the hotel/site area.

STR ID#	Hotel Name	Distance from proposed site (miles)	Age of Property	Room Count	Rate Range
1.					
2.					
3.					
4.					
5.					

If proposed hotel or hotel site is currently owned by anyone other than the Applicant or the proposed entity, please indicate:

Fee owner name: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_

State/Province: \_\_\_\_\_ Zip/Postal Code: \_\_\_\_\_

Country: \_\_\_\_\_

Telephone: \_\_\_\_\_

Related to the Applicant?  Yes. Describe: \_\_\_\_\_  No

# Estimated Hotel Project Costs

## New Construction *(approximately)*

Land: \$US \_\_\_\_\_  
Construction: \$US \_\_\_\_\_  
FF&E: \$US \_\_\_\_\_  
Other: \$US \_\_\_\_\_  
TOTAL: \$US \_\_\_\_\_



## Conversion

Purchase price/current mkt. value (est.): \$US \_\_\_\_\_  
Renovation/upgrade\*: \$US \_\_\_\_\_  
Other\*: \$US \_\_\_\_\_  
TOTAL: \$US \_\_\_\_\_



Please use this section to provide any additional details about your project.

*Thank you for completing your Franchise Application with IHG. We look forward to the opportunity to review your information.*



# EXHIBIT B

**EXHIBIT B**

LOCATION: «HotelAddress1»  
«HotelAddress2»

LOCATION #: «LocNum»

DATE:

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**VIGNETTE COLLECTION™  
LICENSE AGREEMENT**

**WITH**

**«EntityAllCaps»**

**LICENSEE**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**VIGNETTE COLLECTION™**

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**Holiday Hospitality Franchising, LLC**  
**Three Ravinia Drive, Atlanta, Georgia 30346**  
**Vignette Collection™**  
**License Agreement**

This License Agreement (“License”) dated \_\_\_\_\_, 20\_\_ (the “Term Commencement Date”) is between HOLIDAY HOSPITALITY FRANCHISING, LLC, a Delaware limited liability company (“IHG”), and a \_\_\_\_ {state} \_\_\_\_\_ (resident/corporation/LLC/partnership) (“Licensee”), whose address is \_\_\_\_\_.

**The Parties Agree As Follows:**

**1. The License:**

IHG operates and licenses a system (the “System” as defined in paragraph 1.B. below) designed to provide a distinctive, high quality hotel service to the public under the name “Vignette Collection™”. High standards established by IHG are the essence of the System. Future investments may be required of Licensee under this License. Licensee has independently investigated the risks of the business to be operated hereunder, including current and potential market conditions, competitive factors and risks; has read IHG’s Franchise Disclosure Document for prospective Vignette Collection™ franchisees; and has made an independent evaluation of all such facts. Neither IHG nor any other person on IHG’s behalf has made any representation to Licensee concerning this License not fully set forth herein. Aware of the relevant facts, Licensee desires to enter into this License in order to obtain a license to use the System in the operation of a Vignette Collection™ hotel located at \_\_\_\_\_ (the “Hotel”).

**A. The Hotel.**

The Hotel comprises all structures, facilities, appurtenances, furniture, fixtures, equipment, and entry, exit, parking and other areas from time to time located on the land identified by Licensee to IHG in anticipation of this License, or located on any land from time to time approved by IHG for additions, signs or other facilities. The Hotel now includes the facilities listed on Attachment “A” hereto. No change in the number of approved guest rooms and no other significant change in the Hotel or in the manner in which the Hotel rooms and services are offered to the public (including timesharing and condominium hotel projects and other projects not involving short term stays by transient guests) may be made without IHG’s written approval. Licensee represents that it is entitled to possession of the Hotel during the entire License Term without restrictions that would interfere with anything contemplated in this License.

**B. The System.**

The System includes all elements which are designed to identify “Vignette Collection™” hotels to the consuming public or are designed to be associated with those hotels or to contribute to such identification or association and all elements which identify or reflect the quality standards and business practices of such hotels, all as specified in this License or as designated from time to time by IHG. The System at present includes, but is not limited to, the principal trade and/or service mark “Vignette Collection™”, the service mark “IHG Concerto™” and the other Marks (as defined in paragraph 6.B. below) and intellectual property rights made available to licensees of the System by reason of a license; all rights to domain names and other identifications or elements used in electronic commerce as may be designated from time to time by IHG in accordance with IHG’s specifications to be part of the System; access to a reservation service operated in accordance with specifications established by IHG from time to time; preparation and distribution of advertising, publicity and other marketing programs and materials; the furnishing of training programs and materials; architectural drawings and architectural works; confidential or proprietary information, standards, specifications and policies for construction, furnishings, operation, appearance and service of the Hotel, standards and specifications for interior and

exterior design and decor and other requirements as stated or referred to in this License and from time to time in IHG's brand standards for System hotels (the "Standards") or in other communications to Licensee; and programs for inspecting the Hotel, measuring and assessing service, quality and consumer opinion, and consulting with Licensee. The Standards and all changes to the Standards may be presented in any format, including but not limited to print, electronic or other media. IHG may add elements to the System or modify, alter or delete elements of the System in its sole judgment from time to time.

## **2. Grant of License:**

IHG hereby grants to Licensee a non-exclusive license to use the System only at the Hotel, but only in accordance with this License and only during the "License Term" beginning with the Term Commencement Date and terminating as provided under paragraph 11 hereof. The License applies to the location of the Hotel specified in paragraph 1 herein (the "Location") and to no other location. Licensee acknowledges that IHG, its divisions, subsidiaries, affiliates and parents are and may in the future be engaged in other business activities, including activities involving transient lodging and related activities and that Licensee is acquiring no rights hereunder other than the right to use the System as specifically defined herein in accordance with the terms of this License.

This License does not limit IHG's right, or the rights of any parent, subsidiary or affiliate of IHG, to use or license the System or any part thereof, or to engage in or license any business activity at any other location, including, without limitation, the licensing, franchising, ownership, operation and/or management of lodging facilities and related activities under the names and Marks associated with the System and/or any other names and marks. Licensee acknowledges that IHG's rights to use and/or license the System, referenced immediately above, pre-date this License and are not limited or changed by the terms of this License. Licensee agrees that by acknowledging those rights, the parties do not intend to make IHG's exercise of such rights subject to rules applicable to contractual performance or the exercise of contractual discretion under this License.

## **3. Licensee's Responsibilities:**

### **A. Operational and Other Requirements.**

Throughout the entire License Term, Licensee will at its sole cost and expense:

- (1) maintain a high moral and ethical standard and atmosphere at the Hotel;
- (2) maintain the Hotel in a clean, safe and orderly manner and in first class condition;
- (3) provide efficient, courteous and high-quality service to the public including, without limitation, maintaining minimum product and service quality standards and scores for quality assurance programs established and maintained by IHG, as such programs may be modified by IHG from time to time;
- (4) operate the Hotel 24 hours a day every day except as otherwise permitted by IHG based on special circumstances;
- (5) strictly comply in all respects with the Standards (as they may from time to time be modified or revised by IHG) and with all other policies, procedures and requirements of IHG which may be from time to time communicated to Licensee (which communication, at IHG's option, may be in hard paper copy or digital, electronic or computerized form, and Licensee must pay any costs to retrieve, review, use or access such digital, electronic or computerized communication);
- (6) strictly comply with all of IHG's standards and specifications for goods and services used in the operation of the Hotel and other reasonable requirements to protect the System and the Hotel from unreliable sources of supply;
- (7) strictly comply with IHG's requirements as to the:
  - (a) type of services and products that may be used, promoted or offered at the Hotel;
  - (b) type and quality of services and products that, to supplement services listed on Attachment "A", must be used, promoted or offered at the Hotel;

- (c) use, display, style and type of signage and of all other forms of identification at or pertaining to the Hotel, including but not limited to any use of the Vignette Collection™ name or any other of IHG's service marks, trademarks or copyrights (in all formats, including but not limited to print, electronic or other media) which are seen by members of the consuming public or used to identify the Hotel to actual or prospective consumers;
  - (d) directory and reservation service listings of the Hotel;
  - (e) training of persons to be involved in the operation of the Hotel;
  - (f) participation in all marketing, reservation service, advertising, training and operating programs designated by IHG as System-wide (or area-wide) programs in the best interests of hotels using the System including, without limitation, all guest frequency or loyalty programs related to the System;
  - (g) maintenance, repair, appearance, interior and exterior design, interior decor and condition of, and customer service at the Hotel, including, without limitation, participation in all guest complaint programs and quality assurance programs established and maintained by IHG, as such programs may be modified by IHG from time to time;
  - (h) quality and types of services offered to customers at the Hotel; and
  - (i) maintenance of a capital reserve and adherence to capital reinvestment and renovation cycles (as further specified in paragraph 13.N. hereof and as IHG may supplement from time to time by the Standards);
- (8) use all technology services required by IHG;
  - (9) adopt all improvements or changes to the System as may be designated by IHG from time to time;
  - (10) with respect to all aspects of this License and the Hotel and its ownership, development and operation, strictly comply with all applicable laws, rules, regulations, requirements, codes, orders, ordinances and standards of all governmental jurisdictions in which the Hotel is located or that are otherwise applicable to Licensee or the Hotel, pay timely all taxes and other governmental fees, assessments and impositions, and timely obtain and maintain throughout the License Term all governmental licenses, authorizations and permits necessary to own (or lease, as may be applicable) and operate the Hotel in accordance with the System;
  - (11) permit inspection of the Hotel by IHG's representatives at any time and give them free lodging for such time as may be reasonably necessary to complete their inspections;
  - (12) promote the Hotel on a local or regional basis subject to IHG's requirements as to form, content and prior approvals;
  - (13) ensure that no part of the Hotel or the System is used to further, promote, or divert business to a competing business or other lodging facility (including, without limitation, hotels, vacation or timeshare facilities or any similar product sold on a periodic basis), except as IHG may approve for businesses or lodging facilities owned, licensed, operated or otherwise approved by IHG or its parents, divisions, subsidiaries, and affiliates;
  - (14) use every reasonable means to encourage use of Vignette Collection™ facilities everywhere by the public;
  - (15) in all respects use Licensee's best efforts to reflect credit upon and create favorable public response to the name "Vignette Collection™";
  - (16) promptly pay to IHG all amounts due IHG, its parents, subsidiaries and affiliates as royalties, or charges, whether or not arising out of this License, or for goods or services purchased by Licensee for use at the Hotel; and
  - (17) strictly comply with IHG's requirements concerning confidentiality of information; and, in particular, Licensee shall not disclose, without IHG's written permission, (i) information pertaining to IHG's marketing, reservations, quality assurance, guest loyalty and satisfaction, technology or other systems or programs that has not been intentionally disclosed to the public by IHG, (ii) any of the Standards or (iii) any of the commercial terms or provisions of this License.

**B. Fees.**

- (1) For each month (or part of a month) during the License Term, Licensee will pay to IHG by the 15th of the following month, except in the case of the Technology Services Fee in paragraph 3.B(1)(c) below, which is payable monthly in advance:
  - (a) a royalty of 5% of Gross Rooms Revenue. "Gross Rooms Revenue" means the gross revenue and receipts of every kind attributable to or payable for rental of guest rooms at the Hotel including, but not limited to, no-show revenue, early departure or late check-out fees, attrition or cancellation fees, any mandatory fee or surcharge charged to all or substantially all guests renting a room (including, but not limited to, resort fees, although inclusion of such fees or surcharges does not constitute approval by IHG of such fees and surcharges, which may be limited or prohibited), any awards, judgments or settlements representing payment for loss of room sales and any other revenues allocable to rooms revenue under the Uniform System of Accounting for the Lodging Industry, Eleventh Revised Edition, 2014, as published by the American Hotel & Lodging Association Educational Institute, or any later edition, revision, or replacement that may be designated by IHG (the "Uniform System"). No deductions shall be allowed for charge backs, credit card service charges, commissions, uncollectible amounts or similar items. Charges for any item, including, but not limited to, telephone charges, entertainment, the cost of any food and beverage items, room service or other items provided or made available to a guest as an incident of a guest room rental shall not be considered a deduction from Gross Rooms Revenue. Gross Rooms Revenue excludes sales tax, value added tax, or similar taxes on such revenues and receipts;
  - (b) a "Services Contribution", equal to 3.5% of Gross Rooms Revenue which, in IHG's sole business judgment as to the long-term interests of the System, will be used by IHG for marketing, reservations, training programs, and related services. The Service Contribution cannot be used to cover the cost of maintenance, repair, modernization, renovation, or upgrading of the Hotel. IHG and its affiliates are not responsible for any of these costs. Funds from Services Contributions will typically be invested in activities that strengthen the brand such as awareness advertising, reservations, training programs, research, and the development of new or improved services, but may also include tactical marketing initiatives more focused on short term revenue enhancement and seasonal marketing programs. The Services Contributions do not include costs which Licensee incurs in the acquisition, installation or maintenance of reservations services, equipment or training, or in Licensee's own marketing activities. IHG can change the Services Contribution from time to time. IHG may, on 30 days advance notice, at any time during the term of this License, and from time to time, increase the Services Contribution by up to 1% of Gross Rooms Revenue. If IHG increases the Services Contribution in this way, then IHG cannot make another discretionary increase again for 24 months after the start of a prior increase. IHG may increase the Services Contribution by a maximum of 2% of Gross Rooms Revenue over the term of this License;
  - (c) a monthly Technology Services Fee of \$16.08 for each guest room at the Hotel to be used by IHG for provision of technology services, such as, but not limited to satellite communications services to the Hotel, plus such increases as IHG may judge reasonable, but in no case exceeding in any calendar year 10% of the fee in effect at the beginning of that year (the Technology Services Fee does not include the cost, installation, maintenance or repair of any equipment at the Hotel);
  - (d) all fees due for travel agent commission programs, including Electronic Commission Services and any Field Marketing Co-op programs attributable to the Hotel; and all fees due in connection with mandatory marketing, technology, guest loyalty and frequency, guest satisfaction, quality assurance, training, new hotel opening and other systems and programs established by IHG, its parents, its subsidiaries or its affiliated entities relating to the System; and

- (e) an amount equal to any sales, gross receipts or similar tax imposed on IHG and calculated solely on payments required hereunder, unless the tax is an optional alternative to an income tax otherwise payable by IHG.

IHG may, at its election at any time during the License Term, require Licensee to pay all outstanding fees by electronic funds transfer, direct account debit or other similar technology designed to accomplish the same purpose as may be designated by IHG.

Licensee will operate the Hotel so as to maximize Gross Rooms Revenue of the Hotel consistent with sound marketing and industry practice and will not engage in any conduct that reduces Gross Rooms Revenue of the Hotel in order to further other business activities.

- (2) A standard application fee for additional guest rooms as set forth in IHG's then current Vignette Collection™ disclosure document will be charged upon application for any guest rooms to be added to the Hotel.
- (3) Additional royalties may be charged on revenues (or upon any other basis, if so determined by IHG) from any activity if it is added at the Hotel by mutual agreement, and:
  - (a) such activity is not now offered at System hotels generally and is likely to benefit significantly from or be identified significantly with the Vignette Collection™ name or other aspects of the System; or
  - (b) such activity is designed or developed by or for IHG.
- (4) Charges may be made for optional products or services accepted by Licensee from IHG, either in accordance with current practice or as developed in the future.
- (5) Each payment under this paragraph 3.B., except the standard additional rooms application fee or other fee not determined from Gross Rooms Revenue, shall be accompanied by the monthly statement referred to in paragraph 7.A. IHG may apply any amounts received under this License to any amounts due under this License. If any amounts under this License are not paid when due, such non-payment shall constitute a breach of this License and, in addition, such unpaid amounts will accrue interest beginning on the first day of the month following the due date at 1½% per month or the maximum interest permitted by applicable law, whichever is less.
- (6) Local and regional marketing programs and related activities may be conducted by Licensee, but only at Licensee's expense and subject to IHG's requirements. Reasonable charges may be made for optional advertising materials ordered or supplied by IHG to Licensee for such programs and activities.
- (7) IHG has the right, in its sole judgment, to require Licensee to tender all or any part of the payments due to IHG under this License to IHG, one or more of IHG's parents, subsidiaries, affiliated entities or other designees.

#### **4. IHG's Responsibilities:**

##### **A. Training.**

During the License Term, IHG will continue to specify and provide required and optional training services and programs at various locations. A fee may be charged for certain required and optional training services. Travel, lodging and other expenses of Licensee and its employees will be borne by Licensee. Reasonable charges may also be assessed for training materials.

##### **B. Reservation Services.**

During the License Term, so long as Licensee is in full compliance with its obligations hereunder, IHG will afford Licensee access to reservation service for the Hotel on terms consistent with this License. However, IHG has no obligation to afford Licensee access to reservation service for the Hotel regarding reservations for any date after the expiration date of this License or for any date after the termination date established by IHG, following any applicable notice period or any applicable opportunity to cure.

**C. Consultation on Operations, Facilities and Marketing.**

During the License Term, IHG will, from time to time at IHG's election, make available to Licensee consultation and advice in connection with operations, facilities and marketing. IHG may from time to time furnish to Licensee names of suppliers or recommend to Licensee suppliers of goods and services required or useful in the operation of the Hotel; however, IHG is not obligated to furnish any such names or to continue doing so, and Licensee is under no obligation to use any such supplier, unless expressly required to do so by the terms of this License, the Standards or otherwise. In identifying or recommending suppliers, IHG exercises its business judgment based on its information as of that date and its sense of the long-term interests of the System. IHG's identification or recommendation of a supplier is not a warranty of the financial condition or performance of any supplier or of any other factor, and Licensee's use of an identified or recommended supplier that sells products or services meeting IHG's standards and specifications may facilitate compliance with those standards and specifications, but it is not a substitute for such compliance.

**D. Maintenance of Standards.**

IHG will conscientiously seek to maintain high standards of quality, cleanliness, appearance, design and service at all hotels using the System so as to promote, protect and enhance the public image and reputation of the Vignette Collection™ name and to increase the demand for services offered by the System. IHG's judgment in such matters shall be controlling in all respects, and it shall have wide latitude in making such judgments.

**E. Application of Standards.**

The Hotel and all other hotels operated under the System will be subject to the Standards, as they may from time to time be modified or revised by IHG, including limited exceptions from compliance which may be made based on local conditions, type of hotel or special circumstances. The Standards and any modification to them can be delivered by IHG to Licensee in hard paper copy or, at IHG's option, be made available to Licensee in digital, electronic or other computerized form. If communicated in digital, electronic or other computerized form, Licensee must pay any costs to retrieve, review, use or access the Standards. The Standards are confidential and remain the property of IHG.

**F. Other Arrangements for Marketing, Etc.**

IHG may enter into arrangements for development, reservation services, marketing, operations, administrative, training, technical and support functions, facilities, programs, services and/or personnel with any other entity, and may use any facilities, programs, services or personnel used in connection with the System, in connection with any business activities of its parents, subsidiaries, divisions or affiliates.

**G. Use of Services Contribution:**

IHG will make available and use Services Contribution funds for various activities as may be computed on the basis generally applicable to licensees of the System. IHG is not obligated to expend funds for marketing, reservations or related services in excess of the amounts received from licensees using the System and those funds made available by IHG as set forth above. Services Contribution funds are not intended to benefit any specific market or hotel. IHG and its affiliates have no obligations to spend from Services Contribution funds, or otherwise, any amount fixed or proportionate to the amount of Services Contributions Licensee pays, nor do IHG or its affiliates have any obligation to ensure that Licensee benefits directly or proportionately from Services Contributions paid or expenditures made from collected Services Contributions. Local and regional marketing programs and related activities may be conducted by Licensee, but only at Licensee's expense and subject to IHG's requirements. Reasonable charges may be made for optional advertising materials ordered or used by Licensee for such programs and activities.

## **H. Performance of IHG's Obligations.**

Licensee understands and agrees that IHG, in its sole discretion, may perform any or all of its obligations under this License directly or through IHG's parents, affiliates, subsidiaries or other designees.

## **5. Changes In The Standards:**

Each change in the Standards shall be communicated in writing to Licensee at least 30 days before it goes into effect (which communication may be in hard paper copy or, at IHG's option, in digital, electronic or other computerized form, and if such communication is in digital, electronic or other computerized form, Licensee must pay any costs to retrieve, review, use or access same). IHG's designated internal franchise committee or subcommittee, must approve any such change and must determine, in the exercise of its business judgment, that the change was adopted in good faith and is consistent with the long-term overall interests of the System.

## **6. Proprietary Rights:**

### **A. Ownership of System.**

Licensee acknowledges and will not contest, either directly or indirectly, IHG's and its subsidiaries', affiliates' and parents' unrestricted and exclusive ownership of and right to use the System and any element(s) or component(s) thereof, or that IHG or any of its parents, subsidiaries or affiliated entities has the sole and exclusive right to grant licenses to use all or any element(s) or component(s) of the System and will not take any other action in derogation of such ownership and rights of IHG and any of its parents, subsidiaries or affiliated entities. Licensee specifically agrees and acknowledges that IHG owns or is licensed to use the names and mark "Vignette Collection™" and all other Marks (as defined in paragraph 6.B. below) and other elements associated with the System as defined in paragraph 1.B. above, or derived therefrom (including but not limited to domain names or other identifications or elements used in electronic commerce), together with the goodwill symbolized thereby, and that Licensee will not contest directly or indirectly the validity or ownership of the Marks or take any other action in derogation of such validity or ownership either during the term of this License or after its termination. All improvements, modifications and additions whenever made to or associated with the System by the parties hereto or anyone else, and all service marks, trademarks, copyrights, and service mark, trademark, domain name or similar registrations at any time used, applied for or granted in connection with the System, and all goodwill arising from Licensee's use of IHG's Marks and other intellectual property, including (without limitation) local goodwill, shall inure to the benefit of and become the property of IHG. Upon expiration or termination of this License, no monetary amount shall be assigned as attributable to any goodwill associated with Licensee's use of the System or any element(s) or component(s) of the System including any trademarks or service marks licensed hereunder.

### **B. Disputes Concerning the Marks or System.**

The "Marks" means the name and mark "Vignette Collection™" and its distinguishing characteristics and the other service marks, trademarks, trade names, slogans, commercial symbols, logos, trade dress, copyrighted material and intellectual property associated with the System, including (without limitation) those which IHG may designate in the future for use and those which IHG does not designate as withdrawn from use (the "Marks"). Licensee shall notify IHG immediately of (i) an infringement, or a challenge to Licensee's use of any of the Marks; (ii) any objections, demands, controversies, allegations or actions asserted or taken by third parties involving any of the Marks or any part of the System of which Licensee becomes aware; and, (iii) any potentially infringing or unauthorized uses of any of the Marks or any part of the System of which Licensee becomes aware. IHG, its parent or one of its affiliated entities, will have the sole and exclusive right to handle disputes with third parties concerning use of all or any part of the

Marks or System, and Licensee will, at its reasonable expense, extend its full cooperation to IHG in all such matters. All recoveries made as a result of disputes with third parties regarding use of the Marks or System or any part thereof shall be for the account of IHG. IHG need not initiate suit against alleged imitators or infringers, and may settle any dispute by grant of a license or otherwise. Licensee will not initiate any suit or proceeding against alleged imitators or infringers, or any other suit or proceeding to enforce or protect the Marks or System.

**C. Protection and Use of Name and the Marks.**

Both parties will make every effort consistent with the foregoing to protect and maintain the Marks. Licensee agrees to execute any documents deemed necessary by IHG or its counsel to obtain or maintain protection for the Marks or any part of the System or to maintain their continued validity and enforceability. Licensee agrees to use the Marks associated with the System (i) only in connection with the operation of the Hotel during the License Term following opening of the Hotel in the System or at such earlier time as is expressly and specifically authorized by IHG, (ii) only in the manner expressly authorized by IHG and (iii) in no way that would tend to allow the Marks to become generic, lose their distinctiveness, become liable to mislead the public or be detrimental to or inconsistent with the good name, goodwill or favorable reputation and image of the Marks or IHG. Licensee acknowledges that any unauthorized, unpermitted or prohibited use of any of the Marks shall constitute infringement of IHG's rights. The restrictions and requirements that limit Licensee's use of the Marks and identifications apply to all formats (including print, electronic and other media) and include domain names, URL, and other identifications or elements used in electronic commerce.

**D. Modification or Discontinuation of the Marks.**

If IHG modifies or discontinues use of any of the Marks licensed under this License as a result of any proceeding or settlement or for any other reason, then Licensee agrees to comply with IHG's instructions in order to implement such modification or discontinuation. Licensee further agrees that it will have no right to any compensation or other remedies from IHG or any of its parents, subsidiaries or affiliated entities as a consequence of any such modification or discontinuation.

**E. Architectural Modifications:**

If Licensee engages a third party, in compliance with the terms of this License and the franchise disclosure document, to prepare modifications, additions, and/or improvements to any architectural drawings or architectural works licensed to Licensee as part of the System ("Architectural Modifications"), Licensee shall cause such third party to assign all copyrights in such Architectural Modifications to IHG in such form as IHG may specify from time to time.

**7. Records And Audits:**

**A. Monthly Statements and Data.**

At least monthly, Licensee shall prepare a statement which will include all information concerning the Hotel's Gross Rooms Revenue, other revenues generated at the Hotel, room occupancy rates, reservation data and other information required by IHG that may be useful (in IHG's sole business judgment) in connection with marketing, reservations, guest loyalty and satisfaction and other functions, purposes or requirements of IHG, its parents, subsidiaries or affiliated entities (collectively the "Data"). Subject to applicable law, the Data shall be the property of IHG although Licensee shall have the non-exclusive right to use the Data so long as its use is lawful and in connection with owning or operating the Hotel during the License Term. The Data will be permanently recorded and retained by Licensee as may be reasonably required by IHG. By the third of each month, Licensee will submit to IHG a statement setting forth the Data and reflecting the computation of the amounts then due under paragraph 3.B. The statement and Data will be in such form (including but not limited to electronic transmission or automatic capture) and detail as IHG may reasonably request from time to time, and may be used by IHG for its reasonable

purposes, including without limitation for company and industry reporting purposes. Licensee agrees that any Data provided by it pursuant to this paragraph 7.A. as well as any other reports, data, information or material provided to IHG pursuant to or in connection with this License shall be true and correct and not misleading and shall comply with all standards, policies and requirements of IHG with respect to privacy and security of Data related to guests and other customers of the Hotel.

**B. Preparation and Maintenance of Records.**

Licensee will, in a manner and form satisfactory to IHG and utilizing accounting and reporting standards as reasonably required by IHG, prepare on a current basis (and preserve for no less than four (4) years or IHG's record retention requirements, whichever is longer), complete and accurate records concerning Gross Rooms Revenue and all financial, operating, marketing and other aspects of the Hotel, and maintain an accounting system which fully and accurately reflects all financial aspects of the Hotel and its business. Such records shall include but not be limited to books of account, tax returns, governmental reports, register tapes, daily reports, and complete quarterly and annual financial statements (profit and loss statements, balance sheets and cash flow statements). The requirement to preserve records as set forth herein shall continue beyond the expiration or sooner termination of the License Term.

**C. Audit.**

IHG may require Licensee to have the Hotel's Gross Rooms Revenue and/or monies due hereunder computed and certified as accurate. During the License Term and for two years afterward, IHG and its authorized agents will have the right to verify information required under this License by requesting, receiving, inspecting and auditing, at all reasonable times, any and all records referred to above wherever they may be located (or elsewhere if reasonably requested by IHG). If any such inspection or audit discloses a deficiency in any payments due hereunder, and the deficiency in any payment is not offset by overpayment, Licensee shall immediately pay to IHG the deficiency and interest thereon as provided in paragraph 3.B.(5) along with an audit fee of \$3,000, as such amount may be increased on a System-wide basis. No acceptance by IHG of any audit fee or deficiency payment shall be deemed to waive any right of IHG to pursue a default under the License by reason of such underpayment. If the audit does not result in a deficiency being assessed, then no audit fee will be assessed. If the audit discloses an overpayment, IHG will credit this overpayment, without interest, against future payments due from Licensee under this License or if this License has terminated, promptly refund it, without interest, to Licensee.

**D. Annual Financial Statements.**

Licensee will submit to IHG as soon as available but not later than 90 days after the end of Licensee's fiscal year, and in a format as reasonably required by IHG, complete financial statements for such year. Licensee will certify them to be true and correct and to have been prepared in accordance with generally accepted accounting principles and the Uniform System, consistently applied, and any false certification will be a breach of this License.

**8. Indemnity and Insurance:**

**A. Indemnity.**

Licensee will indemnify IHG, its parents, subsidiaries and affiliated entities and each of their respective officers, directors, employees, agents, successors and assigns (collectively, the "Indemnitees") against, hold them harmless from, and promptly reimburse them for all payments of money (fines, damages, legal fees, expenses, settlement amounts, judgments, etc.) by reason of any claim, demand, tax, penalty, or judicial or administrative investigation or proceeding whenever asserted or filed (even where negligence of any of the Indemnitees is alleged), regardless of whether any of the foregoing is reduced to judgment, arising from any claimed occurrence at or related to the Hotel or any act, error, neglect, omission or obligation of Licensee

or anyone associated or affiliated with Licensee or the Hotel. Licensee agrees to give IHG written notice of any such judicial or administrative investigation or proceeding or any other event that could be the basis for a claim for indemnification by any Indemnitee within three days of Licensee's knowledge of it. At the election of IHG, Licensee will also defend IHG and/or the other Indemnitees against the indemnified matters. In any event, IHG will have the right, through counsel of its choice, to control any matter to the extent it could directly or indirectly affect IHG and/or any of the other Indemnitees. IHG will have the right, at any time it considers appropriate, to offer, order, consent or agree to settlements or take any other remedial or corrective actions it considers expedient with respect to any action, suit, proceeding, claim, demand, inquiry or investigation, if, in IHG's sole judgment, there are reasonable grounds to do so. Under no circumstance will IHG or any of the other Indemnitees be required to seek recovery from third parties or otherwise mitigate its or their losses to maintain a claim against Licensee. Licensee agrees that any failure to pursue recovery from third parties or mitigate loss will in no way reduce the amounts recoverable by IHG or any of the other Indemnitees from Licensee. Licensee agrees to pay IHG all expenses including attorneys' fees and court costs, incurred by IHG or any of the other Indemnitees, and their successors and assigns, to remedy any defaults of or enforce or defend itself or any rights under this License (including without limitation any claim, cross claim or counter-claim brought by Licensee), to effect termination of this License or collect any amounts due under this License.

## **B. Insurance.**

During the License Term, Licensee will comply with all insurance requirements of any lease or mortgage covering the Hotel, and IHG's specifications for insurance as to the amount and type of coverage as may be reasonably specified by IHG from time to time in writing, and will in any event maintain on the Hotel as a minimum, the following insurance underwritten by a reputable insurer approved by IHG:

- (1) employer's liability with minimum limits of \$1,000,000 per occurrence;
- (2) worker's compensation insurance;
- (3) employment practices liability insurance (including coverage for harassment, discrimination and wrongful termination and covering defense and indemnity costs) with a limit of \$1,000,000 in the aggregate;
- (4) the holder of the liquor license will maintain liquor liability insurance with single limit coverage for personal and bodily injury and property damage of at least \$15,000,000 per occurrence naming IHG and its parents, subsidiaries and affiliates (and Licensee if applicable) as additional insureds; and
- (5) commercial general liability insurance (including coverage for product liability, completed operations, contractual liability, host liquor liability and fire legal liability) and business automobile liability insurance (including hired and non-owned liability) with single-limit coverage for personal and bodily injury and property damage of at least \$15,000,000 for each occurrence, naming IHG and its parents, subsidiaries and affiliates as additional insureds. In connection with all construction at the Hotel during the License Term, Licensee will cause the general contractor to maintain commercial general liability insurance (including coverage for product liability, completed operations and contractual liability) and business automobile liability insurance (including hired and non-owned liability) with limits of at least \$15,000,000 per occurrence for personal and bodily injury and property damage underwritten with insurers approved by IHG. IHG and its parents, subsidiaries and affiliates will be named as additional insureds.
- (6) If multiple locations are insured on policies containing an aggregate limit, then the aggregate limit must apply on a per location aggregate basis.
- (7) Licensee will ensure the royalties, Services Contributions and any other sums payable to IHG are insured within the Licensee's business interruption insurance policy. The policy should insure against 'all risks' of physical loss or damage, and be endorsed to provide for payments to be made directly to IHG.
- (8) All policies must be written on a fully insured basis. Deductibles or self-insured retentions are subject to IHG's approval on an individual basis.

**C. Evidence of Insurance.**

At all times during the License Term, Licensee will furnish to IHG certificates of insurance evidencing the term and limits of coverage in force, names of applicable insurers and persons insured. Revised certificates of insurance shall be forwarded to IHG each time a change in coverage or insurance carrier is made by Licensee, and/or upon renewal of expired coverages. At IHG's option, Licensee may be required to provide certified insurance policy copies. If Licensee fails to procure or maintain the insurance coverages and limits set forth in paragraph 8.B., IHG will have the right and authority (but not the obligation) to procure such insurance at Licensee's cost, including any costs incurred by IHG for procurement and maintenance of such insurance.

**9. Transfer:**

**A. Transfer by IHG.**

IHG shall have the right to transfer or assign this License or any of IHG's rights, duties or obligations hereunder, in whole or in part, to any person or legal entity without requirement of prior notice to, or consent of, Licensee.

**B. Transfer by Licensee.**

Licensee understands and acknowledges that the rights and duties set forth in this License are personal to Licensee, and that IHG has granted this License in reliance on the business skill, financial capacity, and personal character of Licensee (if Licensee is a natural person), and upon the owners, members, partners or stockholders of Licensee (if Licensee is a partnership, limited liability company, corporation or other legal entity ( an "Entity")). Accordingly, neither Licensee nor any immediate or remote successor to any part of Licensee's interest in this License, nor any natural person or Entity which directly or indirectly owns an Equity Interest (as that term is defined below) in Licensee or this License, may sell, assign, transfer, convey, pledge, mortgage, encumber, or give away, any direct or indirect interest in this License or Equity Interest in Licensee, except as expressly provided in this License. Any purported sale, assignment, transfer, conveyance, pledge, mortgage, or encumbrance by operation of law or otherwise, of any interest, collaterally or otherwise, in this License or any Equity Interest in Licensee not in accordance with the provisions of this License, shall be null and void and shall constitute a material breach of this License, for which IHG may terminate this License without opportunity to cure pursuant to paragraph 11.C. of this License.

- (1) For the purposes of this paragraph 9, the term "Equity Interests" shall mean any stock ownership, membership or partnership interests in Licensee and the interests of any partner, whether general or limited, in any partnership, with respect to such partnership, and of any stockholder, member or owner of any corporation or company with respect to such corporation or company, which partnership, corporation or company is Licensee hereunder or which partnership, corporation or company owns a direct or indirect beneficial interest in Licensee. References in this License to "publicly traded Equity Interests" shall mean any Equity Interests which are traded on any securities exchange or are quoted in any publication or electronic reporting service maintained by the National Association of Securities Dealers, Inc. or any of its successors.
- (2) If Licensee is an Entity, Licensee represents that the Equity Interests in Licensee are directly and (if applicable) indirectly owned, as shown in Attachment "A".
- (3) In computing changes of Equity Interests pursuant to this paragraph 9, limited partners will not be distinguished from general partners, and IHG's judgment will be final if there is any question as to the definition of Equity Interests or as to the computation of relative Equity Interests, including transfers of Equity Interests, the principal considerations being:
  - (a) direct and indirect power to exercise control over the affairs of Licensee;
  - (b) direct and indirect right to share in Licensee's profits; and
  - (c) amounts directly or indirectly exposed at risk in Licensee's business.

**C. Transfer of Equity Interests That Are Not Publicly Traded.**

Except where otherwise provided in this License, Equity Interests in Licensee that are not publicly traded may be transferred, issued, or eliminated with IHG's prior written consent, which will not be unreasonably withheld; provided that after the transaction:

- (a) Less than 50% of all Equity Interests in Licensee will have changed hands since Licensee first became a party to this License, or
- (b) Less than 80% of all Equity Interests in Licensee will have changed hands since Licensee first became a party to this License, and no Equity Interest(s) will be held by any natural person or Entity other than those who held them when Licensee first became a party to this License.

**D. Transfers of Publicly Traded Equity Interests.**

- (1) Except as otherwise provided in this License, publicly traded Equity Interests in Licensee may be transferred without IHG's consent but only if:
  - (a) immediately before the proposed transfer, the transferor owns less than 25% of the Equity Interests in Licensee;
  - (b) immediately after the transfer, the transferee will own less than 25% of the Equity Interests in Licensee; and
  - (c) the transfer is exempt from registration under federal securities law.
- (2) Publicly traded Equity Interests may be transferred with IHG's written consent, which may not be unreasonably withheld, if the transfer is exempt from registration under federal securities law.
- (3) The chief financial officer of Licensee shall certify annually to IHG that Licensee is in compliance with the provisions of this paragraph 9.D. Such certification shall be delivered to IHG with the annual financial statements referred to in paragraph 7.D.

**E. Transfer of the Hotel by Natural Person.**

- (1) Licensee, if a natural person, may, with IHG's consent, which will not be unreasonably withheld, transfer the Hotel to Licensee's spouse, parent, sibling, son, daughter, niece or nephew, provided that:
  - (a) adequate provision acceptable to IHG is made for the management of the Hotel;
  - (b) the transferee executes a new license agreement for the unexpired term of this License, on the standard form then being used to license new hotels under the System, except the fees charged thereunder shall be the same as those contained herein including any adjustments to such fees as may have been implemented from time to time in accordance with the terms of this License, and Licensee executes a termination agreement of this License on IHG's then current form; and
  - (c) Licensee guarantees, on IHG's then current form, the performance of the new licensee's obligations under the newly executed license agreement.
- (2) Licensee, if a natural person, may, without the consent of IHG, upon 30 days' prior written notice to IHG, transfer the Hotel to a corporation entirely owned and controlled by Licensee, provided that prior to such transfer:
  - (a) adequate provision acceptable to IHG is made for the management of the Hotel;
  - (b) the transferee executes a new license agreement for the unexpired term of this License, on the standard form then being used to license new hotels under the System, except the fees charged then shall be the same as those contained herein including any adjustments to such fees as may have been implemented from time to time in accordance with the terms of this License; and Licensee executes a termination agreement of this License on IHG's then current form; and

- (c) Licensee guarantees, on IHG's then current form, the performance of the new licensee's obligations under the newly executed license agreement.
- (3) If Licensee is a natural person, upon Licensee's death, Licensee's interest in the License may pass in accordance with Licensee's will, or, if Licensee dies intestate, in accordance with the laws of intestacy governing the distribution of Licensee's estate, provided that:
- (a) adequate provision acceptable to IHG has been made for management of the Hotel;
  - (b) IHG gives written consent, which consent will not be unreasonably withheld;
  - (c) the transferee(s) of Licensee's interest in the License is one or more of the decedent's spouse, parents, siblings, sons, daughters, nieces or nephews; and,
  - (d) Licensee's heirs or legatees promptly advise IHG and the transferee promptly executes a new license agreement for the unexpired term of this License, on the standard form then being used to license new hotels under the System, except the fees charged thereunder shall be the same as contained herein including any adjustments to such fees as may have been implemented from time to time in accordance with the terms of this License, and Licensee's executor or estate administrator executes a termination agreement of this License on IHG's then current form.

**F. Transfers of Equity Interests in the Licensee Upon Death To Family Members.**

- (1) If an Equity Interest in an Entity is owned by a natural person, the Equity Interest may pass upon such person's death, in accordance with such person's will, or, if such person dies intestate, in accordance with the laws of intestacy governing the distribution of such person's estate, provided that:
- (a) adequate provision acceptable to IHG is made for management of the Hotel;
  - (b) IHG gives written consent, which consent will not be unreasonably withheld;
  - (c) the transferee(s) of such Equity Interest is one or more of the decedent's spouse, parents, siblings, sons, daughters, nieces or nephews; and,
  - (d) the transferee(s), or such other natural person or Entity as IHG may approve, assumes, in writing, on a continuing basis, the decedent's guarantee, if any, of Licensee's obligations under this License.

**G. Registration of a Proposed Transfer of Equity Interests.**

- (1) Any public offering, private placement or other sale of securities in or by Licensee or the Hotel ("Securities") requires IHG's consent. All materials for the offer or sale of those Securities disseminated to any prospective purchaser thereof, filed with any governmental or quasigovernmental entity or intended for distribution to any form of media must be submitted to IHG for its review at least sixty (60) days before the date Licensee disseminates or distributes those materials or files them with any governmental agency, including any materials to be used in any offering exempt from registration under any securities laws. Licensee must submit to IHG a non-refundable Twenty-Five Thousand Dollar (\$25,000) processing fee with the offering materials and pay any additional costs IHG may incur in reviewing such materials, including reasonable attorneys' fees. Except as legally required to describe the Hotel in the offering materials, Licensee may not use any of the Marks or otherwise imply IHG's participation or that of its affiliates, officers, directors, members, managers and employees in such offering or its/their endorsement of any Securities or any Securities offering. IHG will have the right to approve any description of this License or Licensee's relationship with IHG, or any use of the Marks, contained in any prospectus, offering memorandum or other communications or materials used by Licensee in the sale or offer of any Securities. IHG's review of these documents will not in any way be

considered IHG's agreement with any statements contained in those documents, including any projections, or IHG's acknowledgment or agreement that the documents comply with any applicable laws.

- (2) Licensee may not offer and/or sell any Securities unless Licensee clearly discloses to all purchasers and offerees in any and all Securities offer and/or sale materials that: (i) neither IHG, nor any of its affiliates, nor any of their respective officers, directors, managers, agents or employees, will in any way be deemed an issuer or underwriter of the Securities, as those terms are defined in applicable securities laws; (ii) neither IHG, its affiliates nor any of their respective officers, directors, managers, agents and employees will have any liability or responsibility for any financial statements, projections or other financial information contained in any prospectus, offering and solicitation material or similar written or oral communication; plays (or will play) any role in the offer or sale of Licensee's securities; has any responsibility for the creation or contents of any offering and/or solicitation materials (including any prospectus); in no fashion controls (or will control) Licensee's day-to-day business operations or any element or instrumentality thereof; that any individual or entity purchasing Securities must understand that its sole recourse for any alleged or actual impropriety relating to the offer and sale of such Securities and/or Licensee's operation of its business will be against Licensee (and/or, as may be applicable, the seller of such Securities); and, that in no event may such purchaser seek to impose liability arising from or related to such activity, directly or indirectly, upon any of IHG, its affiliates or any of their respective officers, directors, managers, agents or employees.
- (3) Licensee expressly agrees that its obligations to indemnify and hold harmless IHG and the other indemnitees under paragraphs 8.A. and 13.I. of this License extends to and embraces liabilities arising from or relating to, directly or indirectly, any and every element of Licensee's offer and/or sale of Securities which Licensee may propose to or does engage in, including (without limitation) any statements, representations or warranties that Licensee and/or its affiliates may give to or receive from any proposed or actual purchaser of such Securities and/or any claim that Licensee, its affiliates and/or the officers, directors, managers, members, agents and employees of each of the foregoing, or Licensee's assignee, engaged in fraud, deceit, violation of securities laws or other illegality in connection with Licensee's proposed or actual offer and/or sale of Securities. As with all other indemnification obligations set forth in this License, this specific indemnification obligation will survive the termination or expiration of this License.

#### **H. Change of Ownership.**

- (1) Notwithstanding any other term or provision of this License to the contrary, neither this License nor any right or interest herein is assignable or transferable by Licensee.
- (2) If Licensee (i) receives an offer to purchase or lease the Hotel or any portion thereof, (ii) desires to sell or lease the Hotel or any portion thereof, or (iii) wishes to convey the Hotel, Hotel site, or any interest in the Hotel or Licensee, Licensee shall give prompt written notice thereof to IHG, stating the identity of the prospective transferee, purchaser or lessee and the terms and conditions of the conveyance, including a copy of any proposed agreement and all other information with respect thereto, that IHG may reasonably require.
- (3) Any (i) transfer of Equity Interests in an Entity (other than a transfer expressly permitted hereunder) or (ii) transfer of all or a material part of the Hotel or Hotel site (if the Hotel or Hotel site is owned directly or indirectly by Licensee or by a natural person or Entity that owns any Equity Interest in Licensee), to a new owner shall constitute a change of ownership requiring submittal of an application for a new license.
- (4) IHG shall process such change of ownership application in accordance with IHG's then current procedures, criteria and requirements regarding fees, upgrading of the Hotel, financial capacity and guaranty requirements, curing of outstanding defaults, operational abilities and capabilities, prior business dealings, market feasibility and other factors deemed relevant by IHG. If such change of ownership application is approved by IHG, the new owner and IHG shall, upon termination of this License by

IHG, enter into a new license agreement on IHG's then current form. The new license agreement shall contain IHG's then current terms (except for duration, which shall not be less than the remaining License Term but may be longer to reflect the new term agreed by IHG as part of the approval of the change in ownership of the Hotel), and if required by IHG, shall contain specified upgrading of the Hotel and other requirements.

- (5) If a change of ownership application for the proposed new owner is not approved by IHG and the conveyance of the Hotel, Hotel site, or any Equity Interest in the Hotel or Equity Interest in Licensee to the proposed new owner occurs, then IHG shall have the right to terminate this License pursuant to paragraph 11.C. hereof and IHG shall be entitled to all of its remedies.

#### **I. Transfer of Real Estate.**

If (i) the real property used in the operation of the Hotel is owned directly or indirectly by Licensee or by a natural person or an Entity that owns any Equity Interest in Licensee and (ii) Licensee, or that natural person or Entity proposes to transfer all or a substantial part of such property to a third party, such transfer shall constitute a transfer under the provisions of this License requiring an application for a new license agreement, unless Licensee receives IHG's prior written consent for the transaction. Licensee may however, without IHG's consent, mortgage or otherwise grant a security interest in the real estate or other tangible assets of the Hotel (but specifically excluding this License or any right or interest herein) in connection with commercially reasonable financing for the Hotel with a third party bank or other commercial lending institution which is not a competitor of IHG or any of its parents, subsidiaries or affiliated entities. The selling, offering for sale, or establishment or registration of any condominium, cooperative, flat, timeshare, fractional interest, or interval ownership or regime or any similar type of ownership or regime relating to all or any part of the Hotel is prohibited.

#### **J. Management and Name of the Hotel.**

Licensee must at all times retain and exercise direct management control over the Hotel's business. Licensee shall not enter into any lease, management agreement, or other similar arrangement for the operation of the Hotel or any part thereof (including, without limitation, retail or, food and/or beverage service facilities) with any natural person or Entity, without the prior written consent of IHG in each instance. The approval by IHG of any such lease, management agreement or other similar arrangement for operation of the Hotel or any part thereof shall in no way relieve, reduce, mitigate or waive any of the responsibilities of Licensee under this License, it being understood that all such responsibilities shall at all times remain the obligation of Licensee. Licensee must provide IHG with all information requested by IHG from time to time regarding ownership, control and management of the Hotel and of Licensee.

IHG has the exclusive right to name the Hotel. The name of the Hotel may not be changed unless IHG determines, at its election, to do so.

Licensee must provide food and beverage service in the Hotel as required by the Standards. If Licensee, one of its affiliated entities or persons or a third party, operates a branded restaurant adjacent to or inside the Hotel to serve as the restaurant for the Hotel, in addition to all other requirements of this License, Licensee must ensure, regardless of any conflict between this License and the restaurant's brand standards or other obligations, that such affiliated entity or person or third party: (i) will operate the restaurant, with respect to guest life and safety standards, in compliance with the restaurant's brands standards and with all life and safety standards required by law or, if higher, by this License, (ii) will keep the restaurant open for meals during the hours required by IHG, (iii) will provide to Hotel guests all programs required by IHG, (iv) will allow Hotel guests eating in the restaurant or receiving room service from the restaurant to charge restaurant bills to their Hotel guest folio, (v) will not use or advertise any of the restaurant names, brands or trademarks together with the Marks unless specifically approved by IHG in writing, (vi) will honor at the restaurant all credit cards specified in the Standards and (vii) will include the restaurant in all guest satisfaction surveys and quality inspections and will allow IHG's inspection of the restaurant in accordance with this License and the Standards.

**K. Employees of the Hotel:**

None of Licensee's employees will be considered to be IHG's employees. Licensee acknowledges and agrees that Licensee, or its management company engaged to operate the Hotel, as may be applicable, is the sole employer of the employees working at the Hotel and that IHG does not directly or indirectly control employment policies, discipline, recruitment or termination and that Licensee is solely responsible for all employment decisions, regardless of whether Licensee has received guidance with respect to such matters from IHG. Neither Licensee nor any of Licensee's employees whose compensation Licensee pays may in any way, directly or indirectly, expressly or by implication, be construed to be IHG's employee for any purpose, including but not limited to with respect to any mandated or other insurance coverage, tax or contributions, or requirements pertaining to withholdings, levied or fixed by any city, state or federal governmental agency. IHG will not have the power to hire or fire Licensee's employees. Licensee expressly agrees, and will never contend otherwise, that IHG's authority under this License to approve certain of Licensee's employees for qualification to perform certain functions for the Hotel does not directly or indirectly vest in IHG the power to hire, fire or control any such employee. Licensee further agrees that any such minimum requirements established by IHG are solely for the purpose of ensuring that the Hotel is at all times operated in accordance with the Standards and with the attributes of the Brand known to, and desired by, the consuming public and associated with the Marks. Moreover, Licensee agrees that any training provided by IHG for Licensee's employees is intended to impart to those employees, under Licensee's ultimate authority, the various procedures, protocols, systems and operations of the Hotel and in no fashion reflects any employment relationship between IHG and such employees. Finally, should it ever be asserted that IHG is the employer, joint employer or co-employer of any of Licensee's employees in any private or government investigation, action, proceeding, arbitration or other setting, Licensee irrevocably agrees to assist IHG in defending said allegation, including, if necessary, appearing at any venue requested by IHG to testify on IHG's behalf and, as may be necessary, submitting itself to depositions, other appearances and/or preparing affidavits dismissive of any allegation that IHG is the employer, joint employer or co-employer of any of Licensee's employees.

**10. Condemnation And Casualty:**

**A. Condemnation.**

Licensee shall, at the earliest possible time, give IHG full notice of any proposed taking of all or any part of the Hotel by eminent domain. If IHG acknowledges that the Hotel or a substantial part thereof is to be taken, IHG will give due and prompt consideration, without any obligation, to changing the site of the Hotel to a nearby location selected by Licensee and approved by IHG as promptly as reasonably possible and in any event within four months of the taking, provided that Licensee has promptly filed an application to change the Location of the Hotel. Such application would not require payment to IHG of any additional franchise application fee. If the condemnation of all or any material part of the Hotel building occurs in the last two years of the License Term, the License shall automatically terminate effective upon the date of the taking. If the new location and Licensee's application are approved by IHG Licensee shall promptly execute an addendum to this License substituting the new location, and Licensee shall open a new hotel at the new location in accordance with IHG's specifications within two years of the closing of the Hotel if the new hotel is a new development or within one year of the closing of the Hotel if the new hotel is a conversion of an existing building and the new hotel will thenceforth be deemed to be the Hotel licensed under this License. If a condemnation takes place and a new hotel is not, for whatever reason, approved by IHG to become the Hotel under this License (or if it is reasonably evident to IHG that such will be the case), the License will terminate forthwith upon notice thereof by IHG to Licensee and Licensee shall have no liability for the liquidated damages set forth in paragraph 11.E. of this License.

**B. Casualty.**

If the Hotel is damaged by fire or other casualty, Licensee will immediately notify IHG and expeditiously repair the damage; provided, however, if all or virtually all of the Hotel is destroyed by such fire or other casualty, either IHG or (unless caused by the intentional act of Licensee or its agent) Licensee may terminate this License by fifteen days prior notice to the other delivered within sixty days of the date of the fire or other casualty. If Licensee terminates this License in accordance with this provision, Licensee shall have no liability for the liquidated damages set forth in paragraph 11.E. of this License so long as neither Licensee nor any of its affiliates, principals, shareholders, members, partners or other owners, either directly or through another person or entity, develops, leases or operates the site as a hotel or other lodging or residential facility of any kind or sort for at least five years following the date of termination (or the originally scheduled termination date of this License, if earlier) other than pursuant to another license with IHG.

Unless the License is terminated properly pursuant to the foregoing provision, Licensee will close the Hotel if required by the extent of the damage or if otherwise required by IHG; will repair or rebuild the Hotel in accordance with IHG's Standards; will commence reconstruction within three months after the fire or other casualty; will expeditiously continue on an uninterrupted basis with such reconstruction; and will, if the Hotel was closed, reopen the Hotel for continuous business operations as soon as practicable (but in any event within eighteen months after the fire or other casualty), giving IHG at least forty-five days advance notice of the date of reopening if the Hotel was closed. If the Hotel was closed, Licensee may not reopen the Hotel or promote or otherwise hold the Hotel out as a hotel in the System unless and until IHG determines that the reconstruction is completed in accordance with IHG's then current Standards. If the Hotel is not required to be closed, all work to repair damage shall be conducted so as to minimize interference with the Hotel's operation and guests. If the damage is not repaired in accordance with this paragraph, the License will forthwith terminate upon notice thereof by IHG to Licensee and Licensee shall be responsible for full liquidated damages under paragraph 11.E. of this License. Notwithstanding anything else herein to the contrary, during the time the Hotel is closed, Licensee shall pay IHG a monthly royalty of 2% of Gross Rooms Revenue based on the average monthly Gross Rooms Revenue for the preceding twelve months prior to the date of the fire or other casualty or, if the Hotel has not been in the System for twelve months, based on the average monthly Gross Rooms Revenue for the period during which the Hotel has been in operation in the System. Said payment shall be in lieu of all other System fees under paragraph 3.B. of this License.

**C. No Extensions of Term.**

Nothing in this paragraph 10 will or is intended to extend the License Term.

**11. Termination:**

**A. Expiration of Term.**

This License will expire without notice [twenty years from the date of opening of the Hotel in the System for a new development], [ten years from the date of opening of the Hotel in the System for a conversion], [ten years from the Term Commencement Date for a change of ownership or a re-licensing] subject to earlier termination as set forth herein. This License is not renewable, and Licensee acknowledges and agrees that this License confers upon Licensee absolutely no rights of license renewal following the expiration of the License Term. The parties recognize the difficulty of ascertaining damages to IHG resulting from premature termination of the License, and have provided for liquidated damages which represent their best estimate as to the damages arising from the circumstances in which they are provided.

**B. Termination by IHG on Advance Notice.**

- (1) In accordance with notice from IHG to Licensee, this License will terminate (without any further notice unless required by law), provided that:
  - (a) the notice is mailed at least 30 days (or longer, if required by law) in advance of the termination date;
  - (b) the notice reasonably identifies one or more breaches of Licensee's obligations;
  - (c) the breach(es) are not fully remedied within the time period specified in the notice.
- (2) If Licensee shall have engaged in a violation of this License, for which a notice of termination was given and termination failed to take effect because the default was remedied during the then preceding 12 months, the period given to remedy defaults will, if and to the extent permitted by applicable law, thereafter be 10 days instead of 30 (provided, however, if there have been two or more violations of the License in the preceding twelve months for which notices of termination were given, upon the next violation, if and to the extent permitted by applicable law, the License may be terminated by IHG immediately upon notice).
- (3) In any judicial proceeding in which the validity of termination is at issue, IHG will not be limited to the reasons set forth in any notice sent under this paragraph.
- (4) IHG's notice of termination or suspension of services shall not relieve Licensee of its obligations under this License.

**C. Immediate Termination by IHG.**

This License may be terminated by IHG immediately (or at the earliest time permitted by applicable law) if:

- (1)
  - (a) Licensee or any guarantor of Licensee's obligations hereunder shall generally not pay its debts as they become due, or shall admit in writing its inability to pay its debts, or shall make a general assignment for the benefit of creditors;
  - (b) Licensee or any such guarantor shall commence any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property;
  - (c) Licensee or any such guarantor shall take any corporate or other action to authorize any of the actions set forth above in paragraphs (a) or (b);
  - (d) any case, proceeding or other action against Licensee or any such guarantor shall be commenced seeking to have an order for relief entered against it as debtor, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or any substantial part of its property, and such case, proceeding or other action:
    - (i) results in the entry of any order for relief against it which is not fully stayed within seven business days after the entry thereof or
    - (ii) remains undismissed for a period of 45 days;
  - (e) an attachment remains on all or a substantial part of the Hotel or of Licensee's or any such guarantor's assets for 30 days;
  - (f) Licensee or any such guarantor fails, within 60 days of the date of entry of a final judgment or tax lien against Licensee or guarantor of this License in any amount exceeding \$50,000, to discharge, vacate or reverse the judgment or tax lien, or, to stay execution of it, or if appealed, to discharge the judgment within 30 days after a final decision in the appeal is rendered;
- (2) Licensee voluntarily or involuntarily loses possession or the right to possession of all or a significant part of the Hotel, except as otherwise provided in paragraph 10;

- (3) Licensee, or any entity or individual having a direct or indirect ownership interest in it, contests in any court or proceeding IHG's ownership of the System or any part of it, or the validity of any of the Marks or other service marks or trademarks or other intellectual property associated with IHG's businesses;
- (4) A breach of paragraph 8 or paragraph 9 occurs;
- (5) Licensee fails to continue to identify the Hotel to the public as a System hotel, engages in any action that violates IHG's proprietary rights under paragraph 6 or ceases to operate the Hotel as a System hotel;
- (6) Any action is taken toward dissolving or liquidating Licensee or any guarantor hereunder, if it is an Entity, except for any such actions resulting from the death of a partner;
- (7) Licensee (or any principal stockholder, owner, member or partner of Licensee as the case may be) is, or is discovered to have been, convicted of a felony (or any other offense if it is likely to adversely reflect upon or affect the Hotel, the System or IHG in any way);
- (8) Licensee maintains false books and records of account or submits false reports or information to IHG;
- (9) Licensee knowingly fails to comply with the requirements of the License and/or the Standards on safety, security, or privacy for its guests at the Hotel or on the reputation of the management, employees or operation of the Hotel, and such failure may significantly adversely reflect upon or affect the Hotel, the System or IHG, its parents, subsidiaries and/or affiliates in any way;
- (10) A breach of paragraph 13.M. occurs;
- (11) Licensee uses any of the Marks before being authorized to do so by IHG;
- (12) Licensee uses any of the Marks in any manner prohibited, or not expressly authorized or permitted by this License; or
- (13) Licensee refuses to allow, or to cooperate with, IHG's inspection or audit of the Hotel following a reasonable attempt by IHG to schedule during normal business hours.

**D. De-Identification of Hotel Upon Termination.**

Licensee will take whatever action is necessary to assure that no use is made of any part of the System at or in connection with the Hotel after the License Term ends. This will involve, among other things, returning to IHG the Standards and all other materials proprietary to IHG, ceasing the use of any of the Marks, physical changes of distinctive System features of the Hotel, including, but not limited to, removal of the primary freestanding sign down to the structural steel, as well as removal of artwork, signage, graphics, and paint schemes, whether on walls, ceilings or floors, and all other actions required to preclude any possibility of confusion on the part of the public and to ensure that the Hotel is no longer using all or any part of the System or otherwise holding itself out to the public as a Vignette Collection™ hotel. Anything not done by Licensee in this regard within 30 days after termination may be done at Licensee's expense by IHG or its agents who may enter upon the premises of the Hotel for that purpose.

**E. Payment of Liquidated Damages.**

The parties recognize the difficulty of ascertaining damages to IHG resulting from premature termination of this License, and have provided for liquidated damages, which liquidated damages represent the parties' best estimate as to the damages arising from the circumstances in which they are provided and which are only damages for the premature termination of this License, and not as a penalty or as damages for breaching this License or in lieu of any other payment. If the License is terminated pursuant to paragraphs 11.B. or 11.C. above, Licensee will promptly pay to IHG as liquidated damages a lump sum equal to the total amounts required under paragraphs 3.B.(1), (3) and (4) during the 60 calendar months of operation preceding the termination; or such shorter period as equals the unexpired License Term at the time of termination or if the Hotel has not been in operation in the System for 60 months, the greater of:

- (1) 60 times the monthly average of such amounts for the period during which the Hotel has been in operation in the System, or

(2) 60 times such amounts as are due for the one month preceding such termination.

IHG and Licensee acknowledge and agree that it would be difficult to determine the injury caused to IHG by termination of this License. IHG and Licensee therefore intend and agree the above liquidated damages calculation to be a reasonable estimate of IHG's probable loss and not a penalty or in lieu of any other payment.

**12. Relationship Of Parties:**

**A. No Agency Relationship.**

Licensee is an independent contractor. Neither party is the legal representative nor agent of, or has the power to obligate (or has the right to direct or supervise the daily affairs of) the other for any purpose whatsoever. IHG and Licensee expressly acknowledge that the relationship intended by them is a business relationship based entirely on and circumscribed by the express provisions of this License and that no partnership, joint venture, agency, fiduciary or employment relationship is intended or created by reason of this License. Licensee acknowledges and agrees, and will never contend otherwise, that Licensee alone will exercise day-to-day control over all operations, activities and elements of Licensee and the Hotel and that under no circumstance shall IHG do so or be deemed to do so. Licensee further acknowledges and agrees, and will never contend otherwise, that the various requirements, restrictions, prohibitions, specifications and procedures of the System which Licensee is required to comply with under this License, whether set forth in the Standards or otherwise, do not directly or indirectly constitute, suggest, infer or imply that IHG controls any aspect or element of the day-to-day operations of Licensee or the Hotel, which Licensee alone controls, but only constitute standards Licensee must adhere to when exercising its control of the day-to-day operations of Licensee and the Hotel.

**B. Licensee's Notices to Public Concerning Independent Status.**

Licensee will take such steps as are necessary and such steps as IHG may from time to time reasonably request to minimize the chance of a claim being made against IHG for anything that occurs at the Hotel or for acts, omissions or obligations of Licensee or anyone associated or affiliated with Licensee or the Hotel. Such steps may, for example, include giving notice in guest rooms, public rooms and advertisements and on business forms and stationery, etc., making clear to the public that IHG is not the owner or operator of the Hotel and is not accountable for what happens at the Hotel. Unless required by law, Licensee will not use IHG's name, the Marks or any other trademarks, service marks or other intellectual property owned or licensed by IHG or any of its affiliates or any similar words in its corporate, partnership, entity or trade name, nor authorize or permit such use by anyone else. Licensee will not use IHG's name, the Marks or any other trademarks, service marks or other intellectual property owned or licensed by IHG or any of its affiliates to incur any obligation or indebtedness on behalf of IHG.

Licensee shall not register IHG's name, the Marks or any other trademarks, service marks or other intellectual property owned or licensed by IHG or any of its affiliates as part of any internet domain name or Uniform Resource Locator (URL), and may not display or use any of the Marks or other intellectual property rights related to the System in connection with any web site. Licensee shall not promote, maintain, implement or be responsible for any web site in connection with the licensed Hotel without the prior written approval of IHG, and if approved by IHG, any such web site shall comply with all of IHG's web site requirements as set forth in the Standards or otherwise.

**13. Miscellaneous:**

**A. Severability and Interpretation.**

The remedies provided in this License are not exclusive. In the event any provision of this License is held to be unenforceable, void or voidable as being contrary to the law or public policy

of the United States or any other jurisdiction entitled to exercise authority hereunder, all remaining provisions shall nevertheless continue in full force and effect, unless deletion of the provision(s) is deemed unenforceable, void or voidable, impairs the consideration for this License in a manner which frustrates the purpose of the parties or makes performance commercially impracticable. In the event any provision of this License requires interpretation, such interpretation shall be based on the reasonable intention of the parties in the context of this transaction without interpreting any provision in favor of, or against, any party hereto by reason of the draftsmanship of the party or its position relative to the other party.

**B. Binding Effect, Choice of Law, No Jury Trials, No Punitive Damages and IHG's Right to Injunctive Relief.**

- (i) This License shall become valid when executed and accepted by IHG in Atlanta, Georgia. It shall be deemed made and entered into in the State of Georgia. This License, all relations between the parties and, any and all disputes between the parties, whether sounding in contract, tort or otherwise, shall be governed and construed under, and in accordance with, the laws and decisions (except any conflicts of law provisions) of the State of Georgia. In entering into this License, Licensee acknowledges that it has sought, voluntarily accepted and become associated with, IHG, who is headquartered in Atlanta, Georgia. Licensee hereby expressly and irrevocably submits itself to the non-exclusive jurisdiction of the U.S. District Court for the Northern District of Georgia, Atlanta Division and the State and Superior Courts of DeKalb County, Georgia for the purpose of any and all disputes. However, IHG remains entitled to seek injunctive relief in the federal or state courts either of Georgia or of the state of the Hotel's Location or of IHG's principal place of business. Should Licensee initiate litigation against IHG or its parents, subsidiaries or one of its affiliated entities, Licensee must bring such action in the courts identified above; provided, however, the foregoing will not constitute a waiver of any of Licensee's rights under any applicable franchise law of the state in which the Hotel is located.
- (ii) To the extent either IHG or Licensee initiates litigation relating to this License or any matter relating to their relationship, IHG and Licensee irrevocably and unconditionally waive their rights to a trial by jury. This waiver will apply to all causes of action that are or might be included in such action, including claims related to the enforcement or interpretation of this License, allegations of state or federal statutory violations, fraud, misrepresentation, or similar causes of action, and in connection with any legal action initiated for the recovery of damages by either of us.
- (iii) IHG and Licensee hereby irrevocably and unconditionally waive, to the fullest extent permitted by law, any right to or claim for any punitive, exemplary, incidental, indirect, consequential or other similar damages in any litigation, action, claim, suit, arbitration, mediation or proceeding, at law or equity, arising out of, pertaining to or in any way associated with this License, or any other documents entered into in connection with this License, and the parties covenant never to advance or pursue any such claim for punitive damages and agree that, in the event of a dispute, only actual damages shall be sought as relief to the exclusion of all others.
- (iv) Licensee explicitly affirms and recognizes the unique value and secondary meaning attached to the System and the Marks. Accordingly, Licensee agrees that any noncompliance by it with the terms of this License, or any unauthorized or improper use of the System or the Marks by Licensee, will cause irreparable damage to IHG. Licensee therefore agrees that if Licensee engages in this non-compliance, or unauthorized and/or improper use of the System or Marks, during or after the period of this License, IHG will be entitled to both temporary and permanent injunctive relief against Licensee from any court of competent jurisdiction, in addition to all other remedies which IHG may have at law. Licensee consents to the entry of these temporary and permanent injunctions, without IHG being required to prove the inadequacy of money damages as a remedy, without being required to post a bond and without waiving any other rights or remedies at law or in equity.

**C. Exclusive Benefit.**

This License is exclusively for the benefit of the parties hereto, and it may not give rise to liability to a third party. No agreement between IHG and anyone else is for the benefit of Licensee.

**D. Entire Agreement.**

This is the entire agreement between the parties pertaining to the licensing of the Hotel and supersedes all previous negotiations and agreements between the parties pertaining to the licensing of the Hotel as a Vignette Collection™ hotel. Nothing in the preceding sentence is intended, however, to disclaim any representations IHG made in the franchise disclosure document that IHG provided to Licensee. No change in this License will be valid unless in writing signed by both parties. No failure to require strict performance or to exercise any right or remedy hereunder will preclude requiring strict performance or exercising any right or remedy in the future.

**E. IHG Withholding Consent.**

- (1) In no event may Licensee make any claim for money damages based on any claim or assertion that IHG has unreasonably withheld, delayed and/or denied any consent or approval under this License. Licensee waives any such claim for damages. Licensee may not claim any such damages by way of setoff, counterclaim or defense. Licensee's sole remedy for such a claim will be an action or proceeding to enforce the subject License provision(s) for specific performance or for declaratory judgment.
- (2) IHG's consent, whenever required, may be withheld if any breach by Licensee exists under this License. Approvals and consents by IHG will not be effective unless evidenced by a writing duly executed on behalf of IHG.

**F. Notices.**

Notices will be effective hereunder when and only when they are reduced to writing and delivered personally or mailed by Federal Express or comparable overnight or express delivery service or by certified mail to the appropriate party at its address, hereinafter set forth, or to such person and at such address as may subsequently be designated by one party to the other.

IHG:                   Holiday Hospitality Franchising, LLC.  
                           Three Ravinia Drive, Suite 100  
                           Atlanta, Georgia 30346

Attn:                   Vice President, Franchise Licensing and Compliance

Licensee: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**G. Authority.**

Licensee represents and warrants to IHG that the entities and persons signing this License on behalf of Licensee are duly authorized to do so and to bind Licensee to enter into and perform this License. Licensee further represents and warrants to IHG that Licensee and the entities and persons signing this License on behalf of Licensee have obtained all necessary approvals and that their execution, delivery and performance of this License will not violate, create a default under or breach any charter, bylaws, agreement or other contract, license, permit, order or decree to which they are a party or to which they are subject or to which the Hotel is subject. If Licensee has not already done so prior to the execution of this License, Licensee agrees to submit to IHG by the date specified by IHG all of the documents and information that IHG required or requested in the license application and in connection with the licensing process.

Licensee acknowledges that its breach of the representations and warranties in this paragraph; its failure to comply with IHG's requirements for the submission of information and documents; or any omission or misrepresentation of any material fact in the information or documents submitted to IHG in connection with the license application and/or the licensing process will constitute a material breach of Licensee's obligations under this License.

#### **H. General Release and Covenant Not to Sue.**

Licensee and its respective heirs, representatives, successors and assigns, hereby release, remise and forever discharge IHG and its parents, subsidiaries and affiliates and their directors, employees, agents, successors and assigns from any and all claims, whether known or unknown, of any kind or nature, absolute or contingent, if any there be, at law or in equity, from the beginning of time to, and including, the date of IHG's execution of this License, and Licensee and its respective heirs, representatives, successors and assigns do hereby covenant and agree that they will not institute any suit or action at law or otherwise against IHG, directly or indirectly relating to any claim released hereby by Licensee; provided, however, that nothing contained in this release is intended to disclaim or require Licensee to waive reliance on any representation that IHG made in the Franchise Disclosure Document that it provided to Licensee. This release and covenant not to sue shall survive the termination of this License. Licensee shall take whatever steps are necessary or appropriate to carry out the terms of this release and covenant not to sue upon IHG's request.

#### **I. Performance of the Work.**

Licensee agrees to perform the construction, upgrading and renovation work, including, without limitation, the purchase of furniture, fixtures and equipment set forth on Attachment "B" attached hereto and incorporated herein by reference (the "Work"). Licensee acknowledges that its agreement to perform the Work is an essential element of the consideration relied upon by IHG in entering into the License and agrees that Licensee may be authorized, in IHG's sole judgment, to use the System at the Hotel prior to completion of the Work, but only during such time as Licensee is actively meeting its performance obligations in full compliance with the requirements of Attachment "B" of this License. Licensee shall not commence its operation of the System, or any part thereof, at the Hotel unless and until it receives IHG's written authorization to do so. Licensee's failure to perform the Work in accordance with IHG's requirements and specifications (including the progress, milestone, completion and other dates specified in Attachment "B" of this License) shall constitute a material breach of Licensee's obligations under this License.

In the event IHG terminates this License due to Licensee's breach of any of its obligations under the License prior to the time that Licensee is authorized to use the System at the Hotel, Licensee shall pay to IHG, as liquidated damages, a lump sum equal to the monthly average of all amounts that would have been payable to IHG under paragraphs 3.B.(1), (3) and (4) of this License assuming the Hotel had collected Gross Rooms Revenue based on the average daily revenue per available room for all "mature hotels" operating under "IHG's and its affiliates' Luxury and Upper Upscale Brands" (as hereinafter defined) in the United States for the previous twelve (12) months, as determined by IHG, multiplied by the greater of (a) six (6) or (b) the number of full and partial months from the Term Commencement Date to the termination date of the License. For purposes of this paragraph, "mature hotels" means hotels which were open for two full years or longer; were franchised or, alternatively, owned and/or managed by IHG or one of its affiliates; and, were not in financial or quality default of their applicable franchise or management agreement obligations as of the applicable date and "IHG's and its affiliates' Luxury and Upper Upscale Brands" means InterContinental Hotels & Resorts and Kimpton Hotels and Restaurants.

IHG and Licensee acknowledge and agree that it would be difficult to determine the injury caused to IHG by termination of this License. IHG and Licensee therefore intend and agree the above liquidated damages calculations to be a reasonable pre-estimate of IHG's probable loss and not as a penalty or in lieu of any other payment.

**J. Reimbursement of Expenses.**

Licensee agrees to pay IHG all expenses, including reasonable attorneys' fees and court costs, incurred by IHG, its parents, subsidiaries, affiliated entities, and their successors and assigns to remedy any defaults of or enforce or defend itself or any rights under this License, (including without limitation any claim, cross claim or counter-claim brought by Licensee), effect termination of this License or collect any amounts due under this License,

**K. Business Judgment.**

IHG and Licensee recognize and agree, and any mediator or judge is affirmatively advised, that certain provisions of this License describe the right of IHG to take (or refrain from taking) certain actions in the exercise of its business judgment as to the long-term overall interests of the System, and/or upon its determination that the change was adopted in good faith and is consistent with the long-term overall interests of the System. Where such judgment has been exercised by IHG, neither a mediator, nor a judge, nor any trier of fact, shall substitute his, her or their judgment for the judgment so exercised by IHG.

**L. Descriptive Headings.**

The descriptive headings in this License are for convenience only and shall not control or affect the meaning or construction of any provision in this License.

**M. Anti-Terrorism, Anti-Bribery and Trade Sanctions Compliance.**

- (1) Licensee represents, warrants and covenants that neither it nor any entity or individual having a direct or indirect ownership interest in it, any guarantor of Licensee's obligations under this License ("**Guarantor**") nor any of Licensee's affiliates nor any officer, director, employee, member, partner or shareholder of any of the foregoing, has been or is now:
  - (a) directly or indirectly owned or controlled by the government of any nation subject to trade sanctions or embargoes imposed by any of the Sanctioning Bodies (as defined below in sub-paragraph (4));
  - (b) acting on behalf of any government of any nation subject to the trade sanctions or embargoes imposed by any of the Sanctioning Bodies,
  - (c) identified by any of the Sanctioning Bodies as a Prohibited Person;
  - (d) in violation of any applicable law relating to anti-money laundering, anti-terrorism, anti-bribery, trade sanctions or embargoes, including without limitation, the UK Bribery Act 2010, the US Foreign Corrupt Practices Act, the US Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (US Patriot Act) and related regulations and executive orders related to the foregoing laws (the "**Relevant Laws**").
- (2) Licensee further warrants and represents and covenants that:
  - (a) Licensee, any Guarantor and any Person having a direct or indirect ownership in Licensee will comply with the Relevant Laws; and
  - (b) all individuals authorized to represent Licensee in carrying out its obligations under this License are eligible under applicable United States immigration laws to travel to the United States for training or any other purpose in carrying out Licensee's obligations under this License.
- (3) For the purposes of this paragraph 13.M., "**Person**" means any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any national, provincial, state, county or municipal government or any bureau, office, department or agency thereof and any fiduciary acting in an agency capacity on behalf of any of the foregoing. "**Prohibited Person**" means any person identified by Her Majesty's Treasury of the United Kingdom ("**UK**"), the Office of Foreign Assets Control of the Department of the Treasury of the United States ("**US**"), the European Union ("**EU**") or the United Nations ("**UN**"),

(collectively, “**Sanctioning Bodies**”) or any other Person with whom IHG, or any of its affiliated companies, is otherwise prohibited from transacting business.

**N. Capital Reserve; Renovations of the Hotel.**

- (1) IHG may require Licensee to establish a capital reserve (the “Capital Reserve”) in an amount not in excess of 5% of Gross Revenue annually to be used for capital expenditures and the upgrading of the Hotel, including the renovation of public areas, guest rooms, and guest room corridors and the replacement of FF&E. IHG shall give Licensee no less than ninety (90) days’ notice of imposing such requirement to establish a Capital Reserve as the same may be established or changed by IHG from time to time. In such event, Licensee must establish a Capital Reserve account funded monthly in a bank selected by Licensee. Licensee shall make expenditures from such account for the purposes hereinbefore specified in accordance with IHG’s requirements. Licensee acknowledges that the Capital Reserve may not be sufficient to maintain the Hotel as a first-class facility in accordance with IHG’s Standards and Licensee shall promptly provide any necessary additional funds to meet IHG’s product quality and consumer quality requirements, as well as Licensee’s renovation obligations specified herein.
- (2) Throughout the License Term, regardless of whether IHG has required Licensee to establish a Capital Reserve, Licensee must complete significant renovations of the Hotel, including, but not limited to, the public areas, guestrooms, and guest room corridors in order to maintain the Hotel as a first class facility. These mandatory renovations include: (a) replacing Soft Goods at least every five (5) to six (6) years after such Soft Goods were installed and (b) replacing Case Goods at least every (10) to twelve (12) years after such Case Goods were installed; and, if necessary replacing such Soft Goods and Case Goods more frequently in order to (i) maintain compliance with the Standards and IHG’s quality and guest satisfaction programs; (ii) remove risk of injury to persons or property; or (iii) ensure compliance with all applicable laws.
- (3) Licensee must fund all ordinary and extraordinary maintenance and repair, capital improvements and renovations of the Hotel.
- (4) For purposes of this paragraph 13.N. the following definitions apply:
  - (a) “**Gross Revenue**” means all revenues and income of any nature derived directly or indirectly from the Hotel or from the use or operation thereof, including without limitation room sales; food and beverage sales; telephone, fax and internet revenues; rental or other payments from lessees, subleases, concessionaires and others occupying or using space or rendering services at the Hotel (but not the gross receipts of such lessees, subleases or concessionaires); and the actual cash proceeds of business interruption, use, occupancy or similar insurance.
  - (b) “**Soft Goods**” means textile, fabric, vinyl and similar products used in finishing and decorating the Hotel, its public areas, guest rooms, and guest room corridors, such as wall and floor coverings, window treatments, cornice or valance coverings, carpeting, bedspreads, lamps, lamp shades, artwork, decorative items, pictures, wall decorations, upholstery and all other unspecified items of the same class.
  - (c) “**Case Goods**” means furniture and fixtures used in the Hotel, its public areas, guest rooms, and guest room corridors such as chests, armoires, chairs, beds, headboards, desks, tables, television sets, mirrors, lighting fixtures and all other unspecified items of the same class.
  - (d) “**FF&E**” means Case Goods, Soft Goods, signage, including exterior signage, as well as other improvements and personal property used in the operation of the Hotel except for those supplies and equipment which are generally classified as “operating supplies” or “operating equipment”.
- (5) Licensee shall inform IHG of the dates of installation of Soft Goods and Case Goods, which dates IHG shall be entitled to verify.
- (6) Licensee must submit its renovation plans for the Hotel to IHG for IHG’s review and approval prior to starting any renovations and Licensee shall not start any

renovations until IHG has approved the scope of the plans and the plans' compliance with the Standards.

- (7) IHG shall have the right to require Licensee to make renovations to the Hotel to conform the Hotel's FF&E to then-current Standards and Vignette Collection™ design criteria.

**O. Right of First Refusal.**

Notwithstanding anything else to the contrary in this License, if Licensee receives an offer for, and wishes to sell the Hotel (including all or a portion of the Hotel, or the right, in any form other than a bona fide debt instrument, to receive income from the Hotel), Licensee shall give IHG written notice along with a complete copy of the offer ("ROFR Notice") within ten (10) days of its receipt and shall offer to sell the Hotel to IHG on the same terms and conditions as the offer; provided however, that if any portion of the consideration contemplated by the offer is in a form other than cash, Licensee shall agree to accept a cash payment of equivalent value, based on the market value of the non-cash consideration in Licensee's hands, in lieu of any non-cash consideration. IHG shall notify Licensee, within 30 days of its actual receipt of such notice, if it intends to accept Licensee's offer. Any acceptance of the offer by IHG shall be subject to compliance with any applicable laws and regulations which are a pre-condition to consummation of the transaction. IHG's acceptance may provide for preparation of a definitive agreement consistent with the offer and acceptance; however, such definitive agreement shall not be a condition precedent to an effective agreement between IHG and Licensee. If IHG has not given notice to Licensee that it intends to accept the offer, Licensee may proceed to sell the Hotel on the same terms and conditions contained in the offer notified to IHG without regard to this Right of First Refusal, but only if such sale is consummated within 150 days from the date of Licensee's notice to IHG. If such sale is not consummated within such 150 day period or if the terms of such sale differ materially from the terms and conditions presented in the ROFR Notice, then Licensee shall be required to deliver another ROFR Notice and again follow the process set forth above. In the event that IHG waives this Right of First Refusal in accordance with the terms set forth herein, then the sale of the Hotel to a purchaser other than IHG shall be subject to paragraph 9.H.

**P. Counterparts.**

This License may be executed in any number of counterparts, each of which will be deemed an original and all of which constitute one and the same instrument. IHG and Licensee hereby acknowledge and agree that electronic signatures, facsimile signatures or signatures transmitted by electronic mail in "pdf" format shall be legal and binding and shall have the same full force and effect as delivery of an original signed counterpart.

[Signature Page Follows]

**IN WITNESS WHEREOF**, the parties have executed this License, as of the date first stated above.

**LICENSEE:**

«EntityAllCaps»

By: \_\_\_\_\_  
«AuthorizedSignee»  
«Signee'sTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_  
Jenny Tidwell  
Vice President  
Franchise Licensing and Compliance

**Electronic Signature Acknowledgement:**

This License may, at IHG's option, be executed via electronic signature. In such event, Licensee acknowledges that conducting this transaction using electronic means is optional and is not a condition to executing this License. By electronically signing this paragraph, Licensee agrees to conduct this transaction using electronic means, which includes the transmittal of electronic communications and the execution of the agreement using an electronic signature. Licensee further agrees that the parties' electronic signatures are valid and create a binding and enforceable agreement. If Licensee does not agree to conduct the transaction electronically and does not agree to execute the agreement using an electronic signature, Licensee must promptly notify IHG and IHG will provide Licensee with a non-electronic License.

**Licensee Signature (or Initials):** \_\_\_\_\_

**ATTACHMENT "A"**

Facilities and Services (paragraph 1):

Site-Area and general description:

Fee owners (names and addresses):

Leases (parties, terms, etc.) if any:

Separate parcels for signs:

Number of approved guest rooms:

Restaurants and lounges (number, seating capacity, names and description):

Gift shop or other concessions or shops:

Parking facilities (number of spaces, description):

Swimming pool:

Other facilities and services:

Ownership of Licensee (paragraph 10):

## **ATTACHMENT "B"**

### **FOR NEW DEVELOPMENT HOTELS ONLY**

#### **THE WORK**

##### **A. BEFORE CONSTRUCTION BEGINS.**

Before starting construction of the Hotel, Licensee must (at Licensee's sole expense):

1. Submit to IHG evidence of insurance as required under this License.
2. Submit to IHG evidence that Licensee is entitled to possession of the premises on which the Hotel will be located, which documents shall be subject to IHG's approval.
3. Obtain any and all approvals, permits or licenses required for construction to begin. Submit a copy of the general building permit to IHG when acquired.
4. Submit to IHG the proposed construction schedule. The schedule should include critical path milestones and trade subdivisions in standard industry format.
5. Submit "Preliminary Plans" to IHG, for IHG's review and approval, at least two hundred and seventy (270) days before "Ground Break", starting construction or such other date as IHG may agree with Licensee in writing. "Ground Break" means the completion of the Hotel building foundation through ground-level or the completion of the finished ground floor slab. "Preliminary Plans" means site plans, building floor plans (all floor levels), enlarged guest room plans for all room types and exterior elevations with a color rendering as prepared by a qualified, licensed architect with knowledge of commercial building design and construction, including spatial relationships, and general quality of building systems, elements, products and materials, as is necessary to describe adequately the design of the Hotel.
6. Submit Final Plans to IHG, for IHG's review and approval, at least one hundred and eighty (180) days before Ground Break and before final submittal to Licensee's local building authority or such other date as IHG may agree with Licensee in writing. "Final Plans" means the final set of construction documents used for permitting, including all architectural drawings, site plans with parking, all floorplans, exterior and interior elevations, enlarged plans, building sections, millwork detail and such additional details and information as IHG may request. The Final Plans as submitted to IHG shall conform to then-prevailing System Standards, including the construction standards set forth in the Standards and address all revisions required by IHG's review and approval of the Preliminary Plans.
7. Submit to IHG a pre-construction disability compliance certification signed by an architect with professional experience applying the requirements of the Americans with Disabilities Act ("ADA") and the ADA Standards, in the form of Attachment "C" (the "ADA Certificate"). Such certification must confirm the qualifications of the architect and that the Final Plans, as designed, comply with Title III of the ADA and any other applicable accessibility laws, ordinances or requirements.
8. Submit Preliminary Plans and Final Plans to IHG in Adobe Acrobat PDF format, per electronic submittal guidelines as outlined on [www.ihgdesignconnect.com](http://www.ihgdesignconnect.com).

##### **B. CONSTRUCTION.**

1. Construction shall not begin unless and until IHG has approved the Final Plans and IHG has received the properly executed pre-construction ADA Certificate from Licensee. Thereafter, no change shall be made to the Final Plans without the prior written consent of IHG. Notwithstanding the foregoing, after the Final Plans have been approved, if in the course of actual construction any change in the Final Plans occurs, Licensee shall notify IHG promptly,

and in no event later than ten (10) days after Licensee becomes aware of or should have been aware of any such change.

2. Licensee must notify IHG when their contractor has mobilized on site and proceeded with site work.
3. Licensee must complete Ground Break of the Hotel by ***{insert agreed date}***. Licensee must provide photo documentation of Ground Break to IHG within one day thereafter.
4. Licensee must submit for IHG's review and approval any and all guest room FF&E and Public Area FF&E plans and associated specifications as outlined in the submittal guidelines ("FF&E Specs") to IHG, as designed and prepared by a licensed or accredited design professional with commercial building design background, no later than thirty (30) days after Ground Break. Thereafter, no change shall be made to the FF&E Specs without the prior written consent of IHG. Notwithstanding the foregoing, after the FF&E Specs have been approved, if in the course of actual construction any change in the FF&E Specs occurs, Licensee shall notify IHG and submit changes, within ten (10) days of any such change, for IHG's review and approval.
5. Licensee must submit for IHG's review and approval any and all Life Safety Shop drawings as outlined in the submittal guidelines (Fire Alarm and Sprinkler plans), as designed and prepared by a professional sub-contractor with AHJ approval, no later than thirty (30) days after Ground Break. Thereafter, no change shall be made to the fire alarm and sprinkler systems without the prior written consent of IHG. Notwithstanding the foregoing, after the Life Safety system drawings have been approved by IHG, if in the course of actual construction any change in the system design that occurs, Licensee shall, within ten (10) days of any such change, submit such changes for IHG's review and approval.
6. Licensee shall submit the FF&E Specs to IHG, per the electronic submittal guidelines as outlined on [www.ihgdesignconnect.com](http://www.ihgdesignconnect.com).
7. Licensee must notify IHG if it elects to use any product, design, or FF&E package which has not been pre-approved by IHG. Use of such non-preapproved products, design or FF&E package may require additional time and fees incurred by Licensee.
8. Once the construction has commenced, it shall continue without interruption (except for interruption by reason of events constituting force majeure) until construction is completed. Licensee must provide IHG monthly reports of construction progress in an approved format.
9. Notwithstanding the occurrence of any events constituting force majeure, or any other cause, construction shall be completed and the Hotel shall be furnished, equipped and shall otherwise be made ready to open for business in accordance with the License not later than the date eighteen (18) months (five hundred and forty-eight (548) days) after Ground Break (or such other date as IHG and Licensee may agree in writing).
10. Licensee shall cause the Hotel to be constructed according to the Final Plans and the FF&E Specs approved by IHG, and IHG shall determine at its election whether construction has been completed in accordance with the Final Plans and the FF&E Specs. Licensee must correct or replace any changes from the approved design as noted during construction.
11. Extension requests to the starting date of construction of a new development may be considered on a basis of monthly increments of at least a six (6) month period for any one extension. Requests for extensions greater than six (6) months, but less than or equal to twelve (12) months must be accompanied by an extension fee equal to \$10,000. Requests for more than a twelve (12) month extension must be accompanied by a sum equal to one half (1/2) of the then current standard minimum application fee for the proposed number of rooms for the Hotel. IHG's approval of extension requests must be delivered in writing and such approval is not automatic. Licensee will be responsible for any and all expenses that

may be incurred by IHG in the processing of an extension request. Extensions beyond 12 months may require resubmittal of final plans, per IHG request.

**C. OPENING OF THE HOTEL.**

1. The Hotel shall not be opened for business under the System unless and until:
  - (a) IHG has approved and accepted, in advance, in writing:
    - (i) the construction of the Hotel in accordance with the Final Plans, Life Safety systems, the FF&E Specs and IHG's requirements;
    - (ii) the installation of all items of equipment, furniture, signs, computer terminals and related supplies and other items;
    - (iii) the staffing and training of such staff necessary to operate the Hotel in accordance with IHG's requirements;
  - (b) no accounts of Licensee are past due to IHG, its parents, subsidiaries or affiliated companies;
  - (c) Licensee is in full compliance with all of the terms of this License;
  - (d) Licensee has submitted to IHG all certificates of insurance (and copies of insurance policies if requested by IHG) as required under the License;
  - (e) Licensee has obtained all necessary governmental approvals, licenses and permits to possess, occupy and operate all areas of the Hotel, according to IHG's requirements, including specifically without limitation, a permanent certificate of occupancy; and
  - (f) Licensee has submitted to IHG a post-construction disability compliance certification signed by Licensee and an architect with professional experience applying the requirements of the ADA and the ADA Standards, in the form of **Attachment "C"**—ADA Certificate. Such certification must confirm the qualifications of the architect, the architect has inspected the as-built conditions of the Hotel and building site and that the Hotel and building site have been built in compliance with Title III of the ADA and any other applicable accessibility laws, ordinances or requirements.
2. Notwithstanding anything else herein to the contrary, IHG may, in its sole judgment, authorize Licensee to open and operate the Hotel as a part of the Vignette Collection™ even though Licensee has not fully complied with the terms of this License, provided that Licensee agrees to fulfill all remaining terms of this License on or before the dates established by IHG as a condition to allowing opening of the Hotel when less than all of the required work has been completed.
3. Licensee acknowledges and agrees that: (a) IHG's review of Preliminary Plans, Final Plans, FF&E Specs, Life Safety systems or other materials, documents or items submitted to IHG for review and approval pursuant to this License (collectively "Licensee's Plans") is exclusively for determination of compliance with the Standards, the requirements of the System and the terms of this License and not for compliance with all applicable law or adequacy or suitability for the purpose intended, (b) no approval of Licensee's Plans by IHG shall constitute, be deemed or construed in any way as, IHG's consent, approval, acknowledgment or recognition that Licensee's Plans comply with applicable law or are adequate or suitable for the purpose intended, (c) Licensee shall have the sole responsibility for compliance with applicable law and for the adequacy and suitability for the purpose intended and (d) nothing in this License, and no review and approval (or opportunity for review) by IHG of Licensee's Plans shall be deemed to create a duty on the part of IHG that could give rise to any cause of action by Licensee or any of its affiliated entities or persons,

or any other person or entity against IHG or any of its parents, subsidiaries or affiliated entities nor their respective officers, directors or employees, based on any alleged deficiency in the adequacy, suitability or legality of Licensee's Plans.

**ATTACHMENT "B"**  
**THE WORK**  
**(Conversion Licenses)**

**[Description of Specific Work, whether Property Improvement Plan ("PIP") or Deficiency List, for the Hotel to be attached]**

IHG may authorize Licensee, in IHG's sole discretion, to open and operate the Hotel as a part of the Vignette Collection™ even though Licensee has not fully complied with the terms of the License, provided Licensee fulfills all remaining terms of this License on or before the date designated by IHG. Licensee may not commence operation of the Hotel under the Vignette Collection™ brand without IHG's written authorization to do so. Notwithstanding any consent by IHG to the authorized conditional opening of the Hotel as part of the Vignette Collection™, the construction, upgrading and renovation work more particularly described in paragraph 13.I. and in this Attachment "B" must be completed by Licensee on or before the dates set forth in this Attachment "B" and the Hotel must otherwise be in compliance with the License and must open as part of the Vignette Collection™, as specified in paragraph 1, on or before **[insert date]**.

ATTACHMENT "C"



**ACCESSIBILITY CERTIFICATION**

**Hotel Location Code:** \_\_\_\_\_

**Location #:** \_\_\_\_\_

**Hotel Name** (as it appears in the IHG Website): \_\_\_\_\_

**Hotel Address:** \_\_\_\_\_

**Licensee:** \_\_\_\_\_

This certification is intended to comply with the accessibility standards and/or the Travelers with Disabilities Section of the relevant brand standards as well as the InterContinental Hotels Group Design & Construction standards, all of which require compliance with Title III of the Americans with Disabilities Act (ADA), including the 1991 and/or 2010 ADA Standards for Accessible Design (ADA Standards), and all other applicable accessibility requirements. These standards require as follows:

- a. For newly constructed hotels: (1) a pre-construction certification of the final plans for the building and building site submitted prior to the commencement of construction by an architect with professional experience applying the requirements of the ADA and the ADA Standards; and (2) a post-construction certification submitted after an inspection of as-built conditions signed by Licensee.
- b. For renovations required for relicensing, conversions, brand changes or changes of ownership: a post-renovation certification submitted after an inspection of as-built conditions signed by Licensee.
- c. For voluntary renovations: a post-renovation certification submitted after an inspection of as-built conditions signed by Licensee.

Please select the option for which this Certification is submitted:

- Newly Constructed Hotel** (Must submit Certification Options A & B below)
- Renovation Required for Relicensing, Conversion, Brand Change or Change of Ownership** (Must submit Certification Option B below)
- Voluntary Renovation** (Must submit Certification Option B below)

## **CERTIFICATION**

Please select the Option(s) for which Licensee is submitting this Certification.

**Option A: Newly Constructed Hotel - Pre-Construction Certification**

The undersigned certifies that (1) he/she is an architect with professional experience applying the requirements of the ADA and the ADA Standards; and (2) the final plans for construction of this building and building site are in compliance with Title III of the ADA and any other applicable accessibility laws, ordinances or requirements, to the best of his/her knowledge, information, and belief.

Name of Architect: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**Option B: Licensee Post-Construction or Post-Renovation Certification**

The undersigned Licensee, to the best of his/her knowledge, information, and belief, certifies that this building and building site have been built, renovated or altered in compliance with Title III of the ADA and any other applicable accessibility laws, ordinances or requirements, including, but not limited to, any accessibility laws or requirements regarding the following:

- The appropriate number and distribution of accessible guest rooms
- Features in accessible guest rooms
- Parking and exterior accessible routes
- Public entrances and interior accessible routes
- Service counters
- Public and common restrooms
- Meeting rooms
- Food and beverage establishments
- Swimming pools, spas, and fitness centers

Name of Licensee Principal Correspondent: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

*By receiving or accepting this Certification, IHG is not confirming that Licensee and/or Licensee's property are in compliance with all applicable federal, state, and local accessibility requirements. Per the relevant license agreement, Licensee is solely responsible for compliance with all applicable accessibility requirements, including the ADA and the 1991 and/or 2010 ADA Standards for Accessible Design.*

## GUARANTY

As an inducement to Holiday Hospitality Franchising, LLC (“IHG”) to execute the License Agreement dated {\_\_\_\_insert date\_\_\_\_} between IHG and {\_\_\_\_insert name\_\_\_\_}, (“Licensee”), for the Vignette Collection™ hotel located at {\_\_\_\_insert location address\_\_\_\_}, (“Licensee”), the undersigned (sometimes referred to as the “guarantor(s)”), jointly and severally, hereby unconditionally warrant to IHG and its successors and assigns that all of Licensee’s representations in the License and the application submitted by Licensee to obtain the License are true, and guarantee that all of Licensee’s obligations under the License, including any amendments thereto whenever made (all hereafter collectively referred to as the “License”), will be punctually paid and performed.

Upon default by the Licensee and notice from IHG, the undersigned will immediately make each payment and perform each obligation required of Licensee under the License. Without affecting the obligations of the undersigned under this Guaranty, IHG may, without notice to the undersigned, extend, modify or release any indebtedness or obligation of Licensee, or any of the guarantor(s), or settle, adjust or compromise any claims against Licensee or any of the guarantor(s). The undersigned waive notice of amendment of the License and notice of demand for payment or performance by Licensee.

Upon the death of an individual guarantor, the estate of such guarantor will be bound by this Guaranty but only for defaults and obligations hereunder existing at the time of death, and the obligations of the other guarantors will continue in full force and effect.

The Guaranty constitutes a guaranty of payment and performance and not of collection, and each of the guarantors specifically waives any obligation of IHG to proceed against Licensee or any money or property held by Licensee or by any other person or entity as collateral security, by way of set off or otherwise. The undersigned further agree that (i) this Guaranty shall continue to be effective or be reinstated, as the case may be, if at any time payment of any of the guaranteed obligations is rescinded or must otherwise be restored or returned by IHG upon the insolvency, bankruptcy or reorganization of Licensee or any of the undersigned, all as though such payment had not been made and (ii) the guaranteed obligations shall not be reduced, limited, terminated, discharged or otherwise affected by any such insolvency, bankruptcy, reorganization or similar proceedings affecting Licensee or its assets or the release or discharge of Licensee from any of its obligations under the License.

This Guaranty shall become valid as of the Term Commencement Date of the License, which is {insert date}\_\_\_\_\_. It shall be deemed made and entered into in the State of Georgia, and the undersigned agree that this Guaranty and the obligations provided for hereunder shall be governed and construed in all respects by the internal laws and decisions (except any conflicts of law provisions) of the State of Georgia, including all matters of construction, validity, enforceability and performance.

To the extent permitted by law, the undersigned (i) consent and submit, at IHG’s election and without limiting IHG’s rights to commence an action in any other jurisdiction, to the personal jurisdiction and venue of any courts (federal, superior or state) situated in the County of DeKalb, State of Georgia; (ii) waive any claim, defense or objection in any such proceeding based on lack of personal jurisdiction, improper venue, forum non conveniens or any similar basis; and (iii) expressly waive personal service of process and consent to service by certified mail, postage prepaid, directed to the last known address of the undersigned, which service shall be deemed completed within ten (10) days after the date of mailing thereof.

The undersigned agree to pay IHG all expenses, including reasonable attorneys’ fees and court costs, incurred by IHG, its parents, subsidiaries, affiliates, and their successors and assigns, to remedy any defaults of or enforce any rights under this Guaranty or the License, effect termination of this Guaranty or the License, or collect any amounts due under this Guaranty or the License.

**IN WITNESS WHEREOF**, each of the undersigned has signed this Guaranty under Seal, as of this \_\_\_\_\_ date of \_\_\_\_\_, 20\_\_\_\_.

Guarantors:

\_\_\_\_\_  
«Guarantor1»  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

\_\_\_\_\_  
«Guarantor2»  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_

(Affix Corporate Seal if Guarantor is a corporation or insert the letters "L.S." after your signature if Guarantor is an individual.)

**Electronic Signature Acknowledgement:**

This Guaranty may, at IHG's option, be executed via electronic signature. In such event, Guarantor acknowledges that conducting this transaction using electronic means is optional and is not a condition to executing this Guaranty. By electronically signing this paragraph, Guarantor agrees to conduct this transaction using electronic means, which includes the transmittal of electronic communications and the execution of the agreement using an electronic signature. Guarantor further agrees that the parties' electronic signatures are valid and create a binding and enforceable agreement. If Guarantor does not agree to conduct the transaction electronically and does not agree to execute the agreement using an electronic signature, Guarantor must promptly notify IHG and IHG will provide Guarantor with a non-electronic Guaranty.

**Guarantor Signature (or Initials):** \_\_\_\_\_

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The California Franchise Investment Law**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of California:

1. In accordance with the provisions under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

2. California Business and Professions Code Sections 20000 through 20043 provide rights to the Licensee concerning termination or non-renewal of a License. If the License contains a provision that is inconsistent with the law, the law will control.

3. The License contains a liquidated damages clause. Under California Civil Code Section 1671, certain liquidated damages clauses are unenforceable,

4. The License and Guaranty require application of the laws of Georgia. In accordance with 5050.23 Sec. 310.114.1(c)(5)(B)(v), this provision may not be enforceable under California law.

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_

«AuthorizedSignee»

«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_

Jenny Tidwell

Vice President

Franchise Licensing and Compliance

**California Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The Connecticut Business Opportunity Investment Act**

Notwithstanding anything to the contrary set forth in the above License Agreement (“License”), the following provisions shall supersede and apply to each License for an Atwell Suites hotel issued in the State of Connecticut:

1. The second sentence in Section 1.B is deleted in its entirety and replaced by the following language: The System at present includes, but is not limited to, the principal trade and/or service mark “Vignette Collection™”, the service mark “IHG Concerto™”, the service mark “Great Hotels Guests Love®” and the other Marks (as defined in paragraph 6.B. below) and intellectual property rights made available to licensees of the System by reason of a license; all rights to domain names and other identifications or elements used in electronic commerce as may be designated from time to time by IHG in accordance with IHG’s specifications to be part of the System; access to a reservation service operated in accordance with specifications established by IHG from time to time; preparation and distribution of advertising, publicity and other marketing programs and materials; architectural drawings and architectural works; the furnishing of training programs and materials; confidential or proprietary information, standards, specifications and policies for construction, furnishings, operation, appearance and service of the Hotel, standards and specifications for interior and exterior design and decor and other requirements as stated or referred to in this License and from time to time in IHG’s brand standards for System hotels (the “Standards”) or in other communications to Licensee; and programs for inspecting the Hotel, measuring and assessing service, quality and consumer opinion, and consulting with Licensee.”

2. The first sentence in Section 6.B is deleted in its entirety and replaced by the following language: “The “Marks” means the name and mark “Vignette Collection™”, “Great Hotels Guests Love®” and their respective distinguishing characteristics and the other service marks, trademarks, trade names, slogans, commercial symbols, logos, trade dress, copyrighted material and intellectual property associated with the System, including (without limitation) those which IHG may designate in the future for use and those which IHG does not designate as withdrawn from use (the “Marks”).

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_  
«AuthorizedSignee»  
«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_  
Jenny Tidwell  
Vice President  
Franchise Licensing and Compliance

**Connecticut Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
Section 482E-3 Of The Hawaii Revised Statutes**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provision shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of Hawaii:

1. Section 13.H of the License is amended to include the following: "The general release language contained in the License shall not relieve IHG or any other person, directly or indirectly, from liability imposed by the laws concerning franchising in the State of Hawaii."

2. In accordance with the provision under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

3. Hawaii Revised Statutes Section 482E-1 provides rights to the Licensee concerning termination or non-renewal of a License. If the License contains a provision that is inconsistent with the law, the law will control.

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_

«AuthorizedSignee»

«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_

Jenny Tidwell

Vice President

Franchise Licensing and Compliance

**Hawaii Addendum**

**Addendum To The  
Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement  
Pursuant To the Illinois Franchise Disclosure Act**

Notwithstanding anything to the contrary set forth in the above License Agreement (“License”), the following provisions shall supersede and apply to this License (and, have generally been made applicable by execution of a similar Addendum to each license for a Vignette Collection™ Hotel issued in, or for properties in, the State of Illinois):

1. Notice Required By Law: The terms and conditions under which your License can be terminated and your rights upon non-renewal may be affected by Illinois law, 815 ILCS 705/19 and 705/20.

2. Under this License, there is no requirement that litigation between the parties take place in Georgia. You may institute litigation against us in Illinois or in any other court having jurisdiction over the parties and the dispute. The provisions of the License concerning jurisdiction and the application of Georgia law do not deprive you of any rights and/or causes of action established by the Illinois Franchise Disclosure Act, 815 ILCS 705/4 and 41, which, for reference, are reproduced at the bottom of this page.<sup>1</sup> In addition, if any of the provisions of this License are inconsistent with any other applicable Illinois statutes, then such Illinois statutes shall apply to the extent such application is constitutional and valid as applied.

3. In accordance with the provision under federal bankruptcy law (11 U.S.C.A. sec. 101, et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: “Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction.”

4. Licensee must pay additional IHG Rewards Club Marketing Contributions equal to a monthly charge of 4.75% of Qualifying Full Folio Revenue and 1.425% of Qualifying Room and Meeting Revenue from IHG Rewards Club members. IHG can change these percentages. All enrolling stays will be assessed a flat rate of \$4.75 to the enrolling hotel and a flat 1,000 points will be issued to the member regardless of their qualified stay revenue. There is also a one-time charge of \$10.00 per room with the first Royalty payment.

(Signatures on following page)

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<sup>1</sup> 705/4 JURISDICTION AND VENUE. §4. Any provision in a franchise agreement that designates jurisdiction or venue in a forum outside of this State is void, provided that a franchise agreement may provide for arbitration in a forum outside of this State.

705/41 WAIVERS VOID. §41. Any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act or any other law of this State is void. This Section shall not prevent any person from entering into a settlement agreement or executing a general release regarding a potential or actual lawsuit filed under any of the provisions of this Act, nor shall it prevent the arbitration of any claim pursuant to the provisions of Title 9 of the United States Code.

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_

«AuthorizedSignee»

«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_

Jenny Tidwell

Vice President

Franchise Licensing and Compliance

**Illinois Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The Maryland Franchise Registration And Disclosure Law**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of Maryland:

1. In accordance with the provision under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

2. The provisions of the License which permits all suits to be filed in Georgia is hereby deleted for residents of the State of Maryland and/or franchises to be operated in the State of Maryland.

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_  
«AuthorizedSignee»  
«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_  
Jenny Tidwell  
Vice President  
Franchise Licensing and Compliance

**Maryland Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The Michigan Franchise Investment Law**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of Michigan:

1. In accordance with the provision under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

2. There is a prohibition by Michigan Compiled Laws Section 445.1527, against unilateral termination of the License without good cause, good cause being defined therein as a failure of the Licensee to comply with any lawful provision of the License and to cure such failure after being given written notice thereof and reasonable opportunity, which in no event need be more than 30 days, to cure such failure.

3. THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.

(a) A prohibition on the right of a Licensee to join an association of licensees.

(b) A requirement that a Licensee assent to a release, assignment, novation, waiver or estoppel which deprives a Licensee of rights and protection provided in this act. This shall not preclude a Licensee, after entering into a License, from settling any and all claims.

(c) A provision that permits a Licensor to terminate a License prior to the expiration of its term except for good cause. Good cause shall include the failure of the Licensee to comply with any lawful provision of the License and to cure such failure after being given written notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure such failure.

(d) A provision that permits a Licensor to refuse to renew a License without fairly compensating the Licensee by repurchase or other means for the fair market value at the time of expiration of the Licensee's inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the Licensor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if: (i) the term of the License is less than 5 years and (ii) the Licensee is prohibited by the License or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising or other commercial symbol in the same area subsequent to the expiration of the License or the Licensee does not receive at least 6 months' advance notice of Licensor's intent not to renew the License.

(e) A provision that permits the Licensor to refuse to renew a License on terms generally available to other Licensees of the same class or type under similar circumstances. This section does not require a renewal provision.

(f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the Licensee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.

(g) A provision which permits a Licensor to refuse to permit a transfer of ownership of a License, except for good cause. This subdivision does not prevent a Licensor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to:

(i) The failure of the proposed transferee to meet the Licensor's then current reasonable qualifications or standards.

(ii) The fact that the proposed transferee is a competitor of the Licensor or subfranchisor.

(iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.

(iv) The failure of the Licensee or proposed transferee to pay any sums owing to the IHG or to cure any default in the License existing at the time of the proposed transfer.

(h) A provision that requires the Licensee to resell to the Licensor items that are not uniquely identified with the Licensor. This subdivision does not prohibit a provision that grants to a Licensor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the Licensor the right to acquire the assets of a franchise for the market or appraised value of such assets if the Licensee has breached the lawful provisions of the License and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the Licensor to directly or indirectly convey, assign or otherwise transfer its obligations to fulfill contractual obligations to the Licensee unless provision has been made for providing the required contractual services.

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_

«AuthorizedSignee»

«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_

Jenny Tidwell

Vice President

Franchise Licensing and Compliance

**Michigan Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The Minnesota Franchise Act**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License") the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of Minnesota:

1. The following language will appear at the end of paragraph 13.B of the License:

"Pursuant to Minn. State. Sec. 80C.21, this paragraph shall not in any way abrogate or reduce any rights of the Licensee as provided for in the Minnesota Statutes 1987, Chapter 80C, including, but not limited to, the right to submit matters to the jurisdiction of the courts of Minnesota.

Minnesota law provides licensees with certain termination and non-renewal rights. Minnesota Statutes, Section 80C.14 subdivisions 3, 4, and 5 require, except in certain specified cases, that a licensee be given 90 days' notice of termination (with 60 days to cure) and 180 days' notice for non-renewal of the License."

2. Paragraph 6 of the License is amended by adding the following language:

"The Minnesota Department of Commerce requires that IHG indemnify Minnesota licensees against liability to third parties resulting from claims by third parties that the Licensee's use of IHG's trademark infringes trademark rights of the third party. IHG does not indemnify against the consequences of Licensee's use of IHG's trademark except in accordance with the requirements of the License, and, as a condition to indemnification, Licensee must provide notice to IHG of any such claim within ten (10) days and tender the defense of the claim to IHG. If IHG accepts the tender of defense, IHG has the right to manage the defense of the claim including the right to compromise, settle or otherwise resolve the claim, and to determine whether to appeal a final determination of the claim."

3. Liquidated damages and termination penalty provisions are deleted from Licenses issued in the State of Minnesota.

4. In accordance with the provision under Federal Bankruptcy Law (11.U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

5. Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit the franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring you to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the disclosure document or agreement(s) can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.

6. No release language set forth in Section 13.H. of the License or anywhere else in the License Agreement will relieve IHG or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Minnesota.

Date: \_\_\_\_\_

**Licensee:**

«EntityAllCaps»

By: \_\_\_\_\_

«AuthorizedSignee»

«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_  
Jenny Tidwell  
Vice President  
Franchise Licensing and Compliance

**Minnesota Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The North Dakota Investment Franchise Law**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of North Dakota:

1. The laws of the State of North Dakota supersede any provisions of the License, or Georgia law, if such provisions are in conflict with such North Dakota laws.

2. Liquidated damages and termination penalty provisions are deleted from Licenses issued in the State of North Dakota.

3. Section 13.H of the License is amended to include the following: "The general release language contained in the License shall not relieve IHG or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of North Dakota."

4. In accordance with the provision under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

5. Any provision in the License which designates jurisdiction or venue or requires the Licensee to agree to jurisdiction or venue, in a forum outside of North Dakota, is deleted from Licenses issued in the State of North Dakota. The site of any arbitration will be agreeable to all parties.

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_  
«AuthorizedSignee»  
«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_  
Jenny Tidwell  
Vice President  
Franchise Licensing and Compliance

**North Dakota Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The Rhode Island Franchise And Distributorship Act**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of Rhode Island:

1. In accordance with the provision under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

2. Section 19-28.14 of the Rhode Island Franchise Investment Act provides that: "A provision in a franchise agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act." This provision will also apply to the Guaranty.

3. Any provision in the License which designates the governing law as that of any state other than the State of Rhode Island is deleted from Licenses issued in the State of Rhode Island.

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_

«AuthorizedSignee»

«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_

Jenny Tidwell

Vice President

Franchise Licensing and Compliance

**Rhode Island Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The Virginia Retail Franchising Act**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of Virginia:

1. In accordance with the provision under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License Agreement shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

2. The Virginia Code Sections 13.1-557-574-13.1-564 provide: "It shall be unlawful for a franchisor to cancel a franchise without reasonable cause or to use undue influence to induce a franchisee to surrender any right given to it by any provision contained in the franchise." If any ground for default or termination stated in the License does not constitute "reasonable cause," as that term may be defined in the Virginia Code, that provision may not be enforceable.

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_  
«AuthorizedSignee»  
«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_  
Jenny Tidwell  
Vice President  
Franchise Licensing and Compliance

**Virginia Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The Washington Franchise Investment Protection Act**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of Washington:

1. If any of the provisions in the franchise disclosure document or franchise agreement are inconsistent with the relationship provisions of RCW 19.100.180 or other requirements of the Washington Franchise Investment Protection Act, the provisions of the Act will prevail over the inconsistent provisions of the franchise disclosure document and franchise agreement with regard to any franchise sold in Washington.
2. In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the franchise agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
3. A release or waiver of rights executed by a Franchisee will not include rights under the Washington Franchise Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the Franchise Agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, and rights or remedies under the Act such as a right to a jury trial, may not be enforceable.
4. The state of Washington has a statute, RCW 19.100.180 which may supersede the Franchise Agreement in your relationship with the Franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the Franchise Agreement in your relationship with the Franchisor including the areas of termination and renewal of your franchise.
5. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW will prevail.
6. Transfer fees are collectable to the extent that they reflect the Franchisor's reasonable estimated or actual costs in effecting a transfer.
7. The Licensor will have no obligation upon the termination of the License Agreement to offer the Franchisee a continued right to operate its Vignette Collection™ Business, and the Franchisee may be required at that time to stop operating its hotel as a Vignette Collection™ Hotel and to comply with all post-termination obligations.
8. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the franchise agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.
9. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii)

soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the franchise agreement or elsewhere are void and unenforceable in Washington.

The undersigned does hereby acknowledge receipt of this addendum.

Date:

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_  
«AuthorizedSignee»  
«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_  
Jenny Tidwell  
Vice President  
Franchise Licensing and Compliance

**Washington Addendum**

**Addendum To  
The Holiday Hospitality Franchising, LLC  
Vignette Collection™ Hotels License Agreement Pursuant To  
The Wisconsin Franchise Investment Law**

Notwithstanding anything to the contrary set forth in the above License Agreement ("License"), the following provisions shall supersede and apply to each License for a Vignette Collection™ Hotel issued in the State of Wisconsin:

1. The Wisconsin Fair Dealership Act, Wisconsin Statutes, Chapter 135 shall apply to and govern the provisions of the License.

2. Section 135.04 of that Act's requirement includes the requirements that, in certain circumstances, a licensee receives ninety (90) days' notice of termination, cancellation, non-renewal or substantial change in competitive circumstances. The notice shall state all the reasons for termination, cancellation, nonrenewal or substantial change in competitive circumstances and shall provide that the Licensee has 60 days in which to rectify any claimed deficiency and shall supersede the requirements of paragraphs 11.B and C of the License to the extent they may be inconsistent with the Act's requirements. If the deficiency is rectified within 60 days, the notice shall be void. The above notice provisions shall not apply if the reason for termination, cancellation or nonrenewal is insolvency, the occurrence of an assignment for the benefit of creditors or bankruptcy. If the reason for termination, cancellation, nonrenewal or substantial change in competitive circumstances is nonpayment of sums due under the License, the Licensee shall be entitled to written notice of such default and shall have 10 days in which to remedy such default from the date of delivery or posting of such notice.

3. In accordance with the provision under Federal Bankruptcy Law (11 U.S.C.A. Sec. 101 et seq.), paragraphs 11.C(1)(b) and (d) of the License shall be amended to include the following language: "Enforceability of this provision is a matter governed by Federal Bankruptcy Law and enforceability or nonenforceability is subject to that law and rulings of a court of competent jurisdiction."

Date: \_\_\_\_\_

**Licensee:**

**«EntityAllCaps»**

By: \_\_\_\_\_

«AuthorizedSignee»

«SigneesTitle»

**IHG:**

**HOLIDAY HOSPITALITY FRANCHISING, LLC**

**By: Six Continents Hotels, Inc.,  
its sole managing member**

By: \_\_\_\_\_

Jenny Tidwell

Vice President

Franchise Licensing and Compliance

**Wisconsin Addendum**

# EXHIBIT C

## MASTER TECHNOLOGY SERVICES AGREEMENT

This Master Technology Services Agreement (this “**Agreement**”) is effective upon execution by and between IHG Technology Solutions LLC, a limited liability company formed under the laws of Delaware, located at Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346 (“**IHG Tech**”), and [Franchisee], a [entity type], located at [address] (“**Franchisee**”) (each, a “**Party**” and collectively, the “**Parties**”).

WHEREAS, IHG Tech is an Affiliate of Holiday Hospitality Franchising, LLC and Six Continents Hotels, Inc., which are companies that operate and license systems designed to provide distinctive, high quality hotel service as part of the InterContinental Hotels Group (IHG);

WHEREAS, an IHG Tech Affiliate and Franchisee are parties to that certain franchise license agreement dated [\_\_\_\_\_] (the “**Franchise Agreement**”), under which Franchisee operates the Hotel (as defined in the Franchise Agreement) as part of one of the IHG Portfolio Brands;

WHEREAS, an IHG Tech Affiliate has entered into agreements with certain external service providers not Affiliated with IHG Tech (each, a “**Service Provider**”) for the provision of Hardware, Software, and Services (each, an “**Enabling Agreement**”);

WHEREAS, IHG Tech will facilitate Franchisee’s access to Service Providers’ Hardware, Software, and Services, and Franchisee will pay for, receive, and use such Hardware, Software, and Services in accordance with the terms of this Agreement, the Enabling Agreements, the Franchise Agreement, and any applicable Participation Agreement or Order Form; and

NOW, THEREFORE, in consideration of the premises, mutual promises contained herein and other consideration, the receipt and sufficiency of which are hereby acknowledged, IHG Tech and Franchisee agree as follows:

### 1.0 DEFINITIONS.

1.1 Definitions. Capitalized terms used in this Agreement without definition shall have the meanings ascribed to them in **Schedule 1 (Definitions)**.

### 2.0 LEGAL STRUCTURE.

2.1 Relation to Franchise Agreement. The provisions of this Agreement will be deemed to incorporate (a) the exhibits, schedules, and attachments to this Agreement, and (b) all of the terms, covenants, and conditions contained in the Franchise Agreement, as specified in the following sentence with such modifications as are necessary to make them applicable to this Agreement and the Parties as if fully set out in this Agreement. Such incorporated provisions include the Franchise Agreement’s provisions regarding term; proprietary intellectual property rights; notices; indemnification; insurance; compliance with laws; and dispute resolution.

2.2 Order of Priority. In the event of a conflict between:

- (a) a provision in this Agreement and a provision in an Order Form, the provision in the Order Form shall prevail;
- (b) a provision in this Agreement and a provision in the Participation Agreement, the provision in this Agreement shall control; or

- (c) a provision in this Agreement and a provision in the Franchise Agreement, the provision in this Agreement shall control for purposes of this Agreement only.

The foregoing order of priority shall be applied only after construing the applicable provisions to avoid any such conflict and/or to minimize the extent of such conflict.

### 3.0 SERVICE FRAMEWORK.

3.1 Core Services. IHG Tech or an IHG Tech Affiliate has entered into Enabling Agreements with Service Providers to provide certain Hardware, Software, and Services. IHG Tech will make available to Franchisee the Hardware, Software, and Services for the core technology solutions set forth on **Schedule 2 (Core Services)** (the “**Core Services**”). These Core Services are provided by IHG Tech, an IHG Tech Affiliate, or Service Providers and are required to operate a Hotel under an IHG Portfolio Brand. IHG Tech and/or its Service Provider may modify or cause to be modified the features and functionality of the Core Services in the ordinary course of technology development, and IHG Tech will notify Franchisee of any such material modification. In addition, IHG Tech reserves the right to add or remove Core Services or to replace any of the Core Services.

3.2 Additional Required Services. IHG Tech or an IHG Tech Affiliate has entered into Enabling Agreements with Service Providers approved by IHG Tech to provide certain Hardware, Software, and Services that are mandatory components of Franchisee’s technology configuration required for Hotel operations (“**Additional Required Services**”). IHG Tech will make available to Franchisee the Additional Required Services as set forth on **Schedule 3 (Additional Required Services)**, pursuant to an Order Form and/or a Participation Agreement. Franchisee is obligated to purchase each of the Additional Required Services. IHG Tech and/or its Service Provider may modify or cause to be modified the features and functionality of the Additional Required Services in the ordinary course of technology development, and IHG Tech will notify Franchisee of any such material modification. IHG Tech reserves the right (i) to change the Service Provider for any Additional Required Service, and (ii) to add or remove Core Services or to replace any of the Additional Required Services.

3.3 Optional Services. From time to time, IHG Tech or an IHG Tech Affiliate may enter into an Enabling Agreement with a Service Provider to provide optional Hardware, Software, and Services that are not included in the Core Services or the Additional Required Services (“**Optional Services**”). As determined by IHG Tech, Franchisee may receive the benefits of the negotiated terms, conditions, and pricing for the Optional Services obtained by IHG Tech in the Enabling Agreements with Service Providers, and may obtain the Optional Services, by entering into an Order Form and/or a Participation Agreement.

3.4 Supplemental Terms. The Core Services, Additional Required Services, and any Optional Services are provided subject to and in accordance with the supplemental terms set forth on **Schedule 4 (Supplemental Terms)** (the “**Supplemental Terms**”). IHG Tech may unilaterally modify or add any component to **Schedule 4 (Supplemental Terms)** upon ten (10) days written notice to Franchisee. Franchisee acknowledges that the Supplemental Terms are based in part upon the terms and conditions contained in the Enabling Agreements.

3.5 Curated Solutions. The Core Services, Additional Required Services, and such Optional Services as Franchisee may contract to receive, as such services may be in effect from time to time, are together referred to as the “**Curated Solutions**”.

3.6 New Technologies. From time to time by mutual agreement, IHG Tech will enable Franchisee’s access to new or enhanced technologies for use at the Hotel under a test, evaluation, pilot,

proof of concept, or other temporary use arrangement (“**Proof of Concept Projects**”). Franchisee acknowledges that such Proof of Concept Projects will entail the deployment of new technologies still under development, that such technologies are expected to contain bugs, imperfectly functioning features, and other defects inherent in the early stage of Software development, and that tolerating such defects is the cost of adopting and testing new and unproven technologies. Franchisee will provide feedback to IHG Tech on such Proof of Concept Projects so that the technologies may be further developed, refined, and enhanced to better serve Franchisee and the IHG Portfolio Brands. IHG Tech may terminate any such Proof of Concept Projects upon reasonable notice to Franchisee. IHG TECH HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, FOR THE PROOF OF CONCEPT PROJECTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY, AND FITNESS FOR A PARTICULAR PURPOSE. THE PROOF OF CONCEPT PROJECTS ARE PROVIDED “AS IS” AND “WHERE IS”.

#### 4.0 SERVICE TERMS.

4.1 Right to Use. Franchisee will have the non-exclusive right to access and use the Curated Solutions in accordance with and subject to this Agreement, the Supplemental Terms, and the Participation Agreements or Order Forms (as applicable).

4.2 Restrictions on Use of Curated Solutions. Franchisee will use the Curated Solutions solely for Franchisee’s internal business purposes at the Hotel and only as permitted by this Agreement. Franchisee will not:

- (a) transmit Curated Solutions to any third party or third party network, or permit any third party to access or use the Curated Solutions;
- (b) use the Curated Solutions, or any data derived from the Curated Solutions, in a service bureau, time-sharing, multiple CPU, or multiple user arrangement;
- (c) copy, reproduce, store, sell, assign, pledge, sublicense, convey, transfer, redistribute, transmit, grant other rights in, or permit any unauthorized use of the Curated Solutions;
- (d) prepare derivative works or incorporate the Curated Solutions, in whole or part, into any other system or work;
- (e) reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to the source code of the Curated Solutions, in whole or in part;
- (f) bypass or breach any security device or protection used by the Curated Solutions or access or use the Curated Solutions other than by an authorized user through the use of his or her own then valid access credentials;
- (g) input, upload, transmit, or otherwise provide to or through the Curated Solutions, any information or materials that are unlawful or injurious, or contain, transmit, or activate any harmful code;
- (h) remove, delete, alter, or obscure any trademarks warranties or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any Curated Solution, including any copy thereof;
- (i) access or use the Curated Solutions in any manner or for any purpose that infringes,

misappropriates, or otherwise violates any intellectual property right or other right of any third party, or that violates any applicable Law; or

- (j) otherwise access or use the Curated Solutions beyond the scope of the authorization granted under this Agreement, the Supplemental Terms, and the Participation Agreements or Order Forms (as applicable).

Each of the terms and conditions of this Section will apply to the Curated Solutions jointly as well as to each Curated Solution individually.

4.3 Minimum Configuration. IHG Tech will provide Franchisee with a list of Hardware, Software, and network connectivity and configurations required for Franchisee's use of the Curated Solutions ("**Minimum Configuration**"). IHG Tech will update the Minimum Configuration upon notice to Franchisee from time to time as required by evolving technology and security needs. Franchisee is solely responsible for ensuring its Hardware, Software, and network environment meet the requirements of the Minimum Configuration at Franchisee's cost.

4.4 Noncompliance with Minimum Configuration. Franchisee will be solely responsible for any installation and support of any Hardware and/or Software not listed as approved on the Minimum Configuration. All such Hardware and/or Software cannot be installed on the IHG Tech network and must be installed only on the Hotel's operations network. If IHG Tech determines that such Hardware and/or Software is adversely affecting the performance of the IHG Tech infrastructure, IHG Tech in its discretion may require such Hardware and/or Software to be removed or disconnected. IHG Tech will have no liability related to lost or damaged data of any kind arising from Franchisee's installation and use of such Hardware and/or Software or with respect to any removal or disconnection required by IHG Tech.

## 5.0 FEES, INVOICING, AND PAYMENTS.

5.1 For Core Services. Each month, IHG Tech or an IHG Tech Affiliate will invoice Franchisee for the fees associated with the Core Services provided to Franchisee in the preceding month in accordance with the Franchise Agreement. Franchisee will pay the fees for the Core Services in accordance with the payment terms set forth in the Franchise Agreement.

5.2 For Additional Required Services. The Service Provider will invoice Franchisee for the fees associated with the Additional Required Services in accordance with the Participation Agreement, or if the Additional Required Service has been contracted through an Order Form, IHG Tech or an IHG Tech Affiliate will invoice Franchisee for the fees associated with such Additional Required Service in accordance with the Order Form. Franchisee will timely pay the fees due to Service Providers and IHG Tech (or its Affiliates) for the Additional Required Services in accordance with the payment terms set forth in the applicable Participation Agreement or the Order Form.

5.3 For Optional Services. The Service Provider, IHG Tech, or an IHG Tech Affiliate (as applicable) will invoice Franchisee for the fees associated with the Optional Services provided to Franchisee in accordance with the Order Form or Participation Agreement. Franchisee will timely pay the fees due to Service Providers and IHG Tech (or its Affiliates) for Optional Services as provided in the applicable Order Form or Participation Agreement.

5.4 Optional Fees and Fee Increases. Franchisee acknowledges that the pricing for Curated Solutions is based on license, maintenance, and other fees and charges for the Curated Solutions, and that fees may change (including increase) based on factors, including: (a) the amount of use or number of users of the Curated Solutions; (b) changes to the fees charged by a Service Provider; and (c) restrictions

or other limitations set forth in an Enabling Agreement. Notwithstanding anything to the contrary in this Agreement or the Franchise Agreement, the fees paid to IHG Tech or an IHG Tech Affiliate for Additional Required Services and Optional Services are subject to revision by IHG Tech upon thirty (30) days' notice to Franchisee.

5.5 Taxes. All Taxes resulting from the provision of the Curated Solutions under this Agreement (except for taxes based solely on the net income of IHG Tech and its Affiliates) shall be the responsibility of Franchisee. If IHG Tech is required to pay any such Taxes or penalties or interest relating thereto, IHG Tech will provide an invoice for such amounts and Franchisee will pay such amounts within thirty (30) days of the date of the invoice.

5.6 Withholding Taxes. If any of the Curated Solutions, or any component thereof, is subject to withholding Tax, Franchisee will withhold and deduct from payments due to IHG Tech under the Agreement as required under any local Tax jurisdiction and/or applicable double Tax treaty, and Franchisee shall remit such withholding to the appropriate Tax authority and provide IHG Tech with an appropriate Tax certificate/invoice evidencing payment within thirty (30) days of payment. IHG Tech and Franchisee shall reasonably cooperate to claim withholding benefits or exemptions available under any applicable double Tax treaty.

## 6.0 CONFIDENTIAL INFORMATION.

### 6.1 Confidential Information.

6.1.1 Confidentiality Obligations. From time to time, IHG Tech or an IHG Tech Affiliate may disclose or make available to Franchisee, whether orally, electronically or in physical form, confidential or proprietary information of or in the possession of IHG Tech or the IHG Tech Affiliate (including confidential or proprietary information of a third party that is in IHG Tech's or the IHG Tech Affiliate's possession) in connection with the Curated Solutions or this Agreement. The term "Confidential Information" shall include all information and data which at the time of disclosure either:

- (a) is marked as "Confidential" or "Proprietary";
- (b) is otherwise reasonably identifiable as the confidential or proprietary information of IHG Tech or its Affiliate; or
- (c) should reasonably be understood to be confidential or proprietary information of IHG Tech or its Affiliate given the nature of the information and the circumstances surrounding its disclosure.

Franchisee shall not disclose any such Confidential Information to any third party without the prior written consent of IHG Tech and shall only access and use the Confidential Information as required to and for the limited purpose of performing its obligations under this Agreement; *provided that* Franchisee may disclose Confidential Information to its employees, contractors and professional advisors who need to know such information in order to perform their obligations related to this Agreement and who are contractually bound by confidentiality obligations that are at least as protective as those in this Agreement. Franchisee shall use commercially reasonable care and discretion to avoid unauthorized use, disclosure, publication, or dissemination of Confidential Information (which shall be no less than the standard of care used by Franchisee to protect its Confidential Information of a similar nature). For Confidential Information that does not constitute a "trade secret" under applicable Law, these confidentiality obligations will expire three (3) years after the termination or expiration of this Agreement. For Confidential Information that constitutes a "trade secret" under applicable Law, these confidentiality obligations will continue until such

information ceases to constitute a “trade secret” under such applicable Law. Franchisee will be responsible for any breach of this Section by Franchisee Agents and Franchisee’s Affiliates and any third party to whom it or they disclose Confidential Information in accordance with this Section (“**Recipients**”). Upon the request of IHG Tech, Franchisee shall deliver to IHG Tech or destroy all copies of Confidential Information. Franchisee agrees to certify in writing to IHG Tech that it and each of its Affiliates, Franchisee Agents, and Recipients have performed the foregoing.

6.1.2 Exclusions. Excluding Personal Data, which shall always be deemed to be Confidential Information, the term Confidential Information will not include any information that Franchisee can establish by convincing written evidence:

- (a) was independently and lawfully developed by Franchisee without use of or reference to any Confidential Information belonging to or received from IHG Tech or an IHG Tech Affiliate;
- (b) was lawfully acquired by Franchisee from a third party having the legal, unconditional right to furnish same to Franchisee; or
- (c) was at the time in question (whether at disclosure or thereafter) generally known by or available to the public (through no fault of Franchisee).

6.1.3 Required Disclosures. These confidentiality obligations will not restrict any disclosure required by Law, *provided that* Franchisee gives prompt notice to IHG Tech of any such legal requirement and reasonably cooperates with IHG Tech at IHG Tech’s request and expense to resist such legal requirement or to obtain a protective order.

## 7.0 SECURITY PRACTICES.

7.1 Franchisee understands that IHG Tech and its Affiliates will have access to certain reports and information relating to the Hotel and generated through the use of the Curated Solutions, including information relating to revenues, room occupancy, and availability, as well as Personal Data. Franchisee and the Hotel shall, and Franchisee shall cause Franchisee Agents to, comply with:

- (a) all applicable Laws, including Laws related to data security, breach notification, and data privacy and contractual obligations, and any requirements of the credit card processing industry, including PCI DSS and any successor standard,
- (b) all Brand Standards, and
- (c) all IHG Tech policies, requirements, and requests concerning access to any Curated Solution, network connectivity, and transmission of data and reports to IHG Tech and its Affiliates.

Franchisee shall be responsible for ensuring adequate security and backup procedures to avoid unauthorized access to, use of, or inadvertent loss of data and shall, in its discretion, determine appropriate security, which shall be no less than the standard of care in the industry. Without limiting Franchisee’s obligations set forth in subparts (a)-(c) above, Franchisee will comply with any additional security and data protection practice requirements that IHG Tech will provide to Franchisee in writing, which may be updated from time to time (the “**Security Practices**”). IHG Tech may, in its sole discretion, amend the Security Practices at any time without prior notice (each, a “**Security Practices Update**”). A Security Practices Update may include additional terms and conditions, including the additional obligations of Franchisee. Franchisee will

comply with any Security Practices Update within thirty (30) days following the date of the Security Practices Update and will comply with any changes to applicable Laws, contractual obligations, and industry requirements (including PCI DSS and any successor standard) within the time period provided by such Law or industry requirement.

## 8.0 PRIVACY AND DATA PROTECTION.

8.1 Core Services and Optional Services. Unless otherwise stated in the Supplemental Terms, Participation Agreement, or Order Form, the following privacy and data protection terms will apply to the Core Services and the Optional Services.

8.1.1 IHG Tech Personal Data. Subject to the provisions of applicable Law, including Privacy Laws, as between Franchisee and IHG Tech, all IHG Tech Personal Data is the property of IHG Tech, and IHG Tech shall have the right to use and transfer such data on a worldwide basis during and after the effectiveness of this Agreement.

8.1.2 Franchisee Personal Data. To the extent Franchisee transfers Franchisee Personal Data or Guest Data to IHG Tech, its Affiliates, or the IHG guest reservations system, such data forms part of the IHG Tech Personal Data, and IHG Tech may use such data as permitted by applicable law. To the extent that Franchisee provides data to IHG Tech other than Personal Data or Guest Data, Franchisee hereby grants to IHG Tech and its Affiliates a non-exclusive, worldwide, perpetual and royalty-free license to use (including the right to sublicense) such data free of charge, including the right to transfer such data across national borders and to transfer it to third parties. Franchisee represents, warrants, and covenants that any Franchisee Personal Data transferred to IHG Tech or its Affiliates for the purposes of this Agreement has been collected, retained, used, and transmitted in compliance with applicable Privacy Laws.

8.1.3 Transfer of IHG Tech Personal Data. To the extent IHG Tech (and/or its Affiliates) transfers IHG Tech Personal Data to Franchisee:

- (i) IHG Tech Personal Data (excluding IHG Tech Marketing Data) that is transferred to Franchisee for inclusion in the Hotel's property management system and for the purpose of fulfilling the guest's reservation request forms part of the Franchisee Personal Data and may be used by Franchisee during and after the term of this Agreement for the purposes of operating the Hotel and in accordance with the restrictions and other terms of this Agreement;
- (ii) Franchisee shall have no right to use the IHG Tech Marketing Data except for the purpose of participating in and providing services to the Loyalty Program during the effectiveness of this Agreement;
- (iii) Franchisee must remove, or IHG Tech and its Affiliates shall have the right, at Franchisee's cost, to remove all IHG Tech Marketing Data from the Hotel's property management system and other Hotel records upon expiration or termination of this Agreement;
- (iv) Franchisee shall retain, use, and transmit (and procure that any agent or representative of Franchisee that manages the Hotel after the termination of this Agreement retain, use, and transmit) such IHG Tech Personal Data only (a) in accordance with all Privacy Laws, and (b) to the extent permitted pursuant to any consents obtained from the relevant

guests, employees, or other individuals (the parties acknowledging that IHG Tech provides no warranty or guaranty regarding any such consents);

- (v) Franchisee shall not sell or transfer the IHG Tech Personal Data including to any Affiliate or other hotel of Franchisee and will not combine IHG Tech Personal Data with the Personal Data of any other hotel brand, company, or operator; and
- (vi) Franchisee may not use IHG Tech Personal Data for any marketing purpose.

8.1.4 Operating Data and Guest Data. If Guest Data is not also IHG Tech Personal Data, then Operating Data and Guest Data may be used by IHG Tech for its business purposes, including for company and industry reporting purposes. Franchisee agrees that any Operating Data and any Guest Data provided by it pursuant to this Agreement, as well as any other reports, data, information, or material provided to IHG Tech pursuant to or in connection with this Agreement, shall be true and correct and not misleading and shall comply with all standards, policies, and requirements of IHG Tech with respect to privacy and security of Operating Data and Guest Data of the Hotel. Franchisee acknowledges and agrees that IHG Tech and IHG Tech Affiliates will retrieve Operating Data, Guest Data, and Franchisee Personal Data through the IHG reservation system and other relevant systems.

8.1.5 Privacy Laws. Franchisee will:

- (i) comply with all applicable Privacy Laws;
- (ii) comply with all of requirements regarding data protection as IHG Tech or an IHG Tech Affiliate may communicate to Franchisee from time to time;
- (iii) refrain from any action or inaction that could cause IHG Tech or its Affiliates to breach any of the Privacy Laws;
- (iv) do and execute, or arrange to be done and executed, each act, document, and thing necessary or desirable to keep IHG Tech and its Affiliates in compliance with any of the Privacy Laws;
- (v) in addition to Franchisee's indemnity and reimbursement obligations arising under the Franchise Agreement or otherwise, indemnify and reimburse IHG Tech for any and all costs and liabilities incurred in connection with the breach by Franchisee of such Privacy Laws;
- (vi) immediately report to IHG Tech the theft or loss of Guest Data or any analogous term defined by Privacy Laws; and
- (vii) permit IHG Tech and its Affiliates to use any data or other information concerning Franchisee, its Affiliates and/or the Hotel in connection with the establishment and operation of IHG Portfolio Brand system hotels by IHG Tech and its Affiliates.

8.1.6 Use of IHG Tech Personal Data. If IHG Tech provides IHG Tech Personal Data to Franchisee (i) for the purpose of performing a service on behalf of IHG Tech, or (ii) at the direction of the consumer, then the following restrictions shall apply to Franchisee's use of IHG Tech Personal Data. Franchisee shall not:

- (i) sell, rent, release, disclose, disseminate, make available, transfer, or otherwise communicate orally, in writing, or by electronic or other means, IHG Tech Personal Data;
- (ii) retain, use, and disclose IHG Tech Personal Data for any purpose other than fulfilling the purpose for which it was provided; or
- (iii) retain, use, or disclose IHG Tech Personal Data outside of the direct business relationship between IHG Tech and Franchisee.

If IHG Tech provides IHG Tech Personal Data to Franchisee, Franchisee certifies that it understands and will comply with the restrictions and obligations under any applicable Laws on such IHG Tech Personal Data. If IHG Tech has provided IHG Tech Personal Data to Franchisee for the purpose of Franchisee providing a service on behalf of IHG Tech, upon IHG Tech's request, Franchisee shall, with respect to such data, (i) provide reasonable assistance to IHG Tech in complying with any request from a person to exercise rights under any applicable Privacy Law, and (ii) where instructed by IHG Tech and as required by applicable Privacy Law, Franchisee shall delete IHG Tech Personal Data that it maintains.

8.2 Additional Required Services. Privacy and data protection terms for Additional Required Services are stated in the applicable Participation Agreement, Order Form, or Supplemental Terms.

## 9.0 REPRESENTATIONS, WARRANTIES AND COVENANTS.

### 9.1 By Franchisee.

9.1.1 Access and Use of Curated Solutions. Franchisee will access and use each Curated Solution only in accordance with this Agreement, the Supplemental Terms, and if applicable, the Participation Agreement or Order Form.

9.1.2 Compliance with Laws. Franchisee will comply with (i) all Laws applicable to Franchisee and the Curated Solutions, and (ii) the policies, requirements, and procedures of IHG Tech that are made available to Franchisee from time to time.

9.1.3 Franchisee Responsibilities. Franchisee will, and will cause the Franchisee Agents to:

- (a) test the Curated Solutions in Franchisee's environment before use;
- (b) ensure that Franchisee's personnel are using the Curated Solutions correctly;
- (c) enter information into the Curated Solutions accurately and completely;
- (d) present information displayed by the Curated Solutions accurately; and
- (e) report any actual or suspected Software errors or Service failures discovered in the course of using any Curated Solution to IHG Tech and the applicable Service Provider.

### 9.2 By IHG Tech.

9.2.1 Disclaimer. IHG Tech is not the licensor or provider of any of the Curated Solutions made available to Franchisee hereunder and offers no warranties on any Services. In agreeing to the Supplemental Terms or Participation Agreement (as applicable), Franchisee is relying solely on the

Service Provider's warranties, if any, expressly passed through to Franchisee under such Supplemental Terms or Participation Agreement. IHG TECH HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, WITHOUT LIMITATION, FOR THE SERVICES, NETWORK CONNECTIVITY, AVAILABILITY, SOFTWARE, HARDWARE, OR SYSTEMS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT FOR ANY PASS-THROUGH WARRANTY MADE BY A SERVICE PROVIDER OF SERVICES, ALL SERVICES, AND ALL SUPPORT MATERIALS AND OTHER DATA, SOFTWARE OR OTHER ITEMS MADE AVAILABLE BY A SERVICE PROVIDER OF SERVICES, ARE PROVIDED "AS IS" AND "WHERE IS".

## 10.0 TERMINATION.

10.1 Termination for Convenience. IHG Tech may terminate this Agreement, in whole or part, upon ninety (90) days' prior written notice to Franchisee, without any liability to Franchisee.

### 10.2 Termination for Cause.

10.2.1 If Franchisee defaults in the performance of any of its obligations under this Agreement and, if a non-monetary breach and such breach is capable of cure, does not cure such default within sixty (60) days after receipt of a written notice of default from IHG Tech, then IHG Tech may terminate this Agreement, in whole or in part, as of the termination date specified in such written notice.

10.2.2 If Franchisee breaches **Section 6 (Confidential Information)** or **Section 7 (Security Practices)** or defaults in the performance of any non-monetary obligation under this Agreement that is incapable of being cured within sixty (60) days, then IHG Tech may terminate this Agreement, in whole or in part, immediately upon written notice to Franchisee as of the termination date specified in the notice, without any cure period.

10.2.3 If Franchisee breaches the Franchise Agreement, and fails to cure such default within ten (10) days after receipt of a notice of default from IHG Tech or an IHG Tech Affiliate, then IHG Tech may terminate this Agreement, in whole or in part, immediately upon written notice to Franchisee as of the termination date specified in the notice, without any cure period.

10.2.4 If Franchisee voluntarily or involuntarily discontinues the operation of its Hotel under the Franchise Agreement, then IHG Tech may terminate this Agreement, in whole or in part, immediately upon written notice to Franchisee as of the termination date specified in the notice, without any cure period.

10.2.5 If Franchisee is in default of any of its obligations to IHG Tech with respect to any Curated Solution, then IHG Tech may terminate this Agreement, in whole or in part, immediately upon written notice to Franchisee as of the termination date specified in the notice, without any cure period.

10.2.6 If Franchisee fails to pay an invoice or other amount owed under this Agreement when due and does not cure such failure within ten (10) days after receipt of a notice of overdue payment from IHG Tech, then IHG Tech may terminate this Agreement upon written notice to Franchisee as of the termination date specified in the notice.

10.3 Termination for Expiration of the Franchise Agreement. In the event that the Franchise Agreement terminates or expires, then this Agreement shall automatically terminate.

10.4 Termination of a Participation Agreement. The termination of any Participation Agreement pursuant to its terms will not alone cause, or be interpreted as causing, termination of this Agreement.

10.5 Termination for Franchisee Bankruptcy Event. IHG Tech may terminate this Agreement, in whole or in part, immediately upon written notice to Franchisee in the event of a Franchisee Bankruptcy Event.

10.6 Other Remedies. If any of the above events set forth in **Section 10.1** through **Section 10.5** shall occur, IHG Tech may, in addition to or in lieu of exercising its termination or other, legal, equitable, or contractual rights, limit, reduce, suspend, or terminate Franchisee's use of or access to any or all of the Curated Solutions.

#### 11.0 DAMAGES.

11.1 IN NO EVENT SHALL IHG TECH BE LIABLE FOR THE FOLLOWING, REGARDLESS OF CAUSATION: INDIRECT, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING LOST BUSINESS, LOST PROFITS, INTEREST, PENALTIES OR ASSESSMENTS IMPOSED UNDER APPLICABLE LAWS OR OTHERWISE, THIRD PARTY CLAIMS BY AFFILIATES, PARTNERS OR CUSTOMERS OF FRANCHISEE OR OTHERWISE, OR DAMAGES WITH RESPECT TO WHICH FRANCHISEE CONTRIBUTED OR ACTED AS AN INTERVENING CAUSE, WHETHER FORESEEABLE OR NOT, EVEN IF IHG TECH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.2 IHG Tech shall not be liable for any loss, cost, expense (including attorney fees), liability, damage, or claim (including strict liability in tort) (a) related to or arising from the Curated Solutions; or (b) for the selection, quality, condition, merchantability, suitability, fitness, operation, installation, repair, adjustment, or performance of the Curated Solutions or the adequacy, quality, delay or suitability of the maintenance or support services provided by a third party pursuant to this Agreement or for any interruption or loss of service or use of network connectivity or the Software. Such liability, if and to the extent it may exist, rests solely with the applicable Service Provider of the Curated Solution to IHG Tech and the Hotel.

#### 12.0 AUDITS.

12.1 Audit. During the effectiveness of this Agreement and for a period of two years following any expiration or termination of this Agreement, IHG Tech or its designated representative may enter upon the premises of the Hotel during regular business hours upon no less than twenty-four (24) hours' notice to audit and review Franchisee's (i) use of the Curated Solutions; (ii) verify compliance with this Agreement and the Enabling Agreements; and (iii) ensure compliance with Law and Security Practices. Franchisee will cooperate with any such audit at Franchisee's expense. Any fees or amounts determined to be due, or any remedial action to be undertaken, as a result of Franchisee's audited use of the Curated Solutions or Security Practices not in compliance with this Agreement shall be the sole responsibility of Franchisee. Nothing in this Section shall be deemed to limit IHG Tech's rights to perform monitoring of the Curated Solutions at any time.

#### 13.0 MISCELLANEOUS PROVISIONS.

13.1 Survival. **Sections 8 (Privacy and Data Protection), 9 (Confidential Information), 11 (Damages), 12 (Audits), and 13 (Miscellaneous)** and, to the extent necessary, **Schedule 1 (Definitions)** shall survive the expiration or termination of this Agreement.

13.2 Schedules, Attachments. All schedules, attachments or addenda hereto are incorporated herein by this reference. Any reference to this Agreement or the Franchise Agreement includes any schedules, attachments, exhibits, or addenda thereto, and any amendments thereof.

13.3 Headings. The headings and titles of the articles and sections hereof are inserted for convenience only and shall not affect the construction or interpretation of any provision.

13.4 Non-Exclusive Listings. Each occurrence of the words “include,” “includes”, and “including” in this Agreement shall be deemed to be followed by the phrase “without limitation”.

13.5 Severability. Should any part of this Agreement be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable, that portion shall be deemed null and void and severed for all purposes and the remainder of this Agreement shall remain in full force and effect.

13.6 Franchisee Agents. Franchisee will cause all Franchisee Agents to comply with the terms and conditions of this Agreement. Franchisee will be responsible for the acts and omissions of the Franchisee Agents, including any failure by a Franchisee Agent to comply with this Agreement.

13.7 Third Party Beneficiaries. This Agreement does not create any duties to or in persons or entities other than the Parties to this Agreement. No third party beneficiaries are intended or implied, and no parties other than IHG Tech, its Affiliates, or Franchisee may file suit or otherwise recover damages for breach of any of the provisions of this Agreement.

13.8 Governing Law. This Agreement and the rights and obligations of the Parties under this Agreement shall be governed by and construed in accordance with the governing Law specified in the Franchise Agreement, without giving effect to the principles thereof relating to the conflicts of Laws.

13.9 No Waiver. No delay or omission by either Party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by any Party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be signed by the Party waiving its rights.

13.10 Assignment. Neither this Agreement nor any right or interest herein is assignable or transferable by Franchisee. IHG Tech and its assignees shall have the right to assign or transfer this Agreement or any of IHG Tech’s rights, duties, or obligations hereunder, in whole or in part, to any person or legal entity without requirement of prior notice to, or consent of, Franchisee. This Agreement shall be binding on the Parties and their respective successors and permitted assigns.

13.11 Force Majeure. IHG Tech is not liable for failing to fulfill any of its obligations under this Agreement due to acts of God, acts of war, epidemic, failure of utility or communications infrastructure beyond that which would be avoided by reasonable use of back-up electricity supplies, or other causes beyond IHG Tech’s reasonable control.

13.12 Entire Agreement. In conjunction with the Franchise Agreement, this Agreement represents the entire agreement between the Parties with respect to its subject matter and supersedes all prior discussions and agreements between the Parties with respect to such subject matter.

13.13 Amendments. No amendment to, or change, waiver or discharge of, any provision of this Agreement shall be valid unless in writing and signed by both Parties.

13.14 Counterparts. This Agreement may be executed in one or more counterparts, which taken together shall form one legal instrument.

\* \* \* \*

IN WITNESS WHEREOF, IHG Tech and Franchisee, each through its duly authorized representative, hereby agree to the terms and conditions of this Agreement.

**IHG TECH:**

**FRANCHISEE:**

**IHG TECHNOLOGY SOLUTIONS LLC**

**[FRANCHISEE]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**Electronic Signature Acknowledgement**

This Agreement may, at IHG Tech’s option, be executed via electronic signature. In such event, Franchisee acknowledges that conducting this transaction using electronic means is optional and not a condition to executing this Agreement. By electronically signing this paragraph, Franchisee agrees to conduct this transaction using electronic means, which includes electronic communications and the execution of the Agreement using an electronic signature. Franchisee further agrees that the Parties’ electronic signatures are valid and create a binding and enforceable agreement. If Franchisee does not agree to conduct the transaction electronically and does not agree to execute the Agreement using an electronic signature, Franchisee must promptly notify IHG Tech and IHG Tech will provide Franchisee with a non-electronic Agreement.

**Franchisee Signature (or Initials):** \_\_\_\_\_

## Schedule 1 Definitions

The following capitalized terms used in this Agreement shall have the respective meanings specified below:

- (1) “**Additional Required Services**” has the meaning set forth in **Section 3.2**.
- (2) “**Affiliate**” means, as to any entity, any other entity that, directly or indirectly, Controls, is Controlled by or is under common Control with such entity.
- (3) “**Agreement**” has the meaning set forth in the Preamble.
- (4) “**Brand Standards**” means all standards and specifications now or in the future identified by IHG Tech or its Affiliates in accordance with the Franchise Agreement concerning the design, construction, and operations of Hotels.
- (5) “**Confidential Information**” has the meaning set forth in **Section 6.1.1**.
- (6) “**Control**” means, with respect to any entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities (or other ownership interest), by contract or otherwise.
- (7) “**Core Services**” has the meaning set forth in **Section 3.1**.
- (8) “**Curated Solutions**” has the meaning set forth in **Section 3.5**.
- (9) “**Enabling Agreement**” has the meaning set forth in the Preamble.
- (10) “**Franchise Agreement**” has the meaning set forth in the Preamble.
- (11) “**Franchisee**” has the meaning set forth in the Preamble.
- (12) “**Franchisee Agents**” means the employees, contractors, suppliers, subcontractors, and representatives of Franchisee.
- (13) “**Franchisee Bankruptcy Event**” means that Franchisee: (a) files a petition in bankruptcy for liquidation, (b) has an involuntary petition in bankruptcy filed against it which is not challenged within ten (10) days and dismissed within thirty (30) days, (c) becomes insolvent, (d) makes a general assignment for the benefit of creditors, (e) is unable to pay its debts as they mature, (f) has a receiver appointed for its assets, (g) has any significant portion of its assets attached, (h) receives a “going concern” explanation or qualification from its external auditor, or (i) experiences a material negative change in its net assets (*i.e.*, total assets minus total liabilities).
- (14) “**Franchisee Personal Data**” means any Personal Data (excluding any IHG Tech Marketing Data) that is held and processed locally at the Hotel, including (i) data contained in the Hotel’s property management system, and (ii) Personal Data relating to Hotel employees.
- (15) “**Guest Data**” means Personal Data of Hotel guests and other Hotel customers, including their preferences and related information. Guest Data may be IHG Tech Personal Data, Franchisee Personal Data, or both.
- (16) “**Hardware**” means computers, input and output devices, expansion cards, storage devices (including hard drives and installed and removable flash memory), portable computer and communications devices, other telecommunications devices, cables, wireless interfaces, and other computer peripherals.
- (17) “**Hotel**” has the meaning set forth in the Preamble.
- (18) “**IHG Portfolio Brand**” means any brand owned, controlled, or under the direction of IHG Tech or any of its Affiliates, as they may be added to, deleted from, or changed from time to time.
- (19) “**Law**” means any declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction of or by any legislature, administrative agency, court, or other governmental authority.
- (20) “**Loyalty Program**” means all loyalty, recognition, affinity, frequency, and other programs designed to promote stays at, or usage of, the Hotel, other IHG Portfolio Brand system hotels, and such other hotels designated by IHG Tech or its Affiliates, or any similar, complementary, or successor

programs. As of the effectiveness of this Agreement, such programs include the “IHG Rewards Club” and various programs sponsored by airlines, credit card, and other companies.

(21) “**Minimum Configuration**” has the meaning set forth in **Section 4.3**.

(22) “**IHG Tech**” has the meaning set forth in the Preamble.

(23) “**IHG Tech Marketing Data**” means Personal Data in respect of any member of the Loyalty Program.

(24) “**IHG Tech Personal Data**” means any Personal Data collected prior to or during the effectiveness of this Agreement by IHG Tech or its Affiliates in relation to the Hotel, including (i) IHG Tech Marketing Data, (ii) any Personal Data collected through any reservation channels operated by or at the direction of IHG Tech or its Affiliates, and (iii) any data that Franchisee transfers to IHG’s guest reservations system or other centrally managed IHG systems. For the avoidance of doubt, certain data may be both IHG Tech Personal Data and Franchisee Personal Data.

(25) “**Operating Data**” means all information concerning gross rooms revenue and gross revenue, other revenues generated at the Hotel, guestroom occupancy rates, reservation data, and other information required by IHG Tech or an IHG Tech Affiliate that may be useful (in the sole business judgment of IHG Tech or any such Affiliate) in connection with marketing, reservations, and guest loyalty and satisfaction, and other functions, purposes, or requirements of IHG Tech and its Affiliates.

(26) “**Optional Services**” has the meaning set forth in **Section 3.3**.

(27) “**Order Form**” means a binding contract created through an IHG Tech-approved order form submitted to IHG or an order through IHG Tech’s online portal, currently branded as IHG Marketplace, as such form or portal may be changed by IHG Tech from time to time, for Services and/or Hardware to be governed by this Agreement. The submitted order form or order placed through the portal, once accepted by IHG Tech, forms the binding contract and becomes part of this Agreement.

(28) “**Participation Agreement**” means a joinder, subscription, or participation agreement executed between Franchisee and a Service Provider to establish terms governing Hardware, Software, or Services provided by the Service Provider to Franchisee in connection with an Enabling Agreement.

(29) “**Party**” and “**Parties**” have the meaning set forth in the Preamble.

(30) “**Personal Data**” means any information (a) that, either individually or when combined with other information, can be used to identify a specific individual or derive information specific to a particular individual, and any information or data related to current, past or potential employees or customers, and (b) covered by Privacy Laws, including the following: (i) a first name and last name; (ii) a home or other physical address, including street name and name of city or town; (iii) an email address or other name, that reveals an individual’s email address; (iv) a telephone number; (v) a Social Security number; (vi) credit or debit card information; (vii) checking account information, account number and check number; (viii) a driver’s license, military or state identification number; (ix) a persistent identifier, such as a customer number held in a “cookie” or processor serial number, that is combined with other available data that identifies an individual; (x) human resources information, such as benefits plan information, member number, salary information, performance history, health history, and similar information; (xi) financial or transactional information; (xii) employee ID number; (xiii) government passport number or alien registration number, or (xiv) any other information that is identifiable to or identifies an individual, whether or not combined with any of (i) through (xiv) above.

(31) “**Privacy Laws**” means (a) the Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA); (b) Gramm-Leach-Bliley Act of 1999, as amended (GLB); (c) all applicable Laws and non-governmental standards protecting Personal Data (including Payment Card Industry Data Security Standard (PCI-DSS) and Payment Application Data Security Standard (PA-DSS)) in effect from time to time; (d) all Laws concerning the protection, transport, storage, use and processing of data (including the General Data Protection Regulation ((EU) 2016/679), as amended (“GDPR”) and any national implementing Laws, regulations and secondary legislation, as amended from time to time, and any successor legislation to the GDPR in effect from time to time); and (e) all applicable Laws in effect from

time to time similar to those Laws listed in subsections (a) through (d) above or otherwise governing the transmission, storage, distribution, sale, or other use of Personal Data.

(32) “**Proof of Concept Projects**” has the meaning set forth in **Section 3.6**.

(33) “**Services**” means any services enabled under this Agreement, including the Core Services, Additional Required Services, and Optional Services.

(34) “**Software**” means utilities, operating systems, scripts, applications, system updates, add-ons, or other materials that can be installed on or used in connection with Hardware, whether in binary machine code or human-readable source code form.

(35) “**Supplemental Terms**” has the meaning set forth in **Section 3.4**.

(36) “**Tax**” means any federal, state, local, or non-U.S. income, gross receipts, franchise, sales, use, transfer, value-added, excise, customs, duties, property, withholding or any other tax, charge, or fee, including any interest, penalties, or other additions to tax, imposed by a governmental authority.

**Schedule 2**  
**Core Services**

**IHG Concerto™.** IHG Concerto is an IHG-proprietary, cloud-based computerized solution that provides key features needed to manage and operate a Hotel, including:

- Reservations system;
- Revenue management system;
- Content management system;
- Guest relations; and
- Hotel operations insights.

As part of the Core Services, IHG Tech provides network connectivity, system integration, and system interfaces between the Hotel, IHG Concerto, and other services comprising the IHG/Hotel ecosystem.

**Support Services.** Support services include remote support and on-site maintenance for approved Hardware and Software specified in the Minimum Configuration and required as part of Franchisee's use of the Core Services and the Additional Required Services.

**Hotel Opening Consultation Services** (required only for Hotels new to an IHG Portfolio Brand). Guidance and consulting on technology-related requirements for opening and operating an IHG Portfolio Brand Hotel, including use of property management system.

**Schedule 3**  
**Additional Required Services**

**Property Management System.** The property management system (“PMS”) is a comprehensive Software application used to coordinate the Hotel operational functions, e.g., front office, sales and planning, accounting, and reporting. The PMS may be integrated or interface with the Core Services or other solutions, including reservations systems, revenue management systems, guest in-room entertainment, housekeeping optimization, and payment card authorization.

**Secure Payment Solution.** Secure Payment Solution (“SPS”) is a computerized payment card processing program. It contains a data security process designed to remove certain credit card information from IT systems administered by IHG Tech or its Affiliates. Using PCI-certified payment terminals, credit card data is encrypted and converted to tokens before entering the PMS. Participation Agreements for tokenization services and for installation services are required. In addition, Franchisee will be required to enter into a merchant processing application and agreement with the IHG Tech-approved merchant service provider.

**Deployment, Installation, and Support.** A Service Provider will provide deployment, integration, and other support services for the Hotel PMS and SPS. A joinder or similar agreement is required in order to obtain these PMS/SPS Hardware, Software, and deployment services.

**FastConnect Plus.** FastConnect Plus is a service providing an approved virtual private networking and security solution for the Hotel’s LAN/network connectivity. FastConnect Plus is the only approved remote access solution. A Participation Agreement is required.

**IHG Connect.** The IHG Connect program provides guest internet access and personalized guest internet experience, consisting of:

- IHG Connect Bandwidth – providing internet connectivity to the Hotel per Brand Standards; and
- IHG Connect WiFi – IHG-approved wifi solution, including required Hardware and Software infrastructure that enables the Hotel to take control of its guest wireless solutions;

IHG Connect is supported by IHG-certified technology service partners that provision internet, perform wifi integration, and provide ongoing support services. A Participation Agreement with both the internet service provider and the wifi systems integrator is required. Bandwidth is currently provided through an Order Form via IHG Marketplace.

**Employee Safety Devices.** This alert system enables employees to notify hotel management of an emergency with the push of a button. Employee Safety Devices must be procured and installed by one of several approved Service Providers and meet defined requirements. A Participation Agreement with Franchisee’s selected Service Provider is required.

**Public Access Computers.** Public Access Computers (or Business Center Computers) are designated workstations with a multi-function printer, providing complementary internet access to Hotel guests. Public Access Computers must utilize IHG Tech-approved protection Software and includes enrollment in a 24x7 support program offered by an approved Service Provider. A Participation Agreement with an approved Service Provider is required.

**IHG Studio.** IHG Studio is a digital guest experience platform that delivers guest services with advanced and connected technology to allow guests to access an interactive and personalized entertainment experience, through an in-room TV or mobile device, and access to a set of unique in-room guest services and brand content. IHG Studio is supported by IHG-certified technology service partners that provision

the platform and provide ongoing support services. Media/entertainment content is secured through Service Providers engaged by IHG Tech or its Affiliate. A Participation Agreement with both the content Service Provider and the systems integrator is required.

**Schedule 4**  
**Supplemental Terms**

This Schedule contains the following Attachments:

Attachment 4-1 IHG Concerto Supplemental Terms

Attachment 4-2 Support Services Supplemental Terms

Attachment 4-3 Hotel Opening Consultation Services Supplemental Terms

**Attachment 4-1 to Schedule 4**  
**IHG Concerto Supplemental Terms**

1. **Implementation.** IHG Tech will use commercially reasonable efforts to assist Franchisee with the installation, implementation, and maintenance of IHG Concerto.

2. **Training.** IHG Tech or a Service Provider will provide training services for Franchisee's employees in the use of IHG Concerto at implementation and as new releases are available. Franchisee shall cause the staff who will use IHG Concerto to participate in and comply with the training. Instructor-led training (on-site or remote) is conducted prior to operations of IHG Concerto. As new releases are available IHG Tech will provide self-paced training to Hotel. Franchisee's hotel staff is required to attend and to demonstrate proficiency with IHG Concerto. Franchisee will provide adequate space for training during normal business hours.

3. **Denial of Access.** Franchisee acknowledges and agrees that IHG Tech may, at the sole discretion and election of IHG Tech and without prior notice to Franchisee, immediately disable, disconnect, or otherwise deny access to IHG Tech's infrastructure with respect to (i) any Hardware or Software specified as prohibited in the Minimum Configuration, and (ii) any Hardware containing prohibited Software. In addition, IHG Tech may immediately and without notice disconnect, disable, or otherwise prevent the use of Hardware and Software with the IHG Tech infrastructure if IHG Tech reasonably believes that a security incident related to such Hardware or Software, including an unauthorized disclosure of Guest Data, could occur, has occurred, or is occurring.

4. **Modifications to Franchisee Environment.** Franchisee will not operate its Hardware or Software, including making any modifications to its Hardware and Software, in any manner that may have a detrimental effect on Franchisee or IHG Tech operations. Such detrimental effects include rendering such Hardware or Software, or any IHG Tech Hardware or Software, inoperable or unresponsive, as determined by IHG Tech. In such cases, if Franchisee requests support from IHG Tech in trouble shooting or repairing these effects, Franchisee will be solely responsible for all related service, repair, or replacement costs, including all costs of IHG Tech or its Service Providers, which will be billed on a time-and-materials basis.

5. **Updates to the Minimum Configuration.** Within 90 days (or a shorter or longer period specified by IHG Tech in writing (email sufficient)) following any update to the Minimum Configuration by IHG Tech, Franchisee will (i) purchase and install then-current approved Software and approved Hardware described in the Minimum Configuration, and (ii) decommission any Hardware and Software that is no longer approved, as applicable, in each case at Franchisee's expense.

6. **WAN Hardware.** IHG Tech may install or cause to be installed a wide area network (WAN) and WAN Hardware for Hotel's use in communicating with the reservations system. IHG Tech shall have the right to determine the optimal method of access based upon the Software and Hardware located at the Hotel and the telecommunications and other services available to Franchisee. Franchisee acknowledges that Franchisee will not acquire any ownership interest in the Hardware related to or installed in connection with the WAN. Franchisee hereby irrevocably authorizes IHG Tech or its agents, or the agents of any WAN Hardware lessor or supplier, to enter upon the Hotel property for the purpose of installing, inspecting, maintaining, and removing the WAN Hardware. IHG Tech requires that Franchisee, at Franchisee's cost, purchase broadband Internet access at the Hotel in order to establish the primary WAN link. IHG Tech's WAN link will be used as a backup if the primary WAN link fails.

7. **WAN Hardware Installation.** Franchisee agrees that only WAN Hardware that meets IHG Tech's specifications and configurations will be installed or connected in any way to the reservation system.

IHG Tech will have the right to cause the installations of the WAN Hardware at the Hotel by a date specified by IHG Tech. Franchisee will, at Franchisee's expense and prior to the scheduled installation of the WAN Hardware, make available to IHG Tech and its vendors a suitable, readily accessible location for installation of the WAN Hardware. Franchisee will furnish the required electrical connections and any necessary cable installation and shall perform all work, including alterations, IHG Tech deems necessary to prepare the site for installation and operation of the WAN Hardware. Once installed, Franchisee shall not move, service, alter, or damage the WAN Hardware. Franchisee will procure that all WAN at the Hotel will (i) be installed in the Hotel's information technology room in a cabinet customarily used for such purposes and otherwise satisfying IHG Tech's reasonable requirements, (ii) be clearly labeled, and (iii) be connected to an uninterruptible power supply (UPS). Upon expiration of, termination of, or event of default under this Agreement or the Franchise Agreement, the WAN Hardware may be required to be de-installed from the Hotel by a Service Provider reasonably acceptable to IHG Tech and at Franchisee's sole expense.

**Attachment 4-2 to Schedule 4**  
**Support Services Supplemental Terms**

1. Description. Support for the Core Services will include the following:
  - Remote support service, includes technical support or break-fix services for approved Software, remote trouble-shooting, general assistance, and incident management. The service is provided 7 days a week, 24 hours/day via call center support calls, online, or other automated methods. Service problems identified or attributed to a Service Provider will be referred to the Service Provider.
  - Onsite maintenance service: break-fix services, including repair and exchange, for approved Hardware, with the following availability:
    - 7 days a week, 24 hours/day for critical Hardware, with a service level target of four hour response time on server equipment and network switch equipment.
    - Business days (Monday to Friday), with a service level target of next business day during business hours coverage, for workstations, UPS, monitors, and printers.
2. Conditions. IHG Tech will provide support services for so long as the following conditions are satisfied:
  - Franchisee maintains, or cause to be maintained, Hardware and Software in accordance with the Minimum Configuration and manufacturer specifications and under warranty;
  - Franchisee maintains virus protection and other data protection standards required under this Agreement; and
  - Franchisee performs routine maintenance on the Hardware/Software, including completing upgrades and enhancements required by IHG Tech, verifying that no warning lights are displayed, and maintaining the Hardware in appropriate environmental conditions.
3. Preventive Maintenance. Franchisee will regularly perform preventive maintenance on its Hardware, including the following:
  - Franchisee will verify all workstations have adequate and up to date virus protection.
  - Franchisee will ensure regular night backups are initiated and successful.
  - Franchisee has maintained, or caused to be maintained, its Hardware and Software in accordance with current manufacturer requirements stated in the manufacturer's manual.
  - Franchisee will perform a power down and reboot of the PMS server and workstations a minimum of once per week.
4. Support Services Related to Non-Approved Software and Hardware. IHG Tech will have no obligation to provide, or cause to be provided, support services with regard to any non-approved Software or non-approved Hardware, or for any failure related to, directly or indirectly, non-approved Software or non-approved Hardware, and Franchisee will be solely responsible for all costs related to the foregoing, including the cost of Support Services of approved Hardware or approved Software incurred because of non-approved Hardware or non-approved Software.

**Attachment 4-3 to Schedule 4**  
**Hotel Opening Consultation Services Supplemental Terms**

1. **Completion of Technology Purchases.** At least 120 days before the Hotel opening date, Franchisee will acquire the Hardware, Software, and communications capabilities specified in the Minimum Configuration. In addition, at least 120 days before the Hotel opening date, Franchisee will enter into the Participation Agreements for the Additional Required Services.

2. **Site Preparation.** Franchisee will make available prior to the scheduled installation date, at its own expense, a site for installation and operation of the Hardware in accordance with specifications, which, without waiving or modifying Franchisee's obligations under this Agreement, must be readily accessible to installation personnel. Franchisee will furnish the required electrical connections, power, outlets, air conditioning, patch panel, and local area network cable installation required by each manufacturer's installation instructions or other documentation, and shall perform all work, including alterations, that IHG Tech, in its sole discretion, deems necessary to prepare the site for installation and operation of the Hardware. In the event site preparation has not been completed to the reasonable satisfaction of IHG Tech in a timely manner, Franchisee will pay upon invoice from IHG Tech the amount of \$2,600 (as such charge may be modified by IHG Tech from time to time). Proper site preparation is essential to the performance of the Hardware and no Hardware will be installed unless and until site preparation has been completed to the reasonable satisfaction of IHG Tech.

3. **Installation.** IHG Tech will notify Franchisee of the projected Hardware installation date and will schedule it to be installed at the Hotel. Any Software or Hardware installation delay caused by Franchisee will not affect Franchisee's obligation to pay any fees or amounts due under this Agreement. Franchisee will be responsible for the time and expenses of its employees, if any, required to assist in the installation of the Software or Hardware and additional expenses incurred by IHG Tech or Service Providers resulting from delays in installation caused by Franchisee or its employees or agents. Franchisee will pay the travel and related expenses of, and shall provide lodging and meals to, IHG Tech's and/or the Service Provider's personnel (or a reasonable per diem meal allowance). Franchisee will be responsible for the costs of any site preparation work that must be performed by IHG Tech or Service Providers, as well as the costs associated with the installation of any Hardware or Software not part of the Minimum Configuration. Franchisee will obtain, coordinate, and notify IHG Tech of the services of any external parties whose products or services Franchisee desires to connect to or interface with the reservation system or property management system, such as telephone switches, point-of-sale devices, and in-room movie or entertainment services. Delay by any communications company or any Hardware supplier in performing its obligations to IHG Tech will, for the duration of the delay, excuse any delay by IHG Tech with respect to these installation obligations.

4. **Minimum Hardware Quantities.** IHG reserves the right in its sole discretion to identify the number of each of the Hardware items required for operations at the Hotel.

5. **WAN Installation Fee.** Franchisee will pay the fee for the wide area network (WAN) installation according to IHG Tech's or a Service Provider's standard rates. Such fee will be payable upon the WAN installation.

6. **PMS Training.** IHG Tech or a Service Provider will provide training services for Franchisee's employees in the use of the PMS. Franchisee shall cause the staff who will use the PMS to participate in and comply with the training according to the following table:

Installation			Man-days			
Platform	Type	Rooms	Configuration	Training	Cutover	Interface
Xpress	New Build or New Conversion	1-300	1	5	9	2
Opera	New Build or New Conversion	1-100	2	5	12	2
Opera	New Build or New Conversion	101-250	2	5	14	3
Opera	New Build or New Conversion	251-350	3	8	18	3
Opera	New Build or New Conversion	351+	3	10	21	4

Instructor-led training (on-site or remote) is conducted prior to operations of the PMS. The Hotel staff is required to attend and to demonstrate proficiency with the PMS, with class attendance of 80% or more and a passing score of 90% or greater on the final exam. Franchisee will provide adequate space for training during normal business hours.

7. PMS Training Fees. Franchisee will pay the fee for the PMS training according to IHG Tech's or a Service Provider's standard rates, as further specified on an Order Form. Such fee will be payable in advance upon completion of such Order Form. Training fees do not include the cost of travel, lodging, transportation, meals, or any other expenses of Franchisee's employees attending training, or IHG Tech employee or agent expenses relating to on-site support. Franchisee will also pay reasonable travel and related expenses, including lodging and meals for the training and implementation personnel, as well as such expenses for the employees of Franchisee participating in any training or other instruction.

8. Customization. If Franchisee requires any custom services for its particular location, IHG Tech reserves the right to decline to perform such services or to charge a fee related to the additional services required.

## JOINDER AGREEMENT

This Joinder Agreement is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2019 (the “**Joinder Effective Date**”), by and between the undersigned hotel (the “**Hotel**”) and HP Inc. (“**HP**”) (each, a “**Party**” and collectively, the “**Parties**”), and is entered into pursuant to and governed by the terms and conditions of the Equipment Refresh and Integration Services Agreement entered into by and between Six Continents Hotels, Inc. (“**IHG**”) and HP dated August 18, 2017 (the “**Agreement**”). The capitalized terms used in this Joinder Agreement without definition shall have the meanings ascribed to them in the Agreement.

The Parties acknowledge and agree that the terms and conditions of the Agreement are hereby incorporated into this Joinder Agreement and shall be binding on the Hotel and HP and shall govern the Products and Services purchased hereunder.

1. Joinder Agreement Term. Unless earlier terminated in accordance with the Agreement, this Joinder Agreement shall commence on the Joinder Effective Date and shall continue thereafter for a period of forty eight (48) months following installation and Acceptance of the Products and Services provided hereunder.
2. Provision of Products and Services. HP shall provide to Hotel the Products and Services identified in Exhibit E (the “**Order Document**”) and further described in the Agreement in accordance with the terms of this Joinder Agreement and the delivery schedule set forth in the Order Document.
3. Invoicing and Payment.
  - a. Invoicing for Products and Installation Services. Following installation and Acceptance by the Hotel of the Products and installation Services provided under this Joinder Agreement, HP shall deliver an invoice to IHG for the fees due for such Products and Services in accordance with Sections 11.1 and 11.2 of the Agreement.
  - b. Payment for Products and Installation Services.
    - i. Hotel shall, at the time of the order, pay the fees for the Products and Services ordered to IHG. Following installation and Acceptance of the Products and Services by Hotel, IHG will perform a true-up reconciliation of all costs and issue a final invoice to Hotel.
    - ii. In the event that Hotel elects to use the HP financing option (as described in the SOW), then HP, through its subsidiary, Hewlett-Packard Financial Services Company and its subsidiaries and affiliates (collectively, “**HPFS**”), shall invoice Hotel and Hotel shall pay in accordance with the payment schedule set forth in the Product financing agreement entered into between HPFS and Hotel. All financing agreements shall be substantially in the form of agreement attached hereto as Exhibit A (or HPFS’ corresponding form outside of the United States) (a “**Financing Agreement**”). The Parties acknowledge and agree that (i) the Financing Agreement shall not take effect until installation and Acceptance of the Products and Services ordered, and (ii) the Financing Agreement shall be deemed null and void and of no force or effect in the event that the Joinder Agreement is terminated prior to the Financing Agreement taking effect. Following Acceptance of the Products and Services ordered and the Financing Agreement taking effect, the Financing Agreement shall become an independent agreement between Hotel and HPFS and shall not be affected by a termination of the Agreement or Joinder Agreement.

- 4. Right to Validate Invoices. Hotel authorizes and HP agrees to provide IHG with a copy of the invoices for Products and Services provided under this Joinder Agreement in order to permit IHG to review and validate that the invoices provided are current, accurate and complete. In the event that IHG’s review of an invoice identifies an error or overcharge, HP will promptly correct the error or refund the amount of the overcharge to Hotel.
  
- 5. Authorization to Notify of Default. In the event that Hotel applies for financing through HP or HPFS, Hotel authorizes IHG to notify HP and/or HPFS in the event that Hotel is in default of its obligations under the license agreement entered into between Hotel and IHG or an IHG Affiliate. HP shall and shall cause HPFS to use this information solely to evaluate the Hotel’s application for financing and shall not disclose such information to any third party or use such information for any other purpose.
  
- 6. Waiver and Release. Hotel and Vendor acknowledge and agree that IHG has no obligations under this Joinder Agreement and hereby waive and release IHG from and against any and all present and future claims arising out of or related to this Joinder Agreement.

IN WITNESS WHEREOF, each Party, through its duly authorized representative, hereby agree to the terms and conditions of this Joinder Agreement.

<b>HOTEL:</b>	<b>HP:</b>
_____	_____
By: _____	By: _____
Signature	Signature
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
Address for Notices to Hotel:	Address for Notices to HP:

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**InnCode** \_\_\_\_\_

## JOINDER AGREEMENT

This Joinder Agreement is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2019 (the “**Joinder Effective Date**”), by and between the undersigned hotel (the “**Hotel**”) and HP Inc. (“**HP**”) (each, a “**Party**” and collectively, the “**Parties**”), and is entered into pursuant to and governed by the terms and conditions of the Secure Payment System for Deployment Services Agreement entered into by and between Six Continents Hotels, Inc. (“**IHG**”) and HP dated September 2nd, 2014 (the “**Agreement**”). The capitalized terms used in this Joinder Agreement without definition shall have the meanings ascribed to them in the Agreement.

The Parties acknowledge and agree that the terms and conditions of the Agreement are hereby incorporated into this Joinder Agreement and shall be binding on the Hotel and HP and shall govern the Products and Services purchased hereunder.

1. Joinder Agreement Term. Unless earlier terminated in accordance with the Agreement, this Joinder Agreement shall commence on the Joinder Effective Date and shall continue thereafter for a period of forty eight (48) months following installation and Acceptance of the Products and Services provided hereunder.
2. Provision of Products and Services. HP shall provide to Hotel the Products and Services identified in Exhibit D (the “**Order Document**”) and further described in the Agreement in accordance with the terms of this Joinder Agreement and the delivery schedule set forth in the Order Document.
3. Invoicing and Payment.
  - a. Invoicing for Products and Installation Services. Following installation and Acceptance by the Hotel of the Products and installation Services provided under this Joinder Agreement, HP shall deliver an invoice to Hotel for the fees due for such Products and Services in accordance with Section 8.2 of the Agreement.
  - b. Payment for Products and Installation Services.
    - i. In the event that Hotel elects to use the direct payment option (as described in the SOW), Hotel shall, at the time of the order, pay the fees for the Products and Services ordered; *provided, that* HP shall not be deemed to have earned the fees paid until installation and Acceptance of the Products and Services and Hotel shall retain its rights related to rejected Products and Services, including the right to a refund (as such rights are set forth in the Agreement).
    - ii. In the event that Hotel elects to use the HP financing option (as described in the SOW), then HP, through its subsidiary, Hewlett-Packard Financial Services Company and its subsidiaries and affiliates (collectively, “**HPFS**”), shall invoice Hotel and Hotel shall pay in accordance with the payment schedule set forth in the Product financing agreement entered into between HPFS and Hotel. All financing agreements shall be substantially in the form of agreement attached hereto as Exhibit A (or HPFS’ corresponding form outside of the United States) (a “**Financing Agreement**”). The Parties acknowledge and agree that (i) the Financing Agreement shall not take effect until installation and Acceptance of the Products and Services ordered, and (ii) the Financing Agreement shall be deemed null and void and of no force or effect in the event that the Joinder Agreement is terminated prior to the Financing Agreement taking effect. Following Acceptance of the Products and Services ordered and the Financing Agreement

taking effect, the Financing Agreement shall become an independent agreement between Hotel and HPFS and shall not be affected by a termination of the Agreement or Joinder Agreement.

c. Payment for Maintenance Services. Hotel shall pay the undisputed portion of the fees invoiced for maintenance Services within thirty (30) days after receipt of the invoice.

4. Right to Validate Invoices. Hotel authorizes and HP agrees to provide IHG with a copy of the invoices for Products and Services provided under this Joinder Agreement in order to permit IHG to review and validate that the invoices provided are current, accurate and complete. In the event that IHG's review of an invoice identifies an error or overcharge, HP will promptly correct the error or refund the amount of the overcharge to Hotel.

5. Authorization to Notify of Default. In the event that Hotel applies for financing through HP or HPFS, Hotel authorizes IHG to notify HP and/or HPFS in the event that Hotel is in default of its obligations under the license agreement entered into between Hotel and IHG or an IHG Affiliate. HP shall and shall cause HPFS to use this information solely to evaluate the Hotel's application for financing and shall not disclose such information to any third party or use such information for any other purpose.

6. Waiver and Release. Hotel and Vendor acknowledge and agree that IHG has no obligations under this Joinder Agreement and hereby waive and release IHG from and against any and all present and future claims arising out of or related to this Joinder Agreement.

IN WITNESS WHEREOF, each Party, through its duly authorized representative, hereby agree to the terms and conditions of this Joinder Agreement.

<b>HOTEL:</b>	<b>HP:</b>
_____	_____
By: _____	By: _____
Signature	Signature
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____

Address for Notices to Hotel:	Address for Notices to HP:
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**InnCode** \_\_\_\_\_

# EXHIBIT D

## EXHIBIT D

### AGENTS FOR SERVICE OF PROCESS

#### CALIFORNIA

California Commissioner Of The Department  
Of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013-2344  
(866) 275-2677

CT Corporation System  
818 West 7<sup>th</sup> Street  
Suite 1004  
Los Angeles, California 90017

#### HAWAII

Commissioner of Securities of the  
State of Hawaii  
Department of Commerce and Consumer Affairs  
Business Registration Division  
Securities Compliance Branch  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813

#### ILLINOIS

Attorney General of the State of Illinois  
500 South Second Street  
Springfield, Illinois 62706

#### MARYLAND

Maryland Securities Commissioner  
200 St. Paul Place  
Baltimore, Maryland 21202-2020

#### MICHIGAN

Michigan Department of Commerce  
Corporations and Securities Bureau  
670 Williams Building  
525 W. Ottawa Street  
Lansing, Michigan 48913

#### MINNESOTA

Commissioner of Securities  
Department of Commerce  
85 7<sup>th</sup> Place East  
Suite 280  
St. Paul, Minnesota 55101-2198

#### NORTH DAKOTA

Securities Commissioner, State of North Dakota  
600 East Boulevard, Fifth Floor  
Bismarck, North Dakota 58505

#### RHODE ISLAND

Director of Department of Business Regulation  
1511 Pontiac Avenue  
John O. Pastore Complex – Building 69-1  
Cranston, Rhode Island 02920

#### SOUTH DAKOTA

Department of Labor and Regulation  
Division of Insurance  
Securities Regulation  
124 S Euclid, Suite 104  
Pierre SD 57501  
(605) 773-3563

#### VIRGINIA

Clerk of the State Corporation Commission  
1300 East Main Street  
Richmond, Virginia 23219  
(804) 371-9051

#### WASHINGTON

Director of the Securities Division  
Department of Financial Institutions  
150 Israel Rd. SW  
Tumwater, WA 98501  
(360) 902-8760

#### WISCONSIN

Commissioner of Securities  
201 W. Washington Avenue – Third Fl.  
Madison, Wisconsin 53703

# EXHIBIT E

## EXHIBIT E

### STATE FRANCHISE ADMINISTRATORS

#### CALIFORNIA

California Commissioner Of The Department  
Of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
Los Angeles, California 90013-2344

#### HAWAII

Commissioner of Securities of the  
State of Hawaii  
Department of Commerce and Consumer  
Affairs  
Business Registration Division  
Securities Compliance Branch  
335 Merchant Street, Room 203  
Honolulu, Hawaii 96813

#### ILLINOIS

Franchise Division  
Office of Attorney General  
State of Illinois  
500 South Second Street  
Springfield, Illinois 62706

#### INDIANA

Franchise Section  
Indiana Securities Commission  
302 West Washington Street, Room E-111  
Indianapolis, Indiana 46204

#### MARYLAND

Maryland Division of Securities  
Office of the Attorney General  
200 St. Paul Place  
Baltimore, Maryland 21202-2020

#### MICHIGAN

Consumer Protection Division  
Antitrust and Franchise Unit  
Michigan Department of Attorney General  
670 Williams Building  
525 W. Ottawa Street  
Lansing, Michigan 48913

#### MINNESOTA

Minnesota Department of Commerce  
Securities-Franchise Registration  
85 7<sup>th</sup> Place East, Suite 280  
St. Paul, Minnesota 55101-2198

#### NEW YORK

NYS Department of Law  
Investor Protection Bureau  
28 Liberty St. 21<sup>st</sup> Fl.  
New York, New York 10005

#### NORTH DAKOTA

North Dakota Securities Department  
600 East Boulevard, Fifth Floor  
Bismarck, North Dakota 58505

#### RHODE ISLAND

Division of Securities  
1511 Pontiac Avenue  
John O. Pastore Complex – Building 69-1  
Cranston, Rhode Island 02920

#### SOUTH DAKOTA

Department of Labor and Regulation  
Division of Insurance  
Securities Regulation  
124 S Euclid, Suite 104  
Pierre SD 57501  
(605) 773-3563

#### VIRGINIA

State Corporation Commission  
Division of Securities and Retail Franchising  
1300 East Main Street, 9th Floor  
Richmond, Virginia 23219

#### WASHINGTON

Securities Division  
Department of Financial Institutions  
150 Israel Rd. SW  
Tumwater, WA 98501  
(360) 902-8760

#### WISCONSIN

Securities and Franchise Registration  
Wisconsin Securities Commission  
201 W. Washington Avenue – Third Fl.  
Madison, Wisconsin 53703

# EXHIBIT F

**List of Vignette Collection franchisees as of Issuance Date:**

None.

# EXHIBIT G1

**THESE FINANCIAL STATEMENTS ARE PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED HIS OR HER OPINION WITH REGARD TO THEIR CONTENT OR FORM.**

# Holiday Hospitality Franchising, LLC

## Balance Sheets

	<b>(Unaudited)</b>	December 31, 2020
	<b>June 30, 2021</b>	
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 466	\$ 235
Accounts receivable (net of allowance for doubtful accounts of \$14,994,021 and \$15,421,569 respectively)	71,580,159	47,414,665
Contract assets	6,494,332	6,276,395
Receivables from affiliates	24,682,228	23,780,503
Total current assets	102,757,185	77,471,798
Line of credit due from affiliate	592,210,617	603,208,139
Master license agreement	682,692	682,692
Contract assets	84,985,191	80,867,922
Total assets	\$ 780,635,685	\$ 762,230,551
<b>Liabilities and member's equity</b>		
Current liabilities:		
Accounts payable and accrued expenses	\$ 98,651	\$ 67,654
Deferred revenue	1,002,069	986,590
Payables to affiliates	130,400,447	123,609,164
Total current liabilities	131,501,167	124,663,408
Deferred revenue	6,889,751	6,956,255
Total liabilities	138,390,918	131,619,663
Member's equity	642,244,767	630,610,888
Total liabilities and member's equity	\$ 780,635,685	\$ 762,230,551

# Holiday Hospitality Franchising, LLC

## Statements of Operations (unaudited)

	<b>Six months ended June 30, 2021</b>	Six months ended June 30, 2020
Revenues:		
Franchise royalty fees	\$ 8,234,630	\$ 5,935,770
Franchise royalty fees from affiliate	1,158	13,324
OLCC fees	509,188	394,772
Total revenues	8,744,976	6,343,866
Expenses:		
Bad debt provision	173,399	6,337,545
Other	18,942	238,947
Total expenses	192,341	6,576,492
(Loss) income from operations	8,552,635	(232,626)
Other (expense) income:		
Miscellaneous expense	(770)	(718)
Foreign transaction gain (loss)	2,629,567	(3,854,987)
Interest income	45,336	14,257
Interest income from affiliate	409,515	3,944,071
Income before taxes	11,636,283	(130,003)
Foreign withholding taxes	2,404	33,868
Net (loss) income	\$ 11,633,879	\$ (163,871)

# Holiday Hospitality Franchising, LLC

## Statements of Member's Equity

Balance at December 31, 2019	\$ 623,595,332
Net income	<u>7,015,556</u>
Balance at December 31, 2020	630,610,888
Net income (unaudited)	<u>11,633,879</u>
Balance at June 30, 2021 (unaudited)	<u><u>\$ 642,244,767</u></u>

## Holiday Hospitality Franchising, LLC

### Basis of Preparation

The following caveats apply to the attached set of Holiday Hospitality Franchising, LLC accounts for the six month period to June 30, 2021:

- 1) The accounts are unaudited.
- 2) The accounts have not been reviewed by IHG senior management.

It follows therefore that a completed set of audited accounts for the six months to June 30, 2021 prepared in full compliance with US GAAP could be materially different to those presented on pages 1 to 3 of this document.

FINANCIAL STATEMENTS

Holiday Hospitality Franchising, LLC  
Years Ended December 31, 2020, 2019 and 2018  
With Report of Independent Auditors

Holiday Hospitality Franchising, LLC

Financial Statements

Years Ended December 31, 2020, 2019 and 2018

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## Report of Independent Auditors

The Board of Directors and Members  
Holiday Hospitality Franchising, LLC

We have audited the accompanying financial statements of Holiday Hospitality Franchising, LLC (the Company), which comprise the balance sheets as of December 31, 2020 and 2019, and the related statements of operations, member's equity and cash flows for each of the three years in the period ended December 31, 2020, and the related notes to the financial statements.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in conformity with U.S. generally accepted accounting principles; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free of material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates, made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Holiday Hospitality Franchising, LLC at December 31, 2020 and 2019, and the results of its operations, and its cash flows for each of the three years in the period ended December 31, 2020, in conformity with U.S. generally accepted accounting principles.

March 29, 2021

# Holiday Hospitality Franchising, LLC

## Balance Sheets

	December 31	
	2020	2019
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 235	\$ 1,638
Accounts receivable (net of allowance for doubtful accounts of \$15,421,569 and \$5,049,043 respectively) <i>(Note 5)</i>	47,414,665	59,930,697
Contract assets	6,276,395	5,541,216
Receivables from affiliates <i>(Note 4)</i>	23,780,503	–
Total current assets	77,471,798	65,473,551
Line of credit due from affiliate <i>(Note 7)</i>	603,208,139	599,970,983
Master license agreement	682,692	682,692
Contract assets	80,867,922	69,348,651
Total assets	\$ 762,230,551	\$ 735,475,877
<b>Liabilities and member's equity</b>		
Current liabilities:		
Accounts payable and accrued expenses	\$ 67,654	\$ 83,004
Deferred revenue	986,590	1,241,963
Payables to affiliates <i>(Note 4)</i>	123,609,164	103,791,547
Total current liabilities	124,663,408	105,116,514
Deferred revenue	6,956,255	6,764,031
Total liabilities	131,619,663	111,880,545
Member's equity	630,610,888	623,595,332
Total liabilities and member's equity	\$ 762,230,551	\$ 735,475,877

*See accompanying notes.*

Holiday Hospitality Franchising, LLC

Statements of Operations

	Year Ended December 31		
	2020	2019	2018
Revenues:			
Franchise royalty fees <i>(Note 3)</i>	\$ 12,456,072	\$ 26,067,026	\$ 27,116,600
Franchise royalty fees from affiliate <i>(Note 4)</i>	17,985	70,038	76,702
OLCC fees	812,665	1,285,047	991,440
Total revenues	13,286,722	27,422,111	28,184,742
Expenses:			
Bad debt provision <i>(Note 5)</i>	11,234,982	1,901,720	1,258,950
Impairment of contract assets <i>(Note 6)</i>	1,691,700	—	—
Other	265,432	81,579	(29,342)
Total expenses	13,192,114	1,983,299	1,229,608
Income from operations	94,608	25,438,812	26,955,134
Other (expense) income:			
Miscellaneous expense	(1,405)	(1,413)	(1,729)
Foreign transaction gain (loss)	2,446,061	2,550,261	(2,965,591)
Interest income	58,663	24,971	18,024
Interest income from affiliate <i>(Note 7)</i>	4,461,825	25,616,691	41,092,012
Income before taxes	7,059,752	53,629,322	65,097,850
Foreign withholding taxes	44,196	140,193	152,206
Net income	\$ 7,015,556	\$ 53,489,129	\$ 64,945,644

See accompanying notes.

# Holiday Hospitality Franchising, LLC

## Statements of Member's Equity

Balance at December 31, 2017	505,160,559
Net income	<u>64,945,644</u>
Balance at December 31, 2018	\$ 570,106,203
Net income	<u>53,489,129</u>
Balance at December 31, 2019	623,595,332
Net income	<u>7,015,556</u>
Balance at December 31, 2020	<u><u>\$ 630,610,888</u></u>

# Holiday Hospitality Franchising, LLC

## Statements of Cash Flows

	Year Ended December 31		
	2020	2019	2018
<b>Operating activities</b>			
Net income	\$ 7,015,556	\$ 53,489,129	\$ 64,945,644
Reconciliation of net income to net cash provided by operating activities:			
Contract assets deduction in revenue <i>(Note 3)</i>	6,098,850	5,207,505	4,173,887
Impairment of contract assets <i>(Note 6)</i>	1,691,700	–	–
Accrued but unpaid interest on line of credit due from affiliate	(4,461,825)	(25,616,691)	(41,092,012)
Bad debt provision <i>(Note 5)</i>	11,234,982	1,901,720	1,258,950
Changes in assets and liabilities:			
Accounts receivable	1,281,050	(2,434,816)	(6,250,714)
Deferred revenue	(63,149)	(153,825)	612,630
Accounts payable and accrued expenses	(15,350)	(3,597,542)	607,033
Receivables from affiliates	(23,780,503)	–	–
Payables to affiliates	(227,383)	(17,324,396)	(8,566,741)
Net cash (used in) provided by operating activities	(1,226,072)	11,471,084	15,688,677
<b>Investing activities</b>			
Net amounts repaid (provided) under line of credit due from affiliate	1,224,669	(11,472,476)	(15,690,435)
Net cash provided by (used in) investing activities	1,224,669	(11,472,476)	(15,690,435)
Net decrease in cash and cash equivalents	(1,403)	(1,392)	(1,758)
Cash and cash equivalents:			
Beginning of year	1,638	3,030	4,788
End of year	\$ 235	\$ 1,638	\$ 3,030
<b>Supplemental disclosure of noncash investing activities</b>			
Payment for franchise agreements by an affiliated entity	\$ 20,045,000	\$ 19,573,165	\$ 18,441,000

*See accompanying notes.*

# Holiday Hospitality Franchising, LLC

## Notes to Financial Statements

December 31, 2020

### **1. Description of the Business and Basis of Presentation**

#### **Organization**

Holiday Hospitality Franchising, LLC (the Company) is an indirect subsidiary of InterContinental Hotels Group PLC (UK) (the Parent) through InterContinental Hotels Limited (UK), Six Continents Limited (UK), Six Continents Hotels International Limited (UK), InterContinental (PB) 3 Limited (UK), InterContinental Hotels Group Operating Corp. (Delaware), IHC United States (Holdings) Corp. (Delaware), IHC Inter-Continental (Holdings) Corp. (Delaware), Inter-Continental Hotels Corporation (Delaware), and Six Continents Hotels, Inc. (Delaware), its immediate parent.

On March 22, 2013, the Company entered into the sixth amended and restated master license agreement with Six Continents Hotels, Inc., formerly known as Bass Hotels & Resorts, Inc. The master license agreement as amended (the Agreement) grants the Company the nonexclusive right to operate and license throughout the United States, Canada, and certain countries of the Caribbean systems designed to provide distinctive, high-quality lodging services to the public under Six Continents Hotels, Inc.'s brand names as described in Note 2 (the Systems). The Agreement has a constantly renewing 25-year term.

The Company paid \$1 million in exchange for all nonexclusive rights granted under the original Agreement. Pursuant to the Agreement, the Company pays 95% of all royalty and royalty-related fees received by the Company and 100% of all services contributions and other fees to Six Continents Hotels, Inc. All Company operating and administrative expenses are provided for by Six Continents Hotels, Inc. under the terms of the Agreement.

Prior to the Company entering into the original Agreement, the Systems were owned, operated, and licensed in the United States by Six Continents Hotels, Inc. or its predecessors in interest. All license agreements under these brands entered into or renewed in the United States since February 7, 1990, have been issued by the Company.

The Company converted from a U.S.-taxable corporation to a limited liability company (LLC) on March 26, 2012. At the time of the change, the Company's stock was converted to member's equity in the new LLC. The conversion did not have any effect on the net equity of the Company.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### **1. Description of the Business and Basis of Presentation (continued)**

##### **Basis of Presentation**

The Company does not own or consolidate any other entity and is a wholly owned subsidiary of Six Continents Hotels, Inc. The Company's ultimate parent and controlling party is InterContinental Hotels Group PLC (IHG or the Parent). The financial statements are not necessarily indicative of the financial position, results of operations, and cash flows that might have occurred had the Company been a stand-alone entity not integrated into IHG's other operations.

The Company's financial statements have been prepared in accordance with generally accepted accounting principles in the United States, using the accrual basis of accounting. All assets, liabilities, revenues and expenses in the accompanying financial statements have been derived from the separate records maintained by the Company with the exception of the allocation of certain expenses incurred by affiliated companies and the allocation of certain expenses from the Parent. Such allocations are not intended to represent the costs that would be or would have been incurred if the Company were a stand-alone operation.

#### **2. Summary of Significant Accounting Policies**

##### **Use of Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported year. Actual results could differ from those estimates.

##### **Cash and Cash Equivalents**

Cash and cash equivalents include short-term, interest-bearing securities with original maturities of less than three months.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

##### **Accounts Receivable and Allowance for Doubtful Accounts**

Accounts receivable are recognized and carried at original amounts less an allowance for any doubtful accounts, which approximates fair value. An allowance for doubtful accounts is made when collection of the full amount is no longer probable and is written off once collection efforts have ceased.

##### **Master License Agreement**

The Company accounts for the Agreement in accordance with Accounting Standards Codification (ASC) Topic 350-30, *General Intangibles Other than Goodwill*. In accordance with ASC 350-30-35-18, indefinite-lived intangible assets are reviewed annually for impairment. The Company has not recognized any impairment losses in respect of the Agreement for the years ended December 31, 2020, 2019, and 2018.

##### **Revenue Recognition**

Revenue is recognized at an amount that reflects the consideration to which the Company expects to be entitled in exchange for transferring goods or services to a customer. Revenue is recorded excluding taxes.

The Company disaggregates revenue from contracts with customers by type of agreement, being franchise royalty fees and OLCC fees, reflecting the differing nature, amount, timing and uncertainty of related revenue and cash flows. All fee revenue arises from a transfer to customers over time.

##### *Franchise Royalty Fees*

The Company's business comprises the franchising of hotels and resorts primarily under the following brands: Crowne Plaza, Holiday Inn, Holiday Inn Express, Staybridge Suites, Candlewood Suites, Hotel Indigo, EVEN Hotels and avid hotels.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### 2. Summary of Significant Accounting Policies (continued)

Under franchise agreements, the Company's performance obligation is to provide a license to use the Company's trademarks and other intellectual property. Franchise royalty fees are typically charged as a percentage of hotel gross rooms revenues and are treated as variable consideration, recognized as the underlying hotel revenues occur. Franchise royalty fees also include any liquidated damage settlements the Company receives from franchisees that terminate arrangements prior to expiration.

Application and re-licensing fees are not considered to be distinct from the franchise service and are recognized over the life of the related contract.

Under the Agreement, the Company is deemed to be acting as agent in the provision of these services and, as such, nets the license cost against revenue and reports a royalty fee equal to the 5% commission it earns through the Agreement.

The number of franchised hotels in operation during the year ended December 31, 2020 is as follows:

Franchised hotels at December 31, 2019	3,777
New franchises	158
Franchises removed	<u>(62)</u>
Franchised hotels at December 31, 2020	<u><u>3,873</u></u>

#### *OLCC Fees*

On September 10, 2008, the Company entered into a Master Development and Sales and Marketing Licensing Agreement with Orange Lake Country Club, Inc. (OLCC) and Global Access Exchange, LLC, a wholly owned subsidiary of OLCC, an unrelated party. Under that agreement and subsequent amendments, the Company licenses the Holiday Inn Club Vacation trademark to OLCC to allow the development of Holiday Inn-branded time-share resorts and the selling of time-share membership interests thereto under the Holiday Inn Club Vacation name. The agreement gives OLCC exclusive development rights for Holiday Inn-branded time-share resorts, subject to OLCC achieving certain development requirements. The current agreement, effective March 14, 2019, has a term of 100 years until December 31, 2118. Any time-share resort branded as a Holiday Inn Club Vacation time-share resort would be the subject of a separate site license agreement.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

OLCC fees include a monthly payment by the time-share resorts equal to a percentage of the sales price for qualified time-share sales. In addition, OLCC fees include recurring monthly fees based on a percentage of gross rooms revenue for certain rooms used for transient reservations at the time-share resorts, subject to a minimum annual payment to the Company. OLCC fee revenue, being the 5% commission retained by the Company, is treated as variable consideration and recognized as the underlying time-share and room revenues occur. The Company recognized \$0.8 million, \$1.3 million and \$1.0 million in fees from OLCC during the years ended December 31, 2020, 2019 and 2018, respectively.

#### *Contract Assets*

Amounts paid to hotel owners to secure franchise agreements (“key money”) are treated as consideration payable to a customer. An asset is initially recorded which is recognized as a deduction to franchise royalty fee revenue over the initial term of the contract.

Typically, contract assets are not financial assets as they represent amounts paid at the beginning of a contract, and so are tested for impairment based upon future cash flows. Contract assets are reviewed for impairment when events or changes in circumstances indicate that the carrying value may not be recoverable. If the estimated undiscounted cash flows are less than carrying value, an impairment loss is charged to the consolidated income statement based on the difference between the carrying value and the estimated fair value. Fair value is based on estimated discounted future cash flows.

#### **Fair Value of Financial Instruments**

The carrying value of cash and cash equivalents, accounts receivable, and deposits approximates fair value due to the nature and short-term maturities of these instruments. These financial instruments are all non-interest bearing.

Due to the nature of the line of credit and the interest rate charged to its affiliate, the fair value of the instrument approximates its carrying value. Interest is accrued on the line of credit at the IRS applicable federal interest rate, compounded quarterly. There are no fees or related costs received in respect of the line of credit.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### **2. Summary of Significant Accounting Policies (continued)**

##### **Income Taxes**

Following the Company converting from a U.S.-taxable corporation to a limited liability company (LLC) in 2012 (see Note 1), the Company is not required to file a separate tax return as it is a limited liability company treated as a disregarded entity for federal and state income tax purposes with all income tax liabilities and/or benefits of the Company being passed through to the members. The Company is included in the consolidated federal income tax return of InterContinental Hotels Group Operating Corp., its ultimate U.S. parent company. As such, no recognition of federal or state income taxes for the Company has been provided for in the accompanying financial statements.

##### **Future Adoption of Accounting Standards**

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, replacing the existing impairment model for most financial assets from an incurred loss impairment to a current expected credit loss model. This model requires an entity to recognize an impairment allowance equal to its current estimate of all contractual cash flows the entity does not expect to collect. The standard is effective for financial years beginning after 15 December 2022, but early adoption is permitted. The Company plans to adopt this ASU on January 1, 2023 and is currently evaluating the impact that the standard will have on its financial statements.

#### **3. Franchise Royalty Fees**

The Company is deemed to be acting as an agent in the provision of services and, as such, nets the license cost against revenue and reports a franchise royalty fee equal to the 5% commission it earns through the Agreement (see Note 2).

In some instances the Company will pay, via an affiliate (see Note 4), amounts to hotel owners to secure franchise agreements. These assets are not subject to the Agreement, with 100% of the asset and revenue deduction being recorded within the Company. Franchise royalty revenue was reduced by \$6.1m, \$5.2m and \$4.2m for the years ended December 31, 2020, 2019 and 2018, respectively.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### 3. Franchise Royalty Fees (continued)

A reconciliation of gross to net revenue is as follows:

	<i>Year ended December 31,</i>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
Royalty fees under franchise agreements	<b>\$ 370,306,835</b>	\$ 643,049,290	\$ 625,762,388
Amounts transferred to affiliate under the Agreement	<b>(351,751,913)</b>	(611,774,759)	(594,471,901)
Net revenue under the Agreement	<b>18,554,922</b>	31,274,531	31,290,487
Contract assets deduction in revenue	<b>(6,098,850)</b>	(5,207,505)	(4,173,887)
Franchise royalty fees	<b>\$ 12,456,072</b>	\$ 26,067,026	\$ 27,116,600

#### 4. Related Party Transactions

Six Continents Hotels, Inc. maintains certain marketing, reservation, and loyalty programs for the benefit of the Systems. Pursuant to the Master License Agreement, all Company assessments to franchisees relating to these programs are remitted to Six Continents Hotels, Inc. Such amounts are not reflected in franchise royalty fees (see Note 3). All amounts due to or from affiliates, other than a line of credit from an affiliate (see Note 7), are non-interest-bearing and have no stated maturity date.

Net payables to affiliates included in the balance sheets are \$99.8 million and \$103.8 million at December 31, 2020 and 2019, respectively. These current amounts are of a working capital nature. Receivables from affiliates are considered to be fully recoverable on the basis of the Group's position (see Note 7).

During the years ended December 31, 2020, 2019 and 2018, contract assets totaling \$20.0 million, \$19.6 million and \$18.4 million, respectively, were paid for by an affiliated entity.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### **4. Related Party Transactions (continued)**

During the years ended December 31, 2020, 2019 and 2018, the Company recognized royalty fees earned from a Canadian affiliate of \$0, \$0.1 million and \$0.1 million, respectively.

#### **5. Accounts receivable (net of allowance for doubtful accounts)**

The operations of the Company have been severely impacted by the coronavirus (COVID-19) international pandemic.

Occupancy levels have improved since the peak of the pandemic but remain significantly lower than prior years. As such, cash inflows to hotel owners have been reduced. The Company has undertaken a number of actions to support the liquidity of hotel owners, including the waiver of certain fees, extended credit terms and, where appropriate, the use of payment plans. In comparison to the prior year, the Company has experienced an increase in 'days sales outstanding' and a reduction in cash collection. These factors, taken together with limited forward visibility on the pace and scale of recovery, result in an increased level of uncertainty in calculating the allowance for doubtful debts.

The Company has charged a total bad debt expense of \$11.2 million, \$1.9 million and \$1.3 million in the years ended December 31, 2020, 2019 and 2018 respectively. The net accounts receivable balance presented in the Balance Sheet could result in additional charges if amounts are ultimately found to be uncollectible or could result in a release if subsequently collected.

#### **6. Impairment of contract assets**

The impact of the trading downturn resulting from the COVID-19 pandemic was considered a trigger for an impairment review of non-current assets. All significant contract assets were tested for impairment using cash flow projections at an individual property level. An impairment loss of \$1.7 million was recognized relating to key money payments on three individual properties in the year ended December 31, 2020.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### **7. Line of Credit Due from Affiliate**

On September 25, 1994, the Company increased and extended a \$40 million line of credit to Six Continents Hotels, Inc. The line of credit has since been increased and the maturity date extended on several occasions. The facility is currently \$700 million with a maturity date of 31 August 2021 and accrues interest at the IRS applicable federal interest rate, compounded quarterly. As of December 31, 2020 and 2019, \$603.2 million and \$600.0 million, respectively, remained receivable from Six Continents Hotels, Inc. These amounts include interest receivable. During the years ended December 31, 2020, 2019 and 2018, \$4.5 million, \$25.6 million and \$41.1 million, respectively, were recognized as interest income on the line of credit. There have been no related fees and costs incurred on the line of credit in any of the years. On the maturity date, the entire outstanding principal balance, together with all accrued and unpaid interest, are due and payable in full.

Six Continents Hotels, Inc., is a wholly owned subsidiary of InterContinental Hotels Group PLC (“the Group”). The credit risk is judged to be low on the basis of the funds available within the Group, and its intention to make funds available to enable Six Continents Hotels, Inc. to meet its liabilities as they fall due for a period of at least 12 months from the date of issuance of these financial statements. The amount due on the line of credit is considered to be fully recoverable. The Group’s exposure to credit risk arises from default of the counterparty, with a maximum exposure equal to the carrying amount of each financial asset. Credit risk is minimized by operating a policy on the investment of surplus cash that generally restricts counterparties to those with a BBB credit rating or better or those providing adequate security. The Group uses long-term credit ratings from Standard and Poor’s, Moody’s and Fitch Ratings as a basis for setting its counterparty limits.

Information on the Group’s treasury management policies, including information on covenants and debt facilities; processes for managing its capital; its financial risk management objectives; details of its financial instruments and hedging activities; and its exposures to liquidity risk and credit risk is also given in the Annual Report and Form 20-F 2020.

#### **8. Commitments and Contingencies**

##### **Litigation**

In the normal course of business, the Company is subject to certain claims and litigation, including unasserted claims. The Company, based on its current knowledge and discussions with its legal counsel, is of the opinion that such matters will not have a material adverse effect on the financial position or results of operations of the Company.

## Holiday Hospitality Franchising, LLC

### Notes to Financial Statements (continued)

#### **8. Commitments and Contingencies (continued)**

##### **Other**

On April 16, 2003, the Company's Parent entered into a Commercial Card Program Master Agreement (the Master Agreement) with Chase Manhattan Bank. Under the Master Agreement, the Company's Parent has issued credit cards to its employees for use when purchasing goods or services in the normal course of business. The Company has guaranteed the payment of all interest, principal, fees, and expenses owed by its Parent in connection with the Master Agreement. No amounts were provided under this guarantee at December 31, 2020 and 2019.

#### **9. Subsequent Events**

All subsequent events through March 29, 2020, the date these financial statements were available for issuance, have been evaluated.

# EXHIBIT G2

**THESE FINANCIAL STATEMENTS ARE PREPARED WITHOUT AN AUDIT. PROSPECTIVE FRANCHISEES OR SELLERS OF FRANCHISES SHOULD BE ADVISED THAT NO CERTIFIED PUBLIC ACCOUNTANT HAS AUDITED THESE FIGURES OR EXPRESSED HIS OR HER OPINION WITH REGARD TO THEIR CONTENT OR FORM.**

**Six Continents Hotels, Inc.**  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

**Consolidated Balance Sheets**  
(In Thousands)

	<b>(Unaudited)</b>	
	<b>June 30, 2021</b>	December 31, 2020
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 39,224	\$ 34,093
Restricted cash	2,177	2,188
Accounts receivable, less allowance for doubtful accounts of \$88,370 and \$86,637 at June 30, 2021 and December 31, 2020, respectively	247,999	183,831
Receivables from affiliates	172,349	56,207
Pension assets	250	250
Contract assets	11,696	11,664
Contract costs	2,748	2,886
Assets classified as held for sale	46,523	-
Prepaid and other current assets	51,487	72,231
<b>Total current assets</b>	<b>574,453</b>	<b>363,350</b>
Investments in unconsolidated entities	197,533	202,345
Deferred compensation plan investments	247,958	235,682
Property and equipment, net	646,826	767,281
Operating lease right-of-use assets, net	65,185	68,812
Goodwill and intangible assets, net	1,716,047	1,718,279
Contract assets	160,747	155,842
Contract costs	38,298	37,688
Other assets	2,134	10,426
	<b>\$ 3,649,181</b>	<b>\$ 3,559,705</b>
<b>Liabilities and Parent's investment</b>		
Current liabilities:		
Accounts payable	\$ 77,717	\$ 79,144
Accrued expenses	149,793	104,227
Loyalty program deferred revenue	438,892	376,433
Other deferred revenue	45,292	46,558
Accrued pension cost	4,929	4,929
Payables to affiliates	94,002	102,343
Operating lease liabilities	9,447	10,571
Liabilities classified as held for sale	2,670	-
Other payables	38,314	31,873
<b>Total current liabilities</b>	<b>861,056</b>	<b>756,078</b>
Capital lease obligation	249,488	246,486
Operating lease liabilities	101,377	108,123
Accrued pension cost	67,351	67,350
Deferred compensation plan liabilities	247,958	235,682
Noncurrent deferred tax liabilities, net	377,924	376,805
Loyalty program deferred revenue	841,731	869,450
Other deferred revenue	184,731	190,122
Other long-term liabilities	262	2,582
<b>Total liabilities</b>	<b>2,931,878</b>	<b>2,852,678</b>
Parent's investment	717,303	707,027
	<b>\$ 3,649,181</b>	<b>\$ 3,559,705</b>

**Six Continents Hotels, Inc.**  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

**Consolidated Statements of Income (unaudited)**  
*(In Thousands)*

	<b>Six Months Ended June 30, 2021</b>	<b>Six Months Ended June 30, 2020</b>
<b>Revenues</b>		
Fee business	\$ 272,703	\$ 203,274
Hotel operations	16,650	15,741
Other	133,358	95,726
System Fund revenues	378,651	384,918
Reimbursed costs from managed and franchised properties	170,742	302,133
Total revenues	<b>972,104</b>	<b>1,001,792</b>
<b>Operating expenses</b>		
Hotel operations	1,182	4,419
Bad debt expense	3,102	15,318
Property and other taxes, insurance, and leases	22,283	14,454
Maintenance and repairs	23,937	29,294
General and administrative	195,325	232,864
Mark-up cost charged by affiliated companies	5,159	6,449
Allocation of expenses to affiliated companies	(72,519)	(110,047)
Depreciation and amortization of software	26,425	26,445
Amortization of finite-lived intangible assets	2,237	2,056
Impairment loss	24,698	74,229
System Fund expenses	434,310	436,292
Costs reimbursed by managed and franchised properties	170,742	302,133
Total operating expenses	<b>836,881</b>	<b>1,033,906</b>
Operating income (loss)	<b>135,223</b>	<b>(32,114)</b>
Interest expense – external	(11,967)	(11,835)
Interest income from affiliates, net	7,203	21,237
Interest income – external	2,656	1,193
Dividend income	–	863
Loss from equity method investments	(3,349)	(2,560)
Other gain	7	351
Foreign transaction (loss) gain	(2,150)	1,566
Income (loss) before income taxes	<b>127,623</b>	<b>(21,299)</b>
Provision for income taxes	3,857	3,088
Net income (loss)	<b>\$ 123,766</b>	<b>\$ (24,387)</b>

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Consolidated Statements of Changes in Parent's Investment (unaudited)  
(In Thousands)

	2021	2020
<b>Balance at January 1</b>	<b>\$ 707,027</b>	<b>\$ 1,001,127</b>
Net income	123,766	(24,387)
Other comprehensive loss	7,741	(854)
Share-based payment compensation	11,900	3,193
Change in balances with affiliates offset against Parent's Investment	(133,131)	283,896
Investment in IHG International Partnership	-	(387,000)
<b>Balance at June 30</b>	<b>\$ 717,303</b>	<b>\$ 875,975</b>

**Six Continents Hotels, Inc.**  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

**Basis of Preparation**

The following caveats apply to the attached set of SCH Inc. accounts for the six month period to June 30, 2021:

- 1) The accounts are unaudited.
- 2) The accounts have not been reviewed by IHG senior management.
- 3) The accounts have not been adjusted for a number of items, including the following:
  - Tax provision
  - Pension adjustments
  - Share based payments
  - Income/loss for equity method investments

It follows therefore that a completed set of audited accounts for the six months to June 30, 2021 prepared in full compliance with US GAAP could be materially different to those presented on pages 1 to 3 of this document.

CONSOLIDATED FINANCIAL STATEMENTS

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental  
Hotels Group PLC)  
Years Ended December 31, 2020, 2019 and 2018  
With Report of Independent Auditors

**Six Continents Hotels, Inc.**  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

**Consolidated Financial Statements**

Years Ended December 31, 2020, 2019 and 2018

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## Report of Independent Auditors

The Board of Directors and Stockholders  
Six Continents Hotels, Inc.

We have audited the accompanying consolidated financial statements of Six Continents Hotels, Inc. (the Company), which comprise the consolidated balance sheets as of December 31, 2020 and 2019, and the related consolidated statements of net income, comprehensive statements of income, changes in Parent's Investment, and cash flows for the three years in the period ended December 31, 2020, and the related notes to the consolidated financial statements.

### Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in conformity with U.S. generally accepted accounting principles; this includes the design, implementation and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free of material misstatement, whether due to fraud or error.

### Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates, made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

### Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Six Continents Hotels, Inc. at December 31, 2020 and 2019, and the consolidated results of its operations, and its cash flows for each of the three years in the period ended December 31, 2020, in conformity with U.S. generally accepted accounting principles.

March 29, 2021

**Six Continents Hotels, Inc.**  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

**Consolidated Balance Sheets**  
(In Thousands)

	<b>December 31</b>	
	<b>2020</b>	<b>2019</b>
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 34,093	\$ 52,169
Restricted cash	2,188	2,393
Accounts receivable, less allowance for doubtful accounts of \$86,637 and \$47,019 at December 31, 2020 and 2019, respectively	183,831	339,415
Receivables from affiliates	56,207	125,538
Pension assets (Note 11)	250	250
Contract assets	11,664	10,001
Contract costs	2,886	2,905
Current investments in unconsolidated entities	–	1,000
Prepaid and other current assets	72,231	81,709
Total current assets	363,350	615,380
Investments in unconsolidated entities (Note 12)	202,345	250,609
Deferred compensation plan investments	235,682	217,721
Property and equipment, net (Note 5)	767,281	844,169
Operating lease right-of-use assets, net (Note 8)	68,812	129,868
Goodwill and intangible assets, net (Note 7)	1,718,279	1,721,823
Contract assets	155,842	138,298
Contract costs	37,688	36,981
Other assets	10,426	92,610
	\$ 3,559,705	\$ 4,047,459
<b>Liabilities and Parent's Investment</b>		
Current liabilities:		
Accounts payable	\$ 79,144	\$ 78,119
Accrued expenses	104,227	228,945
Loyalty program deferred revenue	376,433	475,831
Other deferred revenue	46,558	44,554
Accrued pension cost (Note 11)	4,929	4,996
Payables to affiliates	102,343	114,535
Operating lease liabilities (Note 8)	10,571	15,236
Other payables	31,873	58,610
Total current liabilities	756,078	1,020,826
Capital lease obligations (Note 8)	246,486	240,618
Operating lease liabilities (Note 8)	108,123	143,771
Accrued pension cost (Note 11)	67,350	65,945
Deferred compensation plan liabilities	235,682	217,721
Noncurrent deferred tax liabilities, net (Note 13)	376,805	398,069
Loyalty program deferred revenue	869,450	756,545
Other deferred revenue	190,122	202,577
Other long-term liabilities	2,582	260
Total liabilities	2,852,678	3,046,332
Parent's Investment	707,027	1,001,127
	\$ 3,559,705	\$ 4,047,459

See accompanying notes.

**Six Continents Hotels, Inc.**  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

**Consolidated Statements of Net Income**  
(In Thousands)

	Year Ended December 31		
	2020	2019	2018
<b>Revenues</b>			
Fee business	\$ 413,823	\$ 765,458	\$ 755,973
Hotel operations	26,242	113,099	109,420
Other	220,076	246,934	250,563
System Fund revenues	768,997	1,383,590	1,240,083
Reimbursed costs from managed and franchised properties	498,439	995,294	998,514
Total revenues	<b>1,927,577</b>	<b>3,504,375</b>	<b>3,354,553</b>
<b>Operating expenses</b>			
Hotel operations	3,398	12,816	12,917
Bad debt expense (Note 2)	19,996	3,236	4,369
Property and other taxes, insurance and leases	70,907	67,977	63,390
Maintenance and repairs	56,037	47,964	47,491
Restructuring costs (Note 3)	11,261	6,940	34,602
General and administrative	412,148	714,469	754,460
Mark-up cost charged by affiliated companies	14,219	16,957	17,923
Allocation of expenses to affiliated companies	(258,389)	(347,262)	(347,556)
Depreciation and amortization of software	59,039	60,343	63,149
Amortization of finite-lived intangible assets	4,431	4,199	3,590
Impairment loss (Note 4)	145,770	-	-
System Fund expenses	871,456	1,435,316	1,389,721
Costs reimbursed by managed and franchised properties	498,439	995,294	998,518
Total operating expenses	<b>1,908,712</b>	<b>3,018,249</b>	<b>3,042,574</b>
Operating income	<b>18,865</b>	486,126	311,979
Interest expense – external	(23,843)	(23,539)	(23,035)
Interest income from affiliates, net	22,537	83,813	96,197
Interest income – external	3,873	2,640	2,122
(Loss) income from equity method investments (Note 12)	(14,013)	(1,593)	17,094
Gain on sale of investment, net (Note 12)	-	-	678
Other income (loss)	2,549	82	(2,556)
Foreign transaction loss	(2,831)	(2,526)	(3,074)
Income before income taxes	<b>7,137</b>	545,003	399,405
Provision for income taxes (Note 13)	<b>20,936</b>	119,101	121,633
Net income	<b>\$ (13,799)</b>	<b>\$ 425,902</b>	<b>\$ 277,772</b>

See accompanying notes.

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Consolidated Statements of Comprehensive Income  
(In Thousands)

	Year Ended December 31		
	2020	2019	2018
Net income	\$ (13,799)	\$ 425,902	\$ 277,772
Other comprehensive income, net of tax:			
Currency translation adjustments	213	195	(825)
Unrealized gains (losses) on securities	14,007	22,960	(15,096)
Pension liability adjustments	(1,885)	(3,628)	34,088
Total other comprehensive income, net of tax	12,335	19,527	18,167
Comprehensive income	\$ (1,464)	\$ 445,429	\$ 295,939

*See accompanying notes.*

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Consolidated Statements of Changes in Parent's Investment  
(In Thousands)

Balance at December 31, 2017	\$ 1,169,709
Net income	277,772
Other comprehensive income	18,167
Share-based payment compensation	16,338
Change in balances with affiliates offset against Parent's Investment	(479,631)
Capital contributions	40,713
Capital contributions related to income tax provisions	86,636
Balance at December 31, 2018	<u>1,129,704</u>
Net income	425,902
Other comprehensive income	19,527
Share-based payment compensation	17,453
Acquisition of companies under common control	(399,000)
Change in balances with affiliates offset against Parent's Investment	(108,672)
Investment in IHG International Partnership	(39,241)
Cancellation of intercompany balance included in Parent's Investment	21,082
Recognition of deferred taxes on partnership interests and other adjustments	(179,703)
Capital contributions related to income tax provisions	114,075
Balance at December 31, 2019	<u>1,001,127</u>
Net income	(13,799)
Other comprehensive income	12,335
Share-based payment compensation	11,180
Change in balances with affiliates offset against Parent's Investment	44,440
Investment in IHG International Partnership (Note 14)	(387,000)
Capital contributions related to income tax provisions	38,744
Balance at December 31, 2020	<u>\$ 707,027</u>

*See accompanying notes.*

**Six Continents Hotels, Inc.**  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

**Consolidated Statements of Cash Flows**  
(In Thousands)

	Year Ended December 31		
	2020	2019	2018
<b>Operating activities</b>			
Net income	\$ (13,799)	\$ 425,902	\$ 277,772
Adjustments to reconciled net income to net cash provided by operating activities:			
Depreciation and amortization	63,470	64,542	66,739
System Fund depreciation and amortization	54,630	47,781	41,878
Impairment loss	145,770	–	–
System Fund impairment loss	41,551	–	–
Gain on sale of investment	–	–	(678)
Share-based compensation	11,180	17,453	16,338
Equity in income of equity method investments	14,013	1,593	(17,094)
Contract assets deduction in revenue	11,695	9,457	7,625
Distributions from investments in unconsolidated entities	848	3,358	6,308
Other adjustments	17,617	31,205	(20,318)
Deferred income taxes	(25,057)	(3,929)	22,305
Changes in operating assets and liabilities:			
Accounts receivable	155,584	(21,020)	(17,970)
Contract costs	(697)	(3,785)	(2,998)
Prepaid and other assets	9,431	(2,896)	(12,267)
Operating lease right-of-use assets	11,094	10,799	–
Accounts payable and accrued expenses	(137,400)	(18,819)	85,553
Loyalty program deferred revenue	13,507	51,800	123,274
Other deferred revenue	(10,013)	(15,202)	4,595
Receivables from and payables to affiliates	98,649	123,435	19,632
Operating lease liabilities	(40,272)	(12,881)	–
Contract acquisition costs, net of repayments	(35,726)	(27,911)	(30,017)
Net cash provided by operating activities	<b>386,075</b>	680,882	570,677
<b>Investing activities</b>			
Purchases of property and equipment	(59,229)	(127,910)	(138,751)
Landlord contributions to property and equipment	–	–	7,954
Net proceeds from disposal of property and equipment	–	534	–
Contributions to investments in unconsolidated entities	(1,667)	(10,245)	(19)
Loan advances to investments in unconsolidated entities	–	–	(2,212)
Loan repayment from investments in unconsolidated entities	–	–	2,249
Proceeds from disposals of investments	500	500	656
Cash paid for security deposits	–	–	(25,000)
Payments for brand intangible	(1,973)	(5,000)	(4,515)
Distributions from investments in unconsolidated entities	5,357	–	32,345
Net cash used in investing activities	<b>(57,012)</b>	(142,121)	(127,293)
<b>Financing activities</b>			
Net settlements of Parent's Investment	(347,344)	(551,664)	(454,556)
Net cash used in financing activities	<b>(347,344)</b>	(551,664)	(454,556)
Net decrease in cash and cash equivalents and restricted cash	<b>(18,281)</b>	(12,903)	(11,172)
Cash and cash equivalents and restricted cash at beginning of year	54,562	67,465	78,637
Cash and cash equivalents and restricted cash at end of year	<b>\$ 36,281</b>	\$ 54,562	\$ 67,465
<b>Supplemental disclosure of noncash investing and financing activities</b>			
Cancelation of intercompany balances included in Parent's Investment	\$ –	\$ 21,082	\$ –
Capital contributions related to income tax provisions	<b>\$ 38,744</b>	\$ 114,075	\$ 86,636
<b>Supplemental disclosure</b>			
Cash paid for interest	<b>\$ 18,044</b>	\$ 18,175	\$ 18,133
Cash paid for interest from affiliates	<b>\$ 41,320</b>	\$ 50,975	\$ 47,955

See accompanying notes.

**Six Continents Hotels, Inc.**  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

**Notes to Consolidated Financial Statements**

December 31, 2020

**1. Description of the Business and Summary of Significant Accounting Policies**

**Organization**

Six Continents Hotels, Inc. (the Company) is a Delaware company and is an indirect subsidiary of InterContinental Hotels Group PLC (IHG) (the Parent) through InterContinental Hotels Limited (UK), Six Continents Limited (UK), Six Continents Hotels International Limited (UK), InterContinental (PB) 3 Limited (UK), InterContinental Hotels Group Operating Corp. (Delaware), IHC United States (Holdings) Corp. (Delaware), IHC Inter-Continental (Holdings) Corp. (Delaware), and Inter-Continental Hotels Corporation (Delaware), its immediate parent. The Company's business comprises the ownership, leasing, managing and franchising of hotels and resorts primarily under the following brands: Crowne Plaza, Holiday Inn, Holiday Inn Express, Staybridge Suites, Candlewood Suites, Hotel Indigo, EVEN Hotels, Kimpton Hotels & Restaurants, InterContinental Hotels & Resorts, avid hotels, Atwell Suites and voco. The Company's principal assets are trademarks, franchise agreements, owned and leased hotels, management agreements, and joint venture agreements. The InterContinental Hotels & Resorts brand is owned by the Company's immediate parent, Inter-Continental Hotels Corporation (Delaware), which licenses the InterContinental Hotels & Resorts brand to one of the Company's subsidiaries, Holiday Hospitality Franchising, LLC. The avid hotels and Atwell Suites brands are owned by Six Continents Limited, which licenses the brands to the Company. The Company in turn sub-licenses the avid hotels and Atwell Suites brands to its subsidiary, Holiday Hospitality Franchising, LLC.

**Basis of Presentation**

The Company is a wholly owned subsidiary of the Parent. Accordingly, the Parent's investment in the Company (Parent's Investment on the consolidated balance sheets) is presented in lieu of stockholders' equity. All significant intercompany transactions and balances have been eliminated. The financial statements are not necessarily indicative of the financial position, results of operations, and cash flows that might have occurred had the Company been a stand-alone entity not integrated into the Parent's other operations.

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

The financial statements have been prepared in accordance with generally accepted accounting principles in the United States, using the accrual basis of accounting. All assets, liabilities, revenues and expenses in the accompanying consolidated financial statements have been derived from the separate records maintained by the Company except for the allocation of certain expenses incurred by affiliated companies (see Note 14) and the allocation of certain expenses from the Parent (for example, pension and share-based compensation costs and liabilities). In certain cases, allocations do not represent the costs that would be or would have been incurred if the Company were a stand-alone operation.

The accompanying consolidated financial statements reflect all normal and recurring adjustments necessary to present fairly the financial position at December 31, 2020 and 2019, and the results of operations and cash flows for each of the three years in the year ended December 31, 2020.

**Principles of Consolidation**

The accompanying financial statements include the accounts of the Company and its wholly-owned and majority owned subsidiaries. Investments in companies, partnerships and joint ventures in which the Company has an ownership interest and exercises significant influence are accounted for using the equity method of accounting. Under the equity method of accounting, the Company's investment is recorded at cost and adjusted by the Company's share of profits and losses. All significant intercompany accounts and transactions have been eliminated.

An impairment loss is recognized in relation to investments accounted for under the equity method of accounting when it is determined that there has been an 'other than temporary' decline in the investment's estimated fair value compared with its carrying value.

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

**Parent's Investment**

The Company is formed as a Corporation, in which the Parent wholly-owns all ten shares outstanding. Certain intercompany balances with the Parent and subsidiaries of the Parent have been included in Parent's Investment in the accompanying consolidated balance sheets (see Note 14). These balances are typically long-term in nature and interest-bearing. Receivables from and payables to affiliated companies that are considered to be of a working capital nature, including inter-region chargebacks, are shown in the accompanying consolidated balance sheets as current assets (receivables from affiliates) and current liabilities (payables to affiliates). These working capital amounts are generally non-interest-bearing.

The Company holds a 41.0% interest in an affiliate, IHG International Partnership ("the Partnership"). The Company does not have significant influence over the Partnership and therefore records the investment at cost. The investment is an entity under common control within the IHG Group and, as such, the investment is included at cost within Parent's Investment in the consolidated balance sheets.

Under an intercompany agreement dated March 31, 2014, it was agreed that the Company's current income tax provisions as computed for these Consolidated Financial Statements would be treated as non-shareholder capital contributions and shown as a component of the Parent's Investment. In accordance with the agreement, the current year income tax provision of \$38.7 million (see Note 13) has been recorded as a non-shareholder capital contribution disclosed as 'Capital contributions related to income tax provisions' within the consolidated statement of changes in Parent's Investment for the year ended December 31, 2020.

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

**Variable Interest Entities**

If an entity is determined to be a variable interest entity (VIE), it must be consolidated by the “primary beneficiary”, being the enterprise that has the power to direct the activities of the VIE that most significantly impact the entity’s economic performance, and the obligation to absorb losses of the entity that could potentially be significant to the VIE or the right to receive benefits from the entity that could potentially be significant to the VIE.

The Company’s evaluation as it relates to its various forms of arrangements focuses primarily on a review of the key terms of its equity investment agreements, management and franchise agreements to determine if any of these arrangements qualify as VIEs. In general, a VIE represents a structure used for business purposes that either does not have equity investors with voting rights, has investors with disproportionately few voting rights, or that has equity investors that do not provide sufficient financial resources for the entity to support its activities.

**Cash and Cash Equivalents**

Cash comprises cash on hand and demand deposits. Cash equivalents are short-term highly liquid investments with an original maturity of three months or less that are readily convertible to cash and subject to insignificant risk of changes in value.

**Restricted Cash**

Restricted cash comprises funds ring-fenced to satisfy insurance claims.

**Accounts Receivable**

Trade accounts receivable arise from sales to a large number of customers. Accounts receivable are recorded at their original amount less an allowance for any doubtful amounts. An allowance is made when collection of the full amount is no longer considered probable; in particular by applying the Company’s historical policy, supported by the Company’s prior experience, and by identifying hotel owners subject to payment plans or identified as distressed and applying a percentage allowance to all outstanding receivables. The Company extends credit generally without requiring collateral.

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

**Property and Equipment**

Property and equipment are stated at cost less accumulated depreciation and any impairment charges. Expenditures for replacements and major improvements are capitalized and depreciated.

Repair and maintenance costs are expensed as incurred. Land is not depreciated. Depreciation is recognized using the straight-line method over the estimated useful lives of the assets: buildings – 30 to 50 years, and furniture and equipment – 3 to 25 years. Leasehold improvements are amortized over the shorter of their estimated useful lives or the remaining lease term.

**Sales of Real Estate**

Sales of real estate are recorded when the risks and rewards of ownership have transferred to the purchaser, generally at the time of closing and title changes hands.

**Recoverability of Property and Equipment**

The Company evaluates property and equipment and other long-lived assets for recoverability when changes in circumstances indicate the carrying value may not be recoverable; for example, when there are material adverse changes in projected revenues or expenses, significant underperformance relative to historical or projected operating results, and significant negative industry or economic trends. If indicators of impairment are present, estimated undiscounted future cash flows from related operations are compared with the current carrying values of the long-lived assets. If these assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds their fair value. Fair value is based on estimated discounted future cash flows.

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

**Assets Held for Sale and Discontinued Operations**

Long-lived assets are classified as “held-for-sale” when all of the following criteria are met:

- Management commits to a plan to sell a property;
- It is unlikely that the disposal plan will be significantly modified or discontinued;
- The property is available for immediate sale in its present condition;
- Actions required to complete the sale of the property have been initiated;
- Sale of the property is probable and it is expected that the completed sale will occur within one year; and
- The property is actively being marketed for sale at a price that is reasonable given its current market value.

For properties that meet all of the held-for-sale criteria, the asset is reclassified to held-for-sale and recorded at the lower of cost or fair market value less cost to sell. Subsequent to the date an asset is classified as held-for-sale, depreciation expense is not recorded.

If a property ceases to meet the held-for-sale criteria, it is reclassified back into property and equipment at the lower of the fair value or the carrying value, less the depreciation not recognized while the property was classified as held-for-sale (catch up depreciation). The additional depreciation is charged to the consolidated income statement in the year the property is reclassified into property and equipment.

**Software**

The Company capitalizes certain development costs associated with internal-use software, in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 350, *Internal-use software*, including external direct costs of materials and services and payroll costs for employees devoting time to a specially identified software project. Costs incurred during the preliminary project stage, as well as costs for maintenance and training, are expensed as incurred.

Capitalized software, which is included in property and equipment, is amortized to expense generally over a period of three to ten years depending on the useful life of the related asset.

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

The Company annually evaluates its software for recoverability and reassesses the ongoing value of its technology platform.

**Deferred Compensation Plan Investments**

The Company provides certain compensation arrangements in the United States through a Rabbi trust. The Rabbi trust is considered a variable interest entity, which the Company consolidates because the Company is its primary beneficiary. The marketable securities held by the trust are recorded at market value in accordance with ASC 320, *Investments in debt and equity securities*, and as such, unrealized gains and losses are reported in other comprehensive income except for other than temporary movements which are recognized in the consolidated statements of net income. Unrealized gains (losses) of \$14.0 million, \$23.0 million and \$(15.1) million net of tax, were recorded in other comprehensive income for the year ended December 31, 2020, 2019 and 2018, respectively.

**Investments**

Available-for-sale investments are carried at fair value with adjustments to fair value included in the consolidated statements of comprehensive income. The fair value of investments quoted on exchanges is based on market prices for the last trading day of the year. Non-quoted investments are carried at cost. In assessing the potential impairment of investments, the Company considers whether there are identifiable events or circumstances that may have a significant adverse effect on the value of the investment.

The Company did not maintain any securities for trading or any held-to-maturity investments for all years presented.

**Leases**

On inception of a contract, the Company assesses whether it contains a lease. A contract contains a lease when it conveys the right to control the use of an identified asset for a period of time in exchange for consideration. The company classifies a lease as a capital lease if it meets certain criteria or as an operating lease when it does not.

Six Continents Hotels, Inc.  
(A Wholly Owned Subsidiary of InterContinental Hotels Group PLC)

Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

Lease contracts may contain both lease and non-lease components. The Company allocates payments in the contract to the lease and non-lease components based on their relative stand-alone prices and applies the lease accounting model only to lease components.

Assets held under capital leases are capitalized at the inception of the lease within property and equipment, with a corresponding liability being recognized for the fair value of the leased asset or, if lower, the present value of the minimum lease payments. Lease payments are apportioned between the reduction of the lease liability and interest in the consolidated statements of net income to achieve a constant rate of interest on the remaining balance of the liability. Assets held under capital leases are amortized over the shorter of the estimated useful life of the asset or the lease term.

For assets held under operating leases, the right to use the asset and the obligation under the lease to make payments are recognized on the consolidated balance sheets as a right-of-use asset and a lease liability.

The right-of-use asset recognized at lease commencement includes the amount of lease liability recognized, initial direct costs incurred, and lease payments made at or before the commencement date, less any lease incentives received. Right-of-use assets are depreciated over the shorter of the asset's estimated useful life and the lease term. Right-of-use assets are also adjusted for any remeasurement of lease liabilities and are subject to impairment testing.

Asset groups of long-lived assets are re-assessed when there are changes in facts and circumstances in the interdependency of cash flows. Where there are indicators of impairment, the recoverability of the related asset group is reviewed by comparing the estimated future undiscounted cash flows to the net carrying value of the asset group. If the asset group is considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the asset group exceeds its fair value. Fair value is based on estimated discounted cash flows. The impairment loss is allocated among the assets in the asset group pro rata based on the relative carrying value of the respective assets.

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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

The lease liability is initially measured at the present value of the lease payments to be made over the lease term. The lease payments include fixed payments (including ‘in-substance fixed’ payments) and variable lease payments that depend on an index or a rate, less any lease incentives receivable. In-substance fixed payments are payments that may, in form, contain variability but that, in-substance, are unavoidable. In calculating the present value of lease payments, the Company uses its incremental borrowing rate at the lease commencement date if the interest rate implicit in the lease is not readily determinable.

Upon adoption of ASU 2016-02, *Leases (Topic 842)*, the Company elected to use the remaining lease term as of January 1, 2019 in its estimation of the applicable discount rate for leases that were in place at adoption. For the initial measurement of the lease liability for leases commencing after January 1, 2019, the discount rate as of the commencement date of the lease has been used, incorporating the entire lease term.

The lease term includes periods subject to extension options which the Company is reasonably certain to exercise and excludes the effect of early termination options where the Company is not reasonably certain that it will exercise the option. Minimum lease payments include the cost of a purchase option if the Company is reasonably certain it will purchase the underlying asset after the lease term.

After the commencement date, the amount of lease liabilities is increased to reflect the accretion of interest and reduced for lease payments made. In addition, the carrying amount of lease liabilities is re-measured if there is a modification, a change in the lease term, a change in the ‘in-substance fixed’ lease payments or as a result of a rent review or change in the relevant index or rate.

For operating leases, lease expense related to fixed payments is recognized on a straight-line basis over the lease term within property and other taxes, insurance and leases in the consolidated statements of net income.

Variable lease payments that do not depend on an index or a rate are recognized as expense in the period over which the event or condition that triggers the payment occurs.

The Company has opted not to apply the lease accounting model to leases which have a term of less than twelve months. Costs associated with these leases are recognized as an expense on a straight-line basis over the lease term.

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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

Sub-leases of the Company's assets are normally classified as operating leases as the risks and rewards of ownership are not substantially transferred to the sub-lessee. Rental income arising is accounted for on a straight-line basis in the consolidated statements of net income.

**Goodwill and Intangible Assets with Indefinite Lives**

Goodwill and intangible assets with indefinite lives (trademarks) are not amortized but are tested for impairment at least annually and whenever events or circumstances occur to indicate that these intangible assets may be impaired.

Goodwill is tested for impairment on an annual basis using a two-step process. The first step requires the comparison of the fair value of reporting units to their carrying value. If the fair value of the reporting unit exceeds its carrying value, then no further testing is required. If the carrying value of a reporting unit exceeds its fair value, a second step is required to determine the amount of impairment charge, if any. An impairment charge is recognized if the carrying value of a reporting unit's goodwill exceeds the fair value of that goodwill.

The Company has one reporting unit reflecting the level at which results are reviewed and the similarity (considered for both economic and other qualitative factors) between the underlying components.

Intangible assets with indefinite lives are first assessed based on qualitative factors to determine if a quantitative impairment test is necessary. Further testing is only carried out when it is considered more likely than not that its fair value is less than its carrying amount. If the carrying amount exceeds the fair value, an impairment loss is recognized in the consolidated statements of net income to the amount of the difference.

**Intangible Assets with Finite Lives**

The cost of acquiring management agreements as part of a business combination is capitalized and amortized on a straight-line basis over the period of the management agreement, including any extension periods at the Company's option.

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

The Company evaluates the carrying value of these assets for impairment whenever events or changes in circumstances indicate that the carrying value may not be recoverable. If the estimated undiscounted cash flows are less than carrying value, an impairment loss is charged to the consolidated income statement based on the difference between the carrying value and the estimated fair value. Fair value is based on estimated discounted future cash flows.

**Revenue Recognition**

Revenue is recognized at an amount that reflects the consideration to which the Company expects to be entitled in exchange for transferring goods or services to a customer. Revenue is recorded excluding taxes.

***Fee business revenue***

Under franchise agreements, the Company's performance obligation is to provide a license to use the Company's trademarks and other intellectual property. Franchise royalty fees are typically charged as a percentage of hotel gross rooms revenues and are treated as variable consideration, recognized as the underlying hotel revenues occur.

Under management agreements, the Company's performance obligation is to provide hotel management services and a license to use the Company's trademarks and other intellectual property. Base and incentive management fees are typically charged. Base management fees are typically a percentage of total hotel revenues and incentive management fees are generally based on the hotel's profitability or cash flows. Both are treated as variable consideration. Like franchise fees, base management fees are recognized as the underlying hotel revenues occur. Incentive management fees are recognized over time when it is considered highly probable that the related performance criteria for each annual period will be met, provided there is no expectation of a subsequent reversal of the revenue.

Application and re-licensing fees are not considered to be distinct from the franchise performance obligation and are recognized over the life of the related contract.

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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

The number of franchised hotels in operation during the year ended December 31, 2020 is as follows:

Franchised hotels at December 31, 2019	3,980
New franchises	163
Franchises removed	(64)
Franchised hotels at December 31, 2020	<u>4,079</u>

***Revenue from hotel operations***

At its owned and leased hotels, the Company's performance obligation is to provide accommodation and other goods and services to guests. Revenue includes rooms revenue and food and beverage sales, which are recognized when the rooms are occupied and food and beverages are sold. Guest deposits received in advance of hotel stays are recorded as deferred revenue on the consolidated balance sheets. They are recognized as revenue along with any balancing payment from the guest when the associated stay occurs, or are returned to the customer in the event of a cancellation.

***Other revenue***

Franchise and management agreements also contain a promise to provide technology support and network services to hotels. A monthly technology fee, based on either gross rooms revenue or the number of rooms in the hotel, is charged and recognized over time as these services are delivered. Technology fee income is included in other revenue. Other revenue also includes license and service fee income from affiliates which are recognized over time.

***System Fund and other co-brand revenues***

The Company operates a System Fund (the Fund) to collect and administer cash assessments from hotel owners for the specific purpose of use in marketing, the Guest Reservation System and hotel loyalty program. The Fund also benefits from proceeds from the sale of loyalty points under third-party co-branding arrangements. The Fund is not managed to generate a profit or loss for the Company over the longer term, but is managed for the benefit of the IHG System (hotels/rooms operating under franchise and management agreements together with IHG owned, leased and managed hotels/rooms, globally) with the objective of driving revenues for the hotels in the System.

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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

Under both franchise and management agreements, the Company is required to provide marketing and reservations services, as well as other centrally managed programs. These services are provided by the Fund and are funded by assessment fees. Costs are incurred and allocated to the Fund in accordance with the principles agreed with the IHG Owners Association (which represents the interests of more than 4,500 hotel owners and operators worldwide). The Company acts as principal in the provision of the services as the related expenses primarily comprise payroll and marketing expenses under contracts entered into by the Company. The assessment fees from hotel owners are generally levied as a percentage of hotel revenues and are recognized as those hotel revenues occur.

Certain travel agency commission revenues within the Fund are recognized on a net basis, where it has been determined that the Company is acting as agent.

In respect of the loyalty program (IHG Rewards), the related performance obligation is to arrange for the provision of future benefits to members on consumption of previously earned reward points. Members have a choice of benefits: reward nights at an IHG hotel or other goods or services provided by third parties. Under its franchise and management agreements, the Company receives assessment fees based on total qualifying hotel revenue from IHG Rewards members' hotel stays.

The Company's performance obligation is not satisfied in full until the member has consumed the points at a participating hotel or selected a reward from a third party. Accordingly, loyalty assessments are deferred in an amount that reflects the stand-alone selling price of the future benefit to the member. Revenue is impacted by a "breakage" estimate of the number of points that will never be consumed. On an annual basis, the Company engages an external actuary who uses statistical formulae to assist in formulating this estimate, which is adjusted to reflect actual experience up to the reporting date.

As materially all of the points will be either consumed at IHG managed or franchised hotels owned by third parties, or exchanged for awards provided by third parties, the Company is deemed to be acting as agent on consumption and therefore recognizes the related revenue net of the cost of reimbursing the hotel or third party that is providing the benefit.

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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

Performance obligations under the Company's co-brand credit card agreements comprise:

- a) arranging for the provision of future benefits to members who have earned points or free night certificates;
- b) marketing services; and
- c) providing the co-brand partner with the right to access the loyalty program.

Revenue from a) and b) are reported within System Fund revenues. Prior to January 1, 2020, revenue from co-brand credit card agreements relating to the right to access the loyalty program was recorded within the System Fund. As of January 1, 2020, this revenue is recorded within fee business revenue.

Fees from these agreements comprise fixed amounts normally payable at the beginning of the contract, and variable amounts paid on a monthly basis. Variable amounts are typically based on the number of points and free night certificates issued to members and the marketing services performed by the Company. Total fees are allocated to the performance obligations based on their estimated stand-alone selling prices. Revenue allocated to marketing and licensing obligations is recognized on a monthly basis as the obligation is satisfied. Revenue relating to points and free night certificates is recognized when the member has consumed the points or certificates at a participating hotel or has selected a reward from a third party, net of the cost of reimbursing the hotel or third party that is providing the benefit.

Judgment is required in estimating the stand-alone selling prices which are based upon generally accepted valuation methodologies regarding the value of the license provided, and the number of points and certificates expected to be issued. However, the value of revenue recognized and the deferred revenue balance at the end of the year is not materially sensitive to changes in these assumptions.

***Cost reimbursements***

In a managed property, the Company acts as employer of the general manager and other employees at the hotel and is entitled to reimbursement of these costs. The performance obligation is satisfied over time as the employees perform their duties, consistent with when reimbursement is received. Reimbursements for these services are shown as revenue with an equal matching employee cost, with no profit impact. Certain other costs relating to both managed and franchised hotels are also contractually reimbursable to the Company and, where the Company is deemed to be acting as principal in the provision of the related services, the revenue and cost are shown on a gross basis.

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

***Contract assets***

Amounts paid to hotel owners to secure management and franchise agreements ('key money') are treated as consideration payable to a customer. A contract asset is recorded which is recognized as a deduction to fee business revenue over the initial term of the contract. These assets are presented as 'Contract assets' in the consolidated balance sheets.

Typically, contract assets are not financial assets as they represent amounts paid at the beginning of a contract, and so are tested for impairment based upon future cash flows. Contract assets are reviewed for impairment when events or changes in circumstances indicate that the carrying value may not be recoverable. If the estimated undiscounted cash flows are less than carrying value, an impairment loss is charged to the consolidated income statement based on the difference between the carrying value and the estimated fair value. Fair value is based on estimated discounted future cash flows.

In limited cases, the Company may provide performance guarantees to third-party hotel owners to secure management agreements. The expected value of payments under performance guarantees reduces the overall transaction price and is treated as a reduction to revenue over the life of the contract.

***Contract costs***

Certain costs incurred to secure management and franchise agreements, typically developer commissions, are capitalized and are amortized over the initial term of the related contract. These costs are presented as 'Contract costs' in the consolidated balance sheets.

Contract costs are reviewed for impairment when events or changes in circumstances indicate that the carrying value may not be recoverable. If the estimated undiscounted cash flows are less than carrying value, an impairment loss is charged to the consolidated income statement based on the difference between the carrying value and the estimated fair value. Fair value is based on estimated discounted future cash flows.

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

**Pension and Other Postretirement Benefits**

*Defined Benefit Plans*

The determination of the Company's obligation and expense for pension and other postretirement benefits is dependent on the selection of certain actuarial assumptions, as described in Note 11.

The Company defers actual results that differ from its assumptions and amortizes the difference over future periods. Therefore, the differences generally affect the recognized expense, recorded obligation and funding requirements in future periods. While the Company believes its assumptions are appropriate, significant differences in actual experience or significant changes in its assumptions may materially affect its pension and other postretirement benefit obligations and its future expenses.

*Defined Contribution Plans*

Expenses for defined contribution plans are charged to operations as payments become due.

**Income Taxes**

The Company records the amounts of deferred tax liabilities and assets for the future tax consequences of events that have been recognized in its financial statements on its Parent's tax returns. Deferred income taxes are recorded based on the differences between the financial statement and tax bases of assets and liabilities and the tax rates in effect when these differences are expected to reverse.

Deferred tax assets and liabilities are measured using enacted tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in earnings in the period when the new tax rate is enacted.

The Company reclassifies the amounts of taxes payable or refundable for the current year as non-shareholder capital contributions, which is shown as a component of the Parent's Investment.

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

The Company applies the provisions of ASC 740, *Accounting for Uncertainty in Income Taxes*, which prescribes criteria for the financial statement recognition and measurement of a tax position taken or expected to be taken in a tax return. Benefits resulting from uncertain tax positions that meet a “more likely than not” threshold at the effective date are recognized, based on measurement as the largest benefit which has a greater than fifty percent likelihood of being sustained upon examination by the tax authorities.

The Company recognizes interest and penalties relating to tax positions within income tax expense.

**Comprehensive Income**

Comprehensive income is the change in Parent’s Investment during the year that results from transactions with parties other than the Parent. Other comprehensive income (comprehensive income less net income) includes the effects of foreign currency translation, pension liability adjustments, and unrealized gains and losses on certain equity securities. The Company’s comprehensive income is presented on the consolidated statements of comprehensive income.

**Fair Value of Financial Instruments**

The aggregate fair value of cash and cash equivalents, accounts receivables, and accounts payable as of December 31, 2020, approximates their carrying value due to their relatively short-term nature.

**Foreign Currency Translation**

Balance sheet accounts are translated at the exchange rates in effect at each year end and income and expense accounts are translated at the weighted-average rates of exchange prevailing during the year. The national currencies of foreign operations are the functional currencies. Gains and losses from foreign exchange and the effect of exchange rate changes on intercompany transactions of a long-term investment nature are generally included in other comprehensive income. Gains and losses from foreign exchange rate changes related to intercompany receivables and payables of a working capital nature are reported separately on the consolidated statements of net income and amount to a net loss of \$2.8 million, \$2.5 million and \$3.1 million in the years ended December 31, 2020, 2019 and 2018, respectively.

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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

**Legal Contingencies**

The Company is subject to various legal proceedings and claims, the outcomes of which are subject to significant uncertainty. A loss contingency is accrued by way of a charge to income if it is probable that an asset has been impaired or a liability has been incurred and the amount of the loss can be reasonably estimated. Disclosure of a contingency is required if there is at least a reasonable possibility that a loss has been incurred. The Company evaluates, among other factors, the degree of probability of an unfavorable outcome and the ability to make a reasonable estimate of the amount of the loss. Changes in these factors could materially impact the Company's financial position or its results of operations.

**Use of Estimates**

The preparation of financial statements in conformity with generally accepted accounting principles in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reported year. Actual results could differ from those estimates.

**Impact of Recently Issued Accounting Pronouncements**

***Future Adoption of Accounting Standards***

In June 2016, the FASB issued ASU No. 2016-13, *Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments*, replacing the existing impairment model for most financial assets from an incurred loss impairment to a current expected credit loss model. This model requires an entity to recognize an impairment allowance equal to its current estimate of all contractual cash flows the entity does not expect to collect. The standard is effective for financial years beginning after 15 December 2022, but early adoption is permitted. The Company plans to adopt this ASU on January 1, 2023 and is currently evaluating the impact that the standard will have on its Consolidated Financial Statements.

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**1. Description of the Business and Summary of Significant Accounting Policies (continued)**

In August 2018, the FASB issued ASU No. 2018-15, *Intangibles – Goodwill and Other – Internal-use Software Subtopic 350-40): Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract*. This ASU aligns guidance for capitalizing implementation costs incurred in a cloud computing arrangement that is a service contract with guidance for capitalizing implementation costs to develop or obtain internal-use software. The standard is effective for financial years beginning after December 15, 2020, but early adoption is permitted. The Company plans to adopt this ASU on January 1, 2021 and is currently evaluating the impact that the standard will have on its Consolidated Financial Statements.

**2. Bad Debt Expense**

The operations of the Company have been severely impacted by the coronavirus (Covid-19) international pandemic. Occupancy levels have improved since the peak of the pandemic but remain significantly lower than prior years. As such, cash inflows to hotel owners have been reduced. The Company has undertaken a number of actions to support the liquidity of hotel owners, including the waiver of certain fees, extended credit terms and, where appropriate, the use of payment plans. In comparison to the prior year, the Company has experienced an increase in ‘days sales outstanding’ and a reduction in cash collection. These factors, taken together with limited forward visibility on the pace and scale of market recovery result in an increased level of uncertainty in calculating the allowance for doubtful debts.

The Company has charged a total bad debt expense of \$20.0m, \$3.2 million and \$4.4 million in the years ended December 31, 2020, 2019 and 2018, respectively. An additional \$23.9 million, \$11.2 million and \$10.5 million was recognized within System Fund expenses in the years ended December 31, 2020, 2019 and 2018, respectively. The net accounts receivable balance presented in the consolidated balance sheets could result in additional charges if amounts are ultimately found to be uncollectible, or a release from the allowance for doubtful accounts if collection rates improve.

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Notes to Consolidated Financial Statements (continued)

### 3. Restructuring Costs

Restructuring costs of \$11.3 million incurred in the year ended December 31, 2020 arise mainly from a reorganization completed in the year, reflecting the reassessment of near-term priorities and the resources needed to support reduced levels of demand. An additional \$19.6 million was charged to the System Fund and is included in 'System Fund expenses' on the consolidated statements of net income.

Restructuring costs of \$6.9 million and \$34.6 million (including \$24.7 million consultancy costs) incurred in the years ended December 31, 2019 and 2018, respectively, related to a comprehensive efficiency program to fund a series of new strategic initiatives to drive an acceleration in the Company's future growth. The program was completed in 2019 and no further restructuring costs related to this program were incurred in the year ended December 31, 2020. An additional \$25.6 million and \$41.0 million was charged to the System Fund in the years ended December 31, 2019 and 2018, respectively.

### 4. Impairment Loss

During 2020, Covid-19 has resulted in social distancing measures and travel restrictions coming into effect. Occupancy levels have dropped to historic lows during the 2020 financial year. Disruption to travel continues, with limited forward visibility on the pace and scale of market recovery.

The impact of this negative economic activity in 2020 was a trigger for an impairment of various non-current assets. The following impairment losses were recognized in the year ended December 31, 2020 (in thousands):

Investments in unconsolidated entities ( <i>Note 12</i> )	\$ 40,891
Property and equipment ( <i>Note 5</i> )	16,404
Operating lease right-of-use assets ( <i>Note 8</i> )	18,392
Contract assets	4,387
Other assets	65,696
	<u>\$ 145,770</u>

A further \$41.5 million impairment loss was recognized in System Fund expenses, comprising \$10.0 million in respect of property and equipment and \$31.5 million in respect of operating lease right-of-use assets.

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Notes to Consolidated Financial Statements (continued)

**4. Impairment Loss (continued)**

All significant contract assets were tested for impairment using cash flow projections at an individual property level. An impairment loss of \$4.4 million was recognized relating to key money payments on four individual properties.

At December 31, 2019, other assets included deposits of \$65.7 million made to Services Properties Trust (SVC) in connection with a portfolio of management agreements. The deposits were non-interest-bearing and repayable at the end of the management agreement terms. As a result of Covid-19 the deposits have been used to fund owner returns. The management agreements were terminated on November 30, 2020 and the deposits are not recoverable. Accordingly, the balance of \$65.7 million has been impaired in full.

**5. Property and Equipment**

Property and equipment which includes the hotels owned by the Company, related furnishings and capitalized software, is carried at cost less accumulated depreciation and impairment (if applicable), and consisted of the following at December 31, 2020 and 2019:

	<b>December 31</b>	
	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>	
Land	\$ 38,077	\$ 36,775
Building and improvements	132,769	126,219
Furniture, fixtures, and equipment (including computer software)	1,004,695	990,110
Assets held under capital leases	182,851	182,851
	<b>1,358,392</b>	1,335,955
Less accumulated depreciation and impairment	(591,111)	(491,786)
Property and equipment, net	<b>\$ 767,281</b>	\$ 844,169

Total depreciation expense was \$59.0 million, \$60.3 million and \$63.1 million for the years ended December 31, 2020, 2019 and 2018, respectively. Software amortization included in this expense for the years ended December 31, 2020, 2019 and 2018, was \$31.9 million, \$30.7 million and \$32.6 million, respectively. Additional depreciation expense of \$53.6 million, \$47.2 million, and \$41.4 million has been charged to the System Fund in the years ended December 31, 2020, 2019 and 2018, respectively, and is included in 'System Fund expenses' on the consolidated statements of net income.

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Notes to Consolidated Financial Statements (continued)

**5. Property and Equipment (continued)**

The net book value of capitalized internal-use software at December 31, 2020 and 2019 is \$471.3 million and \$511.7 million, respectively. The Company recognized capitalized interest expense of \$0.1 million, \$4.5 million and \$5.1 million associated to software development projects for the years ended December 31, 2020, 2019 and 2018, respectively. Individual software assets were reviewed for impairment during the year ended December 31, 2020, with \$4.2 million impairment loss charged to System Fund expenses relating to projects which are no longer expected to complete.

In August 2006, the Company entered into a 99-year capital lease on the InterContinental Hotel in Boston, Massachusetts, which is recorded in property and equipment on the consolidated balance sheets. Assets capitalized related to this lease were \$131.3 million and \$135.0 million, net of \$51.6 million and \$47.9 million in accumulated amortization, at December 31, 2020 and 2019, respectively. The total depreciation expense includes \$3.7 million in each of the years ended December 31, 2020, 2019 and 2018, for this asset. See Note 8 for further information relating to the capital lease obligation.

The following impairment losses were recorded in the year ended December 31, 2020 as a result of Covid-19:

An impairment charge of \$12.2 million (in addition, \$1.7 million was impaired in respect of a related operating lease right-of-use asset) was recorded in respect of one premium-branded hotel. The fair value was estimated by discounting projected cash flows (over a 10-year period) and the reversion of the property sale.

Impairment charges of \$2.2 million were also recognized in relation to two development land sites which were measured at fair value. The sites were appraised by a professional external valuer using comparable sales data.

Impairment charges of \$7.8 million were recognized in relation to property and equipment in the U.S. corporate headquarters (see Note 8 for further information). \$5.8 million of this impairment loss was attributed to the System Fund (and included in 'System Fund expenses' in the consolidated statements of net income) in line with existing principles for cost allocation relating to this facility.

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Notes to Consolidated Financial Statements (continued)

**6. Insurance Receivable, Net**

Insurance receivable, net, represents the cash surrender value of key man life insurance policies reduced by outstanding loan amounts. These key man life insurance policy provisions allow for the right to offset outstanding loan amounts against the proceeds received on maturity or cancellation of the policy. Accumulated cash surrender value amounts of \$28.4 million and \$27.3 million were reduced by outstanding loan amounts of \$27.5 million and \$26.4 million at December 31, 2020 and 2019, respectively. These assets are classified in other long-term assets in the consolidated balance sheets.

**7. Goodwill and Intangible Assets**

Goodwill and intangible assets consisted of the following at December 31, 2020 and 2019:

	<b>December 31</b>	
	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>	
Goodwill	<b>\$ 940,998</b>	\$ 940,998
Trademarks and Brands	<b>709,475</b>	709,475
Indefinite-lived intangible assets	<b>1,650,473</b>	1,650,473
Other intangible assets	<b>107,491</b>	107,481
Less accumulated amortization	<b>(39,685)</b>	(36,131)
Goodwill and intangible assets, net	<b><u>\$ 1,718,279</u></b>	<b><u>\$ 1,721,823</u></b>

No impairment of goodwill and indefinite-lived intangible assets (trademarks) was recorded for the years ended December 31, 2020, 2019 and 2018.

At December 31, 2020, the average remaining term for other intangible assets is fifteen years.

Amortization expense on finite-lived intangible assets recorded in the years ended December 31, 2020, 2019 and 2018, was \$4.4 million, \$4.2 million and \$3.6 million, respectively. Additional amortization expense of \$1.1 million, \$0.6 million and \$0.5 million has been charged to the System Fund in the years ended December 31, 2020, 2019 and 2018, respectively, and is included in 'System Fund expenses' on the consolidated statements of net income.

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Notes to Consolidated Financial Statements (continued)

**7. Goodwill and Intangible Assets (continued)**

Estimated amortization for finite-lived intangible assets for the next five years is as follows (in thousands):

2021	\$	6,340
2022		6,069
2023		5,847
2024		4,944
2025		3,944

**8. Leases**

The Company leases certain real estate and equipment used in its operations, which are accounted for as operating leases. In addition to a specified minimum rental, some of these leases provide for variable lease rentals based on percentages of revenue.

Operating lease costs are included in property and other taxes, insurance and leases on the consolidated statements of net income.

Lease costs for the years ended December 31, 2020, 2019 and 2018 were as follows:

	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>	
Operating lease expense for fixed payments	\$ 17,346	\$ 17,441
Variable lease expense	167	364
Short-term lease cost	19	70
Sub-lease income	(234)	(407)
Capital lease expense:		
Amortization of assets	3,541	3,660
Interest on lease liabilities	21,869	21,352

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Notes to Consolidated Financial Statements (continued)

**8. Leases (continued)**

	<b>2018</b>
	<i>(In Thousands)</i>
Minimum	\$ 18,156
Variable lease expense	203
Rental expense	\$ 18,359

Additional operating lease expense of \$1.0 million, \$1.8 million and \$1.4 million has been charged to the System Fund in the years ended December 31, 2020, 2019 and 2018, respectively, and is included in ‘System Fund expenses’ on the consolidated statements of net income.

On May 1, 2015, the Company entered into an amended lease agreement to extend the lease of its corporate headquarters in Atlanta to April 30, 2031. The Company has the option to extend the lease term for two further terms of between seven and ten years. The extension option is not included in the calculation of the lease asset and liability as the extension would not take effect before 2031. The minimum lease payments under the lease are included in the table on the following page. In connection with the amended agreement, the landlord granted the Company a construction allowance of \$25.3 million for expenditure on furniture, fixtures and equipment, of which \$0.5 million, \$2.6 million and \$8.0 million was utilized in the years ended December 31, 2020, 2019 and 2018, respectively.

As a response to workplace efficiency studies conducted in 2019, the reorganization conducted in 2020 (see Note 3) and the anticipated impact of Covid-19 on working habits, in 2020 management approved a decision to sublet, and commenced marketing of, approximately half the space in the Company’s corporate headquarters. The corporate workforce will be consolidated in the retained space and the area to be sublet is expected to be vacated in the first half of 2021. The sublease rentals are expected to be lower than the head lease rentals which, together with the impact of the expected time taken and costs incurred to sublet the space, result in the recoverable value of the assets being significantly below carrying value. The recoverable amount was measured at fair value less costs of disposal. The key assumptions are the time taken to successfully sublet the whole space (over 2021 – 2023) and sublease rentals per square foot. A pre-tax discount rate of 8.5% was applied.

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**8. Leases (continued)**

This has resulted in an impairment loss of \$56.0 million, of which \$7.8 million has been deducted from the carrying value of property and equipment and \$48.2 million has been deducted from the carrying value of operating lease right-of-use assets. \$37.3m of the impairment loss (\$5.8 million in respect of property and equipment and \$31.5 million in respect of operating lease right-of-use assets) was borne by the System Fund in line with existing principles for cost allocation relating to this facility.

An additional impairment loss of \$1.7 million was incurred in relation to a premium-branded hotel (see Note 5).

The future minimum rental commitments under non-cancelable operating leases at December 31, 2020, are as follows (in thousands):

2021	\$ 10,571
2022	9,969
2023	10,252
2024	10,177
2025	10,001
Thereafter	<u>67,724</u>
	<u>\$ 118,694</u>

Minimum rental commitments exclude variable rentals which are payable based on percentages of revenue.

As described in Note 5, the Company has a lease on the InterContinental Hotel in Boston, Massachusetts. The lease commenced on August 1, 2006, with the first lease payment due on August 1, 2007. Interest expense of \$21.9 million, \$21.4 million and \$20.9 million was incurred for the years ended December 31, 2020, 2019 and 2018, respectively. Accrued interest of \$63.6 million and \$57.8 million is included within capital lease obligation on the consolidated balance sheets as of December 31, 2020 and 2019, respectively.

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Notes to Consolidated Financial Statements (continued)

**8. Leases (continued)**

The future minimum lease payments required under the capital lease and the present value of the net minimum lease payments as of December 31, 2020, are as follows (in thousands):

2021	\$	16,000
2022		18,560
2023		21,120
2024		21,120
2025		21,120
Thereafter		3,170,213
Net minimum lease payments		<u>3,268,133</u>
Less amount representing interest		<u>(3,085,282)</u>
Present value of net minimum lease payments	\$	<u><u>182,851</u></u>

The Company has the option to extend the term of the lease for two additional 20-year terms. The extension option is not included in the calculation of the lease asset and liability. Payments under the lease step up at regular intervals over the lease term.

No material restrictions or guarantees exist with respect to the Company's finance or operating lease obligations.

Supplemental balance sheet information related to leases as of December 31, 2020 and 2019 was as follows:

	<u>2020</u>	<u>2019</u>
Weighted average remaining lease term:		
Operating leases	10.1 years	10.9 years
Capital leases	84.6 years	85.6 years
Weighted average discount rate:		
Operating leases	4.6%	4.6%
Capital leases	9.0%	9.0%

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Notes to Consolidated Financial Statements (continued)

**8. Leases (continued)**

For the years ended December 31, 2020 and 2019 cash flows for leases were:

	<u>2020</u>	<u>2019</u>
	<i>(In Thousands)</i>	
Operating cash flows		
Operating leases	\$ 22,766	\$ 21,301
Capital leases	16,000	16,000
Financing cash flows		
Capital leases	-	-

**9. Share-Based Compensation**

Certain employees of the Company participate in share-based compensation arrangements that are granted by the Parent and result in the award of the Parent's stock. As the Parent is a UK-based company whose stock is traded in pounds sterling, some of the disclosures that follow are provided in pence. References to the "Board," "Executive Directors," and the "Remuneration Committee" relate to those of the Parent.

For awards that are classified as equity awards, the cost is recognized from the grant date over the requisite service period.

**Annual Performance Plan**

Under the IHG Annual Performance Plan (APP), eligible employees (including Executive Directors) can receive all or part of their bonus in the form of deferred shares and/or receive one-off awards of shares. Deferred shares are released on the third anniversary of the award date. Under the terms of the awards that are referred to in this note, a fixed percentage of the award is made in the form of shares. Awards under the APP are conditional on the participants remaining in the employment of a participating company or leaving for a qualifying reason as per the plan rules. The award of deferred shares under the APP is at the discretion of the Remuneration Committee.

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Notes to Consolidated Financial Statements (continued)

**9. Share-Based Compensation (continued)**

The number of shares is calculated by dividing a specific percentage of the participant's annual performance-related award by the middle market quoted prices on the three consecutive dealing days immediately preceding the date of the grant. A number of the Company's executives participated in the APP during the year and conditional rights over 68,461 (98,800 in 2019 and 69,597 in 2018) shares were awarded to participants. In 2020 this number included 18,460 (38,816 in 2019 and 22,511 in 2018) shares awarded as part of recruitment terms or for one-off individual performance-related awards.

Plan rules for the APP were approved by shareholders of the Parent at the IHG PLC Annual General Meeting on May 2, 2014 and apply to awards made in respect of the 2015 and subsequent financial years. The plan rules contain substantially the same terms as the superseded plan rules.

**Long Term Incentive Plan**

The Long Term Incentive Plan (LTIP) allows Executive Directors and eligible employees to receive conditional share awards, which normally have a vesting period of three years.

- Performance-related awards: Awards to the Executive Directors, and some awards to other eligible employees, are granted subject to the achievement of performance conditions set by the Remuneration Committee, which are normally measured over the vesting period.
- Restricted stock units: Awards to eligible employees are granted subject to continued employment.

Awards are normally made annually and, except in exceptional circumstances, will not exceed three times salary for eligible employees. The plan provides for the grant of options with no cost to participants as an alternative to conditional share awards. During 2020, conditional rights over 640,404 (466,038 in 2019 and 481,949 in 2018) shares were awarded to employees of the Company under the plan, comprising 167,680 performance-related awards (103,666 in 2019 and 128,580 in 2018) and 472,724 restricted stock units (362,372 in 2019 and 353,369 in 2018).

Plan rules for the LTIP were approved by shareholders of the Parent at the IHG PLC Annual General Meeting on May 2, 2014 and apply to awards made in respect of the 2015-17 and subsequent LTIP cycles. The plan rules contain substantially the same terms as the superseded plan rules.

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Notes to Consolidated Financial Statements (continued)

**9. Share-Based Compensation (continued)**

**Colleague Share Plan**

The Colleague Share Plan gives eligible corporate employees the opportunity to purchase shares up to an annual limit of \$1,000 (or local currency equivalent limit) or such other amount determined by the IHG PLC Board or its duly authorized committee. At the end of the plan year, the participant will be awarded the right to receive one matching share for every purchased share (subject to continued employment). If the participant holds the purchased shares until the second anniversary of the end of the plan year, the conditional right to matching shares vests. During the year ended December 31, 2020, 19,105 shares were purchased by participating employees. Matching shares will be awarded for the first cycle in 2021 and will vest after 12 months. No shares were purchased in the years ended December 31, 2019 or 2018.

**Compensation Disclosures**

The Company recognized share-based compensation expense of \$20.2 million, \$23.3 million, and \$21.7 million in the years ended December 31, 2020, 2019 and 2018, respectively. The expense relates to employees who have contracted employment with the Company. In some instances, these employees provide their services to affiliated companies who pay their salaried remuneration.

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Notes to Consolidated Financial Statements (continued)

**9. Share-Based Compensation (continued)**

In 2020, 2019 and 2018, the Company used separate option pricing models and assumptions for each plan. The following tables set forth information about how fair value of each award is calculated:

	<u>Annual Performance Plan</u>	<u>Long Term Incentive Plan</u>
	<b>Binomial</b>	<b>Monte Carlo Simulation and Binomial</b>
<b>2020 valuation model</b>		
Weighted-average share price	3,771.0p	3,450.0p
Expected dividend yield	n/a	1.5%
Risk-free interest rate	–	0.0%
Volatility <sup>(i)</sup>	–	33.5%
Term (years)	3.0	3.0
<b>2019 valuation model</b>		
Weighted-average share price	4,597.0p	4,850.0p
Expected dividend yield	n/a	2.2%
Risk-free interest rate	–	0.7%
Volatility <sup>(i)</sup>	–	19.2%
Term (years)	3.0	3.0
<b>2018 valuation model</b>		
Weighted-average share price	4,645.0p	4,774.0p
Expected dividend yield	n/a	2.3%
Risk-free interest rate	–	0.8%
Volatility <sup>(i)</sup>	–	24.5%
Term (years)	3.0	3.0

<sup>(i)</sup> The expected volatility was determined by calculating the historical volatility of the Parent's share price corresponding to the expected life of the share award.

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Notes to Consolidated Financial Statements (continued)

**9. Share-Based Compensation (continued)**

Movements in the awards outstanding under the plans for the year ended December 31, 2020, are as follows:

	<b>Annual Performance Plan</b>	<b>Long Term Incentive Plan Performance- related awards</b>	<b>Long Term Incentive Plan Restricted stock units</b>
	<i>(Number of Shares In Thousands)</i>		
Outstanding at December 31, 2019	<b>203</b>	<b>292</b>	<b>832</b>
Granted	68	168	473
Vested	(83)	(76)	(271)
Transfer from intergroup companies	-	-	4
Expired or canceled	(10)	(33)	(108)
<b>Outstanding at December 31, 2020</b>	<b>178</b>	<b>351</b>	<b>930</b>
Weighted-average remaining contract life (years) at December 31, 2020	1.2	1.3	1.3
Fair value of awards granted:			
<b>2020</b>	<b>\$ 46.84</b>	<b>\$ 23.25</b>	<b>\$ 43.08</b>
2019	\$ 58.65	\$ 47.81	\$ 58.28
2018	\$ 60.43	\$ 47.04	\$ 59.81

The above awards do not vest until the performance and service conditions have been met.

The weighted-average share price at the date of exercise for share awards vested during the year was 4,903.0 British pence. The closing share price on December 31, 2020 was 4,690.0 British pence and the range during the year was 2,385.5 British pence to 5,223.0 British pence per share.

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Notes to Consolidated Financial Statements (continued)

**9. Share-Based Compensation (continued)**

	<b>Year Ended December 31</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>
	<i>(In Millions)</i>		
<b>Intrinsic value of awards and options exercised in the year</b>			
Annual Performance Plan	\$ 4.5	\$ 8.4	\$ 5.2
Long Term Incentive Plan – Performance-related awards	5.0	8.9	23.8
Long Term Incentive Plan – Restricted Stock Units	17.6	16.3	-
	<u>\$ 27.1</u>	<u>\$ 33.6</u>	<u>\$ 29.0</u>
<b>Fair value of awards vested during the year</b>			
Annual Performance Plan	\$ 4.2	\$ 5.9	\$ 3.2
Long Term Incentive Plan – Performance-related awards	3.3	4.6	3.5
Long Term Incentive Plan – Restricted Stock Units	14.2	9.8	-
	<u>\$ 21.7</u>	<u>\$ 20.3</u>	<u>\$ 6.7</u>

As of December 31, 2020, there was \$16.5 million of total unrecognized compensation cost related to non-vested share-based compensation arrangements granted under the plans. That cost is expected to be recognized over a weighted-average period of two years.

No cash was received from option exercises under any of the share-based payment arrangements for the years ended December 31, 2020, 2019 and 2018. The actual tax benefit realized for the tax deductions from option exercise of the share-based payment arrangements totaled \$1.5 million, \$7.1 million and \$7.7 million for the years ended December 31, 2020, 2019 and 2018, respectively.

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Notes to Consolidated Financial Statements (continued)

**10. Other Comprehensive Income (Loss)**

A summary of the components of other comprehensive income (loss) for the years ended December 31, 2020, 2019 and 2018, is as follows (in thousands):

	<b>Pre-Tax Amount</b>	<b>Tax</b>	<b>Net of Tax Amount</b>
<b>Fiscal 2020</b>			
Foreign currency translation adjustments	\$ (231)	\$ 444	\$ 213
Unrealized gains on securities	18,676	(4,669)	14,007
Pension liability adjustments	(2,513)	628	(1,885)
Other comprehensive income (loss)	<u>\$ 15,932</u>	<u>\$ (3,597)</u>	<u>\$ 12,335</u>
<b>Fiscal 2019</b>			
Foreign currency translation adjustments	\$ 9	\$ 186	\$ 195
Unrealized gains on securities	30,778	(7,818)	22,960
Pension liability adjustments	(4,864)	1,236	(3,628)
Other comprehensive income (loss)	<u>\$ 25,923</u>	<u>\$ (6,396)</u>	<u>\$ 19,527</u>
<b>Fiscal 2018</b>			
Foreign currency translation adjustments	\$ (532)	\$ (293)	\$ (825)
Unrealized losses on securities	(20,263)	5,167	(15,096)
Pension liability adjustments	45,756	(11,668)	34,088
Other comprehensive income (loss)	<u>\$ 24,961</u>	<u>\$ (6,794)</u>	<u>\$ 18,167</u>

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Notes to Consolidated Financial Statements (continued)

**10. Other Comprehensive Income (Loss) (continued)**

The following table provides information regarding the pre-tax amounts reclassified out of accumulated comprehensive income for the year ended December 31, 2020 (in thousands):

	<b>Foreign Currency Translation Adjustments</b>	<b>Unrealized Gains on Securities</b>	<b>Pension Liability Adjustments</b>	<b>Total</b>
<b>Fiscal 2020</b>				
Other comprehensive (loss) income before reclassifications	\$ (231)	\$ 18,676	\$ (4,138)	\$ 14,307
Amounts reclassified to income (pension costs) from other comprehensive income	-	-	1,625	1,625
Other comprehensive income	<u>\$ (231)</u>	<u>\$ 18,676</u>	<u>\$ (2,513)</u>	<u>\$ 15,932</u>

**11. Employee Benefit Plans**

**Defined Contribution Plans**

The Company maintains a defined contribution savings plan. Under the plan, participating employees who have completed six months of service may elect to make pretax contributions to the plan from 1.0% up to 75.0% of their eligible earnings. Subject to certain limitations, the Company will match 100.0% of the first 4.0% of compensation contributed (6.0% for a non-highly compensated corporate employee, a member of the hotel executive committee, a reservations center director, or a reservations center employee). Plan participants are immediately vested in the Company's matching contributions. The Company's matching contributions to the Plan were approximately \$5.1 million, \$12.2 million and \$12.6 million for the years ended December 31, 2020, 2019 and 2018, respectively. Additionally, employees meeting certain eligibility requirements received supplemental contributions of \$2.2 million, \$5.1 million and \$5.2 million, for the years ended December 31, 2020, 2019 and 2018, respectively. Plan participants become fully vested in the Company's supplemental matching contributions after five years of credited service.

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Notes to Consolidated Financial Statements (continued)

**11. Employee Benefit Plans (continued)**

**Defined Benefit Plans**

During 2018, the Company completed a termination of the US funded Inter-Continental Hotels Pension Plan (the Plan), which involved certain qualifying members receiving lump-sum cash-out payments of \$20 million with the remaining pension obligations subject to a buy-out by Banner Life Insurance Company (Banner), a subsidiary of Legal and General America, through the purchase of a group annuity contract for \$124 million. Banner assumed responsibility for the payment of the Plan's pension obligations on June 12, 2018. A further amount of \$6 million was transferred to the Pension Benefit Guaranty Corporation in respect of members who it had not been possible to trace. The transactions were funded using the assets of the Plan and a final Company contribution of \$12 million, \$1.5 million of which was subsequently returned to the Company as a 'mistake-in-fact' contribution refund.

The Company continues to maintain the unfunded Inter-Continental Hotels Non-qualified Pension Plans and unfunded Inter-Continental Hotels Corporation Postretirement Medical, Dental, Vision and Death Benefit Plan, both of which are defined benefit plans. Both plans are closed to new members. A Retirement Committee, comprising senior Company employees and assisted by professional advisors as and when required, has responsibility for oversight of the plans.

The pension costs for the defined benefit plans are as follows:

	<b>Pension Plans</b>			<b>Postretirement Programs</b>		
	<b>Year Ended December 31</b>			<b>Year Ended December 31</b>		
	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>			<i>(In Thousands)</i>		
Service cost	\$ 1	\$ 3	\$ 92	\$ -	\$ -	\$ -
Interest cost	1,342	1,754	3,573	642	823	774
Expected return on assets	-	-	(2,122)	-	-	-
Amortization of unrecognized actuarial loss	1,625	636	4,357	-	-	-
Net periodic benefit cost	<b>\$ 2,968</b>	<b>\$ 2,393</b>	<b>\$ 5,900</b>	<b>\$ 642</b>	<b>\$ 823</b>	<b>\$ 774</b>
Settlement expense	-	-	51,996	-	-	-
Total	<b>\$ 2,968</b>	<b>\$ 2,393</b>	<b>\$ 57,896</b>	<b>\$ 642</b>	<b>\$ 823</b>	<b>\$ 774</b>

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Notes to Consolidated Financial Statements (continued)

**11. Employee Benefit Plans (continued)**

The settlement expense in 2018 arose from the Plan termination and represented the immediate recognition of the Plan's unrecognized loss at the time of termination.

The pension costs related to the defined benefit plans are settled with the Parent through the Parent's Investment account.

The major assumptions used in computing the benefit obligations were as follows:

	Pension Plans			Postretirement Programs		
	Year Ended December 31			Year Ended December 31		
	2020	2019	2018	2020	2019	2018
Discount rate	1.9%	2.9%	3.9%	2.0%	2.9%	4.0%
Expected long-term rate of earnings increases	3.5%	3.5%	3.5%	4.0%	4.0%	4.0%

The assumed discount rates were determined by reference to published long-term bond indices at a maturity appropriate to the anticipated timing of expected benefit payments.

Mortality is the most significant demographic assumption. The current assumptions are based on rates from the Pri-2012 Mortality Study and Generationally Projected with Scale MP-2020 mortality tables.

The assumed health care cost trend rates for medical and dental plans for 2020, 2019 and 2018 are as follows:

	2020	2019	2018
Health care cost trend rate assumed for next year:			
Pre 65 (ultimate rate reached in 2029)	6.4%	6.7%	7.1%
Post 65 (ultimate rate reached 2029)	6.8%	7.1%	7.6%
Ultimate rate that the cost rate trends to	4.5%	4.5%	4.5%

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Notes to Consolidated Financial Statements (continued)

**11. Employee Benefit Plans (continued)**

A one-percentage point increase in assumed health care costs trend rate would increase the accumulated post-employment benefit obligation as of December 31, 2020, 2019 and 2018, by \$1.7 million in each year, and would increase the total of the service and interest cost components of net post-employment health care cost for the years ended December 31, 2020, 2019 and 2018, by approximately \$0.1 million in each year.

A one-percentage point decrease in assumed health care costs trend rate would decrease the accumulated post-employment benefit obligations as of December 31, 2020, 2019 and 2018 by \$1.6 million in each year, and would decrease the total of the service and interest cost components of net post-employment health care cost for the years ended December 31, 2020, 2019 and 2018, by approximately \$0.1 million in each year.

The following table sets forth movements in the projected benefit obligation:

	<b>Pension Plans</b>		<b>Postretirement Programs</b>	
	<b>Year Ended December 31</b>		<b>Year Ended December 31</b>	
	<b>2020</b>	<b>2019</b>	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>		<i>(In Thousands)</i>	
<b>Change in benefit obligation</b>				
Benefit obligation at beginning of year	\$ 48,346	\$ 45,450	\$ 22,595	\$ 22,030
Service cost	1	3	-	-
Interest expense	1,342	1,754	642	823
Employee contributions	-	-	420	434
Benefits paid	(3,679)	(3,711)	(1,526)	(1,342)
Actuarial (gain) loss arising in the year	4,009	4,850	129	650
Benefit obligation at end of year	<u>\$ 50,019</u>	<u>\$ 48,346</u>	<u>\$ 22,260</u>	<u>\$ 22,595</u>
Accumulated benefit obligation (all vested)	<u>\$ 50,019</u>	<u>\$ 48,340</u>	<u>\$ 22,260</u>	<u>\$ 22,595</u>

There were no changes in plan assets during the years ended December 31, 2020 or 2019. The fair value of plan assets was \$0.25 million at December 31, 2020 and 2019.

Further information regarding the fair value of plan assets is included in Note 15.

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Notes to Consolidated Financial Statements (continued)

**11. Employee Benefit Plans (continued)**

The following table sets forth the amounts recognized in the financial statements:

	Pension Plans		Postretirement Programs	
	Year Ended December 31		Year Ended December 31	
	2020	2019	2020	2019
	<i>(In Thousands)</i>		<i>(In Thousands)</i>	
Fair value of plan assets	\$ 250	\$ 250	\$ -	\$ -
Projected benefit obligation	(50,019)	(48,346)	(22,260)	(22,595)
Funded status	<u>\$ (49,769)</u>	<u>\$ (48,096)</u>	<u>\$ (22,260)</u>	<u>\$ (22,595)</u>
Recognized in the balance sheet as:				
Pension asset – current	\$ 250	\$ 250	\$ -	\$ -
Accrued pension cost – current	(3,618)	(3,636)	(1,311)	(1,360)
Accrued pension cost – noncurrent	(46,401)	(44,710)	(20,949)	(21,235)
	<u>\$ (49,769)</u>	<u>\$ (48,096)</u>	<u>\$ (22,260)</u>	<u>\$ (22,595)</u>
Amounts recognized in accumulated other comprehensive income:				
Unrecognized actuarial loss (gain)	13,275	10,891	(136)	(264)
	<u>\$ 13,275</u>	<u>\$ 10,891</u>	<u>\$ (136)</u>	<u>\$ (264)</u>

The net actuarial (loss) gain recognized in other comprehensive income for the years ended December 31, 2020, 2019 and 2018, was \$(4.0) million, \$(4.8) million and \$(12.1) million, respectively, for the pension plans, and \$(0.1) million, \$(0.7) million and \$1.6 million, respectively, for the postretirement programs. Losses amortized from other comprehensive income and included in the net periodic pension cost were \$1.6 million, \$0.6 million, and \$56.4 million (including \$52.0 million relating to the Plan termination) in the years ended December 31, 2020, 2019 and 2018, respectively, all relating to the pension plans.

The Company estimates that of the amounts included in other comprehensive income at December 31, 2020, \$2.1 million of the actuarial loss will be amortized for the pension plans in 2021, all on a pretax basis.

At December 31, 2020, the Company estimates that it will contribute \$3.6 million to the pension plans and \$1.3 million to the post retirement benefit programs in 2021.

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Notes to Consolidated Financial Statements (continued)

**11. Employee Benefit Plans (continued)**

The following benefit payments are expected to be paid:

	<b>Pension Plans</b>	<b>Postretirement Programs</b>
	<i>(In Thousands)</i>	
2021	\$ 3,618	\$ 1,311
2022	3,532	1,333
2023	3,444	1,348
2024	3,349	1,357
2025	3,253	1,336
2026-2030	14,637	6,445

**12. Investments in Unconsolidated Entities**

*Barclay Operating Corporation*

The Company owns a 48.9% interest in Barclay Operating Corporation (BOC) which is accounted for under the equity method of accounting. Prior to March 31, 2014, a wholly-owned subsidiary of BOC, 111 East 48<sup>th</sup> Street Holdings LLC (111 East 48<sup>th</sup> Street), owned a 100% interest in the InterContinental Barclay hotel located in New York. On March 31, 2014, a third-party investor, Constellation Barclay Holding US LLC (Constellation), acquired, through a capital contribution, an 80.1% interest in 111 East 48<sup>th</sup> Street with BOC retaining an 18.18% interest. In addition, the Company acquired the remaining 1.72% by contributing capital, through a wholly-owned subsidiary, IHG Management MD Barclay Sub LLC (IHG Management). The purpose of the transaction was to create a joint venture, 111 East 48<sup>th</sup> Street, to own and refurbish the InterContinental Barclay hotel. BOC and IHG Management, together the IHG Member, own a combined 19.9% interest in the joint venture. The hotel is operated under a long-term management agreement with IHG Management (Maryland) LLC, a wholly-owned subsidiary of the Company. The hotel reopened for trading in April 2016 following a major renovation.

The Company's investment in BOC had a net book value of \$142.3 million and \$144.4 million at December 31, 2020 and 2019, respectively.

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Notes to Consolidated Financial Statements (continued)

**12. Investments in Unconsolidated Entities (continued)**

The unaudited summarized balance sheet and income data of BOC were as follows:

	<b>December 31</b>	
	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>	
Receivables from affiliates	<b>\$ 504,896</b>	\$ 500,613
Equity accounted investment	<b>13,392</b>	21,766
	<b>518,288</b>	522,379
Total liabilities	<b>(225,462)</b>	(223,746)
Net assets (stockholders' equity)	<b>\$ 292,826</b>	\$ 298,633

BOC incurred a net loss of \$3.7 million in the year ended December 31, 2020 and earned net income of \$5.6 million and \$6.8 million in the years ended December 31, 2019 and 2018 respectively. No revenue was reported in those years.

IHG Management's direct investment in 111 East 48<sup>th</sup> Street is also accounted for under the equity method of accounting and had a net book value of \$33.0 million and \$59.7 million at December 31, 2020 and 2019, respectively. The decrease in the investment during the year ended December 31, 2020 arose primarily from an impairment loss recognized of \$31.7 million as well as its \$7.7 million share of the loss recognized in 111 East 48<sup>th</sup> Street for the year ended December 31, 2020, together with the cost of funding owner returns, offset by capital contributions of \$12.9 million.

The recoverable amount of the investment has been measured at fair value less costs of disposal, based on the Company's share of the market value of the hotel less debt in 111 East 48<sup>th</sup> Street. The hotel was appraised by a professional external valuer using an income capitalization approach which is a discounted cash flow technique that measures the present value of projected income flows (over a 10-year period) and the reversion of the property sale. The external valuer assumed a return to 2019 RevPAR levels over a three to four-year period, based on industry data specific to the New York market and supply factors in the luxury market located close to the InterContinental New York Barclay. The pre-tax discount and capitalization rates used in the valuation were 7.5% and 6.0%, respectively.

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**12. Investments in Unconsolidated Entities (continued)**

Following capital contributions made since the initial investment, IHG Management held a 13.7% and 13.4% interest in the joint venture at December 31, 2020 and 2019, respectively, with BOC holding a 6.2% and 6.5% interest; the Company's effective interest was therefore 16.7% and 16.6% at December 31, 2020 and 2019, respectively.

Under the terms of the joint venture agreement, IHG Management (Maryland) LLC placed a \$25 million security deposit in an escrow account of 111 East 48<sup>th</sup> Street during the year ended December 31, 2018. The security deposit is held for the purpose of funding shortfalls in owner returns. \$15.5 million was withdrawn from the deposit during the year ended December 31, 2020 in connection with the refinancing of the hotel's senior bank loan and to fund working capital requirements. No amounts required release from the deposit during prior years. There were no commitments at December 31, 2020.

*Investments in other hotel ownership entities*

At December 31, 2020, the Company held the following interests in entities that own hotels which are managed by the Company:

<b>Holding</b>	<b>Investment</b>
17%	CDC San Francisco LLC ("CDC")
27%	Carr Clark SWW Subventure, LLC ("Carr")
5%	LRR Holdings LLC ("LRR")
25%	NF III Seattle LLC and NF III Seattle Op Co, LLC (together "Seattle")
0%	EDG Alpharetta EH, LLC ("EDG")

The Company accounts for these investments, which had a combined net book value of \$19.2 million and \$32.8 million at December 31, 2020 and 2019, respectively, under the equity method of accounting.

At December 31, 2019 and 2018, the Company also held a 49% investment in BCRE IHG 180 Orchard Holdings, LLC ("BCRE") which owned a hotel that was sold in 2018. The Company received a final distribution of \$1.7m during the year ended December 31, 2020 on liquidation of BCRE.

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Notes to Consolidated Financial Statements (continued)

**12. Investments in Unconsolidated Entities (continued)**

The net book value of LRR includes \$0 million and \$6.1 million at December 31, 2020 and 2019, respectively, relating to preferred equity. The net book value of EDG includes \$3.0 million and \$2.8 million at December 31, 2020 and 2019, respectively, relating to preferred equity which was issued in return for a contribution of land by the Company in March 2018.

The combined unaudited summarized balance sheets and income data of the above investments is as follows:

	<b>December 31</b>	
	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>	
Current assets	\$ 10,839	\$ 24,446
Non-current assets	<b>304,422</b>	323,649
	<b>315,261</b>	348,095
Total liabilities	<b>(259,168)</b>	(247,614)
Net assets	<b>\$ 56,093</b>	\$ 100,481

	<b>2020</b>	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>		
Revenue	\$ 35,130	\$ 112,260	\$ 126,504
Net (loss) income	\$ (36,700)	\$ 5,289	\$ 37,857

The Company has recognized its proportionate share of net losses and income in the consolidated statements of net income for the years ended December 31, 2020, 2019 and 2018, respectively.

Following an impairment review at December 31, 2020, an impairment loss of \$7.6 million was recorded in respect of these investments.

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Notes to Consolidated Financial Statements (continued)

**12. Investments in Unconsolidated Entities (continued)**

*Hotel JV Services, LLC*

In January 2011, the Company contributed an initial \$1.6 million as a founding member of Hotel JV Services, LLC, a joint venture formed to operate an online travel met search website. The Company initially held a 20% interest in the joint venture as did the other four partners. Subsequent investment structure changes resulted in the Company's ownership interest being reduced to 17.8%. The joint venture began operating as 'Roomkey.com' on January 11, 2012. During 2013, the Company participated in capital calls which resulted in an additional investment of \$3.0 million by the Company. The investment is accounted for under the equity method of accounting.

During 2020 the Board of Hotel JV Services LLC voted to wind down the company and final distributions were made to its investors. The Company recorded \$3.7 million as its share of the distribution and wrote the remaining investment value down to \$0, recording an impairment loss of \$1.6 million in the consolidated income statement for the year ended December 31, 2020. The investment had a net book value of \$5.3 million at December 31, 2019.

The unaudited summarized balance sheet and income data of Hotel JV Services, LLC is as follows:

	<b>December 31</b>	
	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>	
Current assets	\$ -	\$ 24,296
Non-current assets	-	3,387
	-	27,683
Total liabilities	-	(1,142)
Net assets	\$ -	\$ 26,541

	<b>2020</b>	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>		
Revenue	\$ 956	\$ 10,580	\$ 14,362
Net (loss) income	\$ (3,200)	\$ 1,249	\$ 6,965

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**12. Investments in Unconsolidated Entities (continued)**

The Company has recognized its proportionate share of losses and gains in the consolidated statements of net income for the years ended December 31, 2020, 2019 and 2018, respectively.

*Groups360 LLC*

In August 2019, the Company contributed \$10 million for a 12.6% share of Groups360 LLC (“Groups360”), a newly-created joint venture formed to operate a comprehensive meetings and events marketplace for people planning meetings, events and group travel, and hoteliers. Subsequent changes in the investment structure have changed the Company’s investment share to 13.1%. The investment, which had a net book value of \$7.8 million and \$9.7 million at December 31, 2020 and 2019, respectively, is accounted for under the equity method of accounting. The Company has recognized its proportionate share of losses of \$(1.9) million and \$(0.3) million within System Fund expenses in the consolidated income statements for the year ended December 31, 2020 and 2019, respectively. The Company has a commitment to invest up to an additional \$6.0m in Groups360 at December 31, 2020.

**13. Income Taxes**

The Company is not required to file a separate tax return but is included in the consolidated federal income tax return of InterContinental Hotels Group Operating Corp. (IHGOP), its ultimate U.S. parent company. The Company’s income tax provision and related tax asset and liability accounts are recomputed as if the Company filed a separate income tax return, except for Section 163(j) limitation, and dividends received deduction. The following items are computed at the consolidated level: (i) Foreign Tax Credits (FTC); (ii) Base Erosion and Anti-Trust Tax (BEAT); and (iii) Foreign Derived Intangible Income (FDII). The Company does not record inside basis differences on equity investments for C Corporations and instead evaluates the need to book the outside basis difference. The evaluation to determine the ability to recover the outside basis tax-free is evaluated based on the overall consolidated group and not on a separate company basis.

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Notes to Consolidated Financial Statements (continued)

**13. Income Taxes (continued)**

Under an intercompany agreement dated March 31, 2014, it was agreed that the Company's current income tax provisions as computed for these consolidated financial statements would be treated as non-shareholder capital contributions and shown as a component of the Parent's Investment. In accordance with the agreement, the Company's current year income tax provisions of \$38.7 million, \$114.1 million and \$86.6 million for the years ended December 31, 2020, 2019 and 2018, respectively, have been recorded as non-shareholder capital contributions within Parent's Investment. These amounts are disclosed as 'Capital contributions related to income tax provisions' in the consolidated statement of changes in Parent's Investment for the years ended December 31, 2020, 2019 and 2018.

In 2019, the Company recorded \$162.8 million in additional ending deferred tax liabilities, of which \$176.2 million was recorded as a deduction to Parent's Investment and \$13.4 million was recorded as an income tax benefit in order to separately track the outside tax basis difference in the Partnership and 111 East 48<sup>th</sup> Street. The cumulative adjustment to provision (benefit) for income taxes in 2019 was the cumulative tax effected movement in outside basis difference since inception of the Company's investments in both partnerships. This adjustment properly reflects the tax consequences associated with the Company's expected recovery of its book investment in the partnerships. An additional \$3.5 million was recorded as a deduction to Parent's Investment relating to deferred tax in respect of leases.

Federal income tax returns filed by the tax-paying parent of the Company are open for examination by the Internal Revenue Service for years 2017 through 2019. Examinations for tax years 2007, 2008, 2010 and 2012 were finalized in 2018 and tax year 2015 was finalized in 2020. Since there was a subsequent filing for the capital loss carryback to years 2015 and 2016 from 2018, this reopens 2015 and 2016 on a limited basis for re-examination. The 2014 exam is closed by the Internal Revenue Service but under appeals. The statute has been extended through 2021. The Company's state income tax returns are open for examination by various state taxing authorities for years 2014 through 2019.

The Company recognizes interest and penalties relating to uncertain tax positions within income tax expense. There were no interest and penalties recorded in the consolidated statements of net income in any of the years ended December 31, 2020, 2019 and 2018 and the amount recorded within income tax liabilities in the consolidated balance sheets was \$0 at both December 31, 2020 and December 31, 2019.

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Notes to Consolidated Financial Statements (continued)

**13. Income Taxes (continued)**

The Company accounts for taxes on Global Intangible Low-Taxed Income (GILTI) as period costs within provision for income taxes on the consolidated statements of net income.

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Significant components of the Company's deferred tax assets and liabilities as of December 31, 2020 and 2019 are differences in book and tax bases of certain tangible and intangible assets, including trademarks and management agreements, together with deferred gains, pensions, deferred compensation plans and foreign tax credits. The net change during the year in the total valuation allowance is \$1.3 million.

Deferred tax assets and liabilities at December 31, 2020 and 2019, are as follows:

	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>	
Deferred tax assets	<b>\$ 181,522</b>	\$ 188,018
Deferred tax liabilities	<b>(552,326)</b>	(578,813)
Valuation allowance	<b>(6,001)</b>	(7,274)
Noncurrent deferred tax liabilities, net	<b>\$ (376,805)</b>	\$ (398,069)

Significant components of the provision (benefit) for income taxes for the years ended December 31, 2020, 2019 and 2018, are as follows:

	<b>2020</b>	<b>2019</b>	<b>2018</b>
	<i>(In Thousands)</i>		
Current:			
U.S. federal	<b>\$ 29,630</b>	\$ 74,899	\$ 59,125
U.S. state	<b>10,025</b>	34,109	26,176
Foreign taxes	<b>6,338</b>	14,022	14,027
Total current	<b>45,993</b>	123,030	99,328
Deferred	<b>(25,057)</b>	(3,929)	22,305
Total	<b>\$ 20,936</b>	\$ 119,101	\$ 121,633

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**13. Income Taxes (continued)**

The Company's effective tax rate of 293.3% percent differs from the U.S. Federal Income Tax rate of 21 percent due to taxes imposed by various state and foreign jurisdictions, credits for taxes paid to foreign jurisdictions, permanent tax adjustments, deferred tax liability adjustments, adjustments to opening tax accounts due to differences in the positions reported on filed tax returns in prior years and changes in uncertain tax positions.

The Company performs an annual analysis to determine whether foreign taxes incurred during the year by U.S. legal entities can be deducted as a foreign tax credit against applicable U.S. federal income taxes or must be treated as a deduction for U.S. income tax purposes. The Company has determined it will take a tax deduction against income for foreign taxes paid in 2020 and claimed a partial credit in 2019.

The Company operates, manages, and franchises hotels in a significant number of countries and consequently, a wide range of matters of interpretation of tax law arise in the normal course of business. Although reliance is placed on generally available interpretations in these countries, there is no certainty that the relevant tax authorities will agree with the Company's interpretation or that the Company's interpretation will be upheld. Consequently, it is possible that certain matters will be resolved adversely resulting in additional liabilities and cash tax settlements. The Company provides against all quantifiable tax exposures based upon best estimates and management's judgment in accordance with the requirements of ASC 740-10 concerning uncertain tax positions as described above.

During the years ended December 31, 2020, 2019 and 2018, the Company decreased its reserve for uncertain tax positions by \$0.3 million, \$0.4 million and \$0.6 million, respectively, for potential liabilities. The adjustment of these reserves affected the Company's effective tax rates by approximately (4.6)%, (0.1)% and (0.2)% in the years ended December 31, 2020, 2019 and 2018, respectively. While the Company is in the appeals process with the IRS on a significant portion of the uncertain tax benefits, the Company does not reasonably foresee any significant increases or decreases to the total amount of unrecognized tax benefits occurring during the next 12 months.

In addition to income taxes recognized in the consolidated statements of net income, in 2020, 2019, and 2018, respectively, the Company recognized tax expense (benefit) of \$3.6 million, \$6.4 million and \$6.8 million in the consolidated statements of comprehensive income and \$0, \$0 and \$0 million, directly within Parents Investment.

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Notes to Consolidated Financial Statements (continued)

**13. Income Taxes (continued)**

The Company has recorded a deferred tax asset of \$1.9 million reflecting the benefit of \$37.3 million in state loss carryforwards, which expire in varying amounts between 2020 and 2036. Realization is dependent on generating sufficient taxable income prior to expiration of the loss carryforwards. Although realization is not assured, management believes it is more likely than not that all of the deferred tax asset will be realized. The amount of the deferred tax asset considered realizable, however, could be adjusted in the near term if estimates of future taxable income during the carryforward period are increased or reduced.

In general, it is the Company's practice and intention to reinvest the earnings of its non-U.S. subsidiaries in those operations. As of December 31, 2020, the Company estimates that it has an outside basis difference in certain non-U.S. subsidiaries of approximately \$113 million, which includes the cumulative undistributed earnings of the Company's non-U.S. subsidiaries. The Company continues to be indefinitely reinvested in this outside basis difference. The Company has not made a provision for the unrecognized deferred tax liability related to this outside basis difference as it is not practicable. This is due to the complexities associated with calculating the U.S. residual tax, including the availability of foreign tax credits, the local withholding tax and other indirect tax consequences that may arise upon a distribution of these earnings.

**14. Related-Party Transactions**

On March 31, 2020, the Company contributed \$387 million to the Partnership (as defined in Note 1) in exchange for an increase in its investment. At the same time, the Partnership transferred two of its subsidiaries together with \$472 million to another of its partners, Six Continents Holdings Limited (SCHL) in exchange for a reduction in SCHL's Partnership interest. This had the effect of increasing the Company's proportional share in the Partnership. Following these transactions, the Company's investment in the Partnership increased from 12.1% to 41.0%. Both before and after these transactions, the Company does not have significant influence over the Partnership and will continue to record its investment at cost within Parent's Investment in the consolidated balance sheets.

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Notes to Consolidated Financial Statements (continued)

**14. Related-Party Transactions (continued)**

Receivables from and payables to affiliated companies included in current assets and current liabilities in the consolidated balance sheets consist of the following at December 31, 2020 and 2019:

	<b>December 31</b>	
	<b>2020</b>	<b>2019</b>
	<i>(In Thousands)</i>	
Receivables from affiliates	\$ <b>56,207</b>	\$ 125,538
Payables to affiliates – current	<b>102,343</b>	114,535

These current amounts are of a working capital nature and generally represent charge-backs between regions that are non-interest-bearing.

Other long-term receivables from and payables to affiliated companies which are generally interest-bearing are netted and included as an offset in Parent's Investment in the consolidated balance sheets. Interest is paid on the balances with affiliates as due under the note agreements.

Interest income related to receivables from affiliates of \$66.7 million, \$142.4 million and \$153.3 million is included in the consolidated statements of net income for the years ended December 31, 2020, 2019 and 2018, respectively. Interest expense related to payables to affiliates of \$44.2 million, \$58.6 million and \$57.1 million is included in the consolidated income statements for the years ended December 31, 2020, 2019 and 2018, respectively. Such amounts are presented on a net basis in the consolidated statements of net income.

As discussed in Note 9, certain employees of the Company participate in share-based compensation programs and are issued stock of IHG, the ultimate parent company of SCH, Inc.

In the years ended December 31, 2020, 2019 and 2018, the Company recognized share-based payment compensation expense of \$20.2 million, \$23.3 million and \$21.7 million, respectively.

The Company made net allocations of overhead expenses to affiliated companies of \$258.4 million, \$347.3 million and \$347.6 million in the years ended December 31, 2020, 2019 and 2018, respectively. Additionally, the Company paid insurance expenses of \$15.7 million, \$16.9 million, and \$20.6 million, for the years ended December 31, 2020, 2019 and 2018, respectively, to SCH Insurance Company Inc., a wholly owned subsidiary of the Parent. This expense primarily represents assessments of premium charges and estimated losses for U.S. medical healthcare stop loss insurance.

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Notes to Consolidated Financial Statements (continued)

**14. Related-Party Transactions (continued)**

The Company recognized in other revenue \$28.5 million, \$46.9 million and \$49.0 million from affiliated companies in respect of service fee income in the years ended December 31, 2020, 2019, and 2018, respectively.

Net license fee expense charged by affiliated companies of \$5.5 million, \$22.6 million and \$18.2 million was recognized as a deduction to fee business revenue for the years ended December 31, 2020, 2019 and 2018, respectively.

On January 1, 2011, the Company entered into a ten-year license agreement, with successive ten-year renewal options, with an affiliated company for the right to use the 'IHG' trademark. This was superseded on January 1, 2019 by a one-year agreement with automatic one-year extension periods unless either party gives the other notice to terminate. The royalty payment under these agreements of \$1.4 million, \$2.6 million and \$0.3 million was recognized as a deduction to fee business revenue in the years ended December 31, 2020, 2019 and 2018, respectively.

The Company recognized mark-up cost charged by affiliated companies of \$14.2 million, \$17.0 million, and \$17.9 million for the years ended December 31, 2020, 2019 and 2018, respectively.

Guarantee fee costs charged by affiliated companies of \$0.2 million, \$0.6 million and \$1.7 million are included in other (loss) income for the years ended December 31, 2020, 2019 and 2018, respectively.

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Notes to Consolidated Financial Statements (continued)

**15. Fair Value Measurements**

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date (an exit price). A three-tier fair value hierarchy is used to define the inputs used in measuring fair value. These tiers are: Level 1, defined as observable inputs such as quoted prices in active markets; Level 2, defined as inputs other than quoted prices in active markets that are either directly or indirectly observable; and Level 3, defined as unobservable inputs in which little or no market data exists, therefore requiring an entity to develop its own assumptions.

As of December 31, 2020, 2019 and 2018, the Company held certain assets and liabilities that are required to be measured at fair value on a recurring basis. These are the defined benefit plans' assets and the marketable securities and related liabilities of the Company's Rabbi Trust.

The following tables present the Company's assets and liabilities that are measured at fair value on a recurring basis as of December 31, 2020 and 2019:

Description	Carrying Value	Fair Value	Fair Value Measurements Using		
			Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
<i>(In Thousands)</i>					
<b>At December 31, 2020</b>					
Defined benefit plans' assets:					
Cash and cash equivalents	\$ 250	\$ 250	\$ 250	\$ -	\$ -
Marketable securities related to deferred compensation plans <sup>(i)</sup>	235,682	235,682	235,682	-	-
<b>Total</b>	<b>\$ 235,932</b>	<b>\$ 235,932</b>	<b>\$ 235,932</b>	<b>\$ -</b>	<b>\$ -</b>
<b>At December 31, 2019</b>					
Defined benefit plans' assets:					
Cash and cash equivalents	\$ 250	\$ 250	\$ 250	\$ -	\$ -
Marketable securities related to deferred compensation plans <sup>(i)</sup>	217,721	217,721	217,721	-	-
<b>Total</b>	<b>\$ 217,971</b>	<b>\$ 217,971</b>	<b>\$ 217,971</b>	<b>\$ -</b>	<b>\$ -</b>

<sup>(i)</sup> also the fair value of the deferred compensation plan liabilities.

There were no material transfers into and out of Level 3 during the year.

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Notes to Consolidated Financial Statements (continued)

**16. Variable Interest Entities**

The Company has evaluated the hotels in which it has a variable interest, which is generally in the form of investments, loans, guarantees, or equity. The Company determines if it is the primary beneficiary of the hotel by primarily considering qualitative factors. Qualitative factors include evaluating if the Company has the power to control the hotel and the obligation to absorb the losses and rights to receive the benefits that could potentially be significant to the entity. Variable interests generally exist when the Company has provided security deposits and/or performance guarantees to third party owners to secure management agreements. The Company has determined it is not the primary beneficiary of any entity in which it has a variable interest and therefore these entities are not consolidated in the Company's financial statements.

**17. Performance guarantees**

From time to time, the Company will grant a performance guaranty to encourage property owners to enter into a management agreement. The Company has five and six guarantees as of December 31, 2020 and 2019, respectively, all provided by wholly owned subsidiaries of the Company.

Under these guarantees, amounts will become payable if performance hurdles, as defined in the relevant management agreements, are not met. During the years ended December 31, 2020 and 2019, payments of \$3.6 million and \$2.8 million were made, respectively, in accordance with two of the guarantees. At December 31, 2020, the Company did not have any amounts accrued for performance guarantees; in estimating amounts due, the Company has considered 'force majeure' provisions within its management agreements.

The Company's maximum exposure under such guarantees was \$24.4 million at December 31, 2020. Amounts will become payable if the performance hurdles are not met in future years.

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Notes to Consolidated Financial Statements (continued)

## **18. Commitments and Contingencies**

### **Loans**

In limited cases, the Company may guarantee loans made to facilitate third-party ownership of hotels under franchise or management agreements with the Company. There were guarantees of \$56.1 million and \$55.2 million in place at December 31, 2020 and 2019, respectively. No amounts were provided under these guarantees at December 31, 2020 and 2019. The largest guarantee was \$21.3 million at December 31, 2020 and 2019; the underlying managed hotel is temporarily closed and is currently subject to a principal and interest forbearance agreement. Although the Company is severally liable for this amount, there is a cross-indemnity that the Company would seek to pursue for the other partners' share of any amount funded under the guarantee.

### **Litigation**

In the normal course of business, the Company is subject to certain claims and litigation, including unasserted claims. The Company, based on its current knowledge and discussions with its legal counsel, is of the opinion that such matters will not have a material adverse effect on the financial position or results of operations of the Company.

Two claims were filed on March 19, 2018 and December 6, 2018 against the Company and other hotel companies, alleging violations of anti-trust regulations. One of the matters is a class action, and both suits allege that the defendant hotel companies conspired to eliminate competitive branded keyword search advertising in the hotel industry, which allegedly raised prices for hotel rooms in violation of applicable law. The Company disputes the allegations. The likelihood of a favorable or unfavorable result cannot be reasonably determined and it is not possible to determine whether any loss is likely or to estimate the amount of any loss.

### **Security Incident**

In 2016, the Company was notified of (a) a security incident at a number of Kimpton hotels that resulted in unauthorized access to guest payment card data, and (b) security incidents at a number of IHG branded hotels including the installation of malware on servers that processed payment cards used at restaurants and bars of 12 IHG managed properties, together the Security Incidents.

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Notes to Consolidated Financial Statements (continued)

**18. Commitments and Contingencies (continued)**

The Company may be exposed to investigations regarding compliance with applicable State and Federal data security standards, and legal action from individuals and organizations impacted by the Security Incidents. Due to the general nature of the regulatory inquiries received and class action filings to date, it is not practicable to make a reliable estimate of the possible financial effects of any such claims on the Company at this time. To date, four lawsuits have been filed against the Company relating to the Security Incidents, with one subsequently withdrawn in 2018. Settlement in respect of one lawsuit was agreed in 2019, and a further lawsuit was settled on September 2, 2020. Both of these settlements are expected to be paid under the Company's insurance programs.

The fourth lawsuit remains open. The claimant alleges that security failures allowed customers' financial information to be compromised. The likelihood of a favorable or unfavorable result cannot be reasonably determined and it is not possible to determine whether any loss is likely or to estimate the amount of any loss.

A separate claim was filed in 2019 against Kimpton. The allegations relate to a breach of the reservation system previously used by Kimpton. The likelihood of a favorable or unfavorable result cannot be reasonably determined and it is not possible to determine whether any loss is likely or to estimate the amount of any loss.

**Other**

The Company had outstanding letters of credit of \$11.5 million and \$8.5 million at December 31, 2020 and 2019, respectively, mainly relating to self-insurance programs.

The Company has made business insurance claims in relation to a small number of owned, leased and managed properties relating to the impact of Covid-19. It is not currently possible to determine the amounts which may be recovered.

In relation to external bank funding provided to 111 East 48<sup>th</sup> Street Holdings LLC (see Note 12), the Company has provided certain guarantees to the lenders as additional security for the loans. These guarantees include a guaranty of recourse obligations and an environmental indemnity. The guarantees are joint and several with the joint venture partner and re-allocated under a cross-indemnity such that any liability would be shared in accordance with the respective membership interests in 111 East 48<sup>th</sup> Street Holdings LLC.

Six Continents Hotels, Inc.  
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Notes to Consolidated Financial Statements (continued)

**18. Commitments and Contingencies (continued)**

The Company has provided a guaranty in favor of InterContinental Hotels Corporation, an affiliated company, regarding the payment of an amount of \$237.3 million owed by 111 East 48<sup>th</sup> Street Holdings LLC to InterContinental Hotels Corporation. No amounts were provided under this guarantee at December 31, 2020 and 2019.

**19. Concentrations**

The Company is required to disclose significant concentrations of its business consistent with the provisions of ASC 275, *Risks and Uncertainties*. The Company earned 41.1%, 39.5% and 46.3% of its management fee revenues from its four, six and six largest hotel owner group customers in the years ended December 31, 2020, 2019 and 2018, respectively. One of the six largest owner groups in the years ended December 31, 2019 and 2018 terminated its management agreements on November 30, 2020, representing 0.3%, 5.9% and 12.9% of management fee revenues in the years ended December 31, 2020, 2019 and 2018, respectively.

During the years ended December 31, 2020, 2019 and 2018, the Company recognized revenues from foreign operations in the amounts of \$50.1 million, \$66.3 million and \$56.6 million, respectively. For the years ended December 31, 2020, 2019 and 2018, this represented 4.3%, 3.1% and 2.7%, respectively, of total revenues generated, excluding System Fund.

From time to time the Company has bank balances in excess of Federally Insured Deposit Limitations. The Company has not experienced any losses in such accounts.

**20. Subsequent Events**

All subsequent events through March 29, 2021, the date these financial statements were available for issuance, have been evaluated.

# EXHIBIT H

## EXHIBIT H

### IHG MERLIN TERMS AND CONDITIONS ("Terms and Conditions")

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**2. Trademarks.** The following are some of the service marks owned by Six Continents Hotels, Inc., its subsidiaries or affiliates: InterContinental<sup>®</sup>, Crowne Plaza<sup>®</sup>, HOTEL INDIGO<sup>®</sup>, EVEN<sup>™</sup> Hotels, Holiday Inn<sup>®</sup>, Holiday Inn Express<sup>®</sup>, Express by Holiday Inn<sup>™</sup>, Holiday Inn Resort<sup>™</sup>, Staybridge Suites<sup>®</sup>, Candlewood Suites<sup>®</sup>, Holidome<sup>®</sup>, Priority Club<sup>®</sup>, HOLIDEX<sup>®</sup> and Stay Smart<sup>®</sup>. InterContinental Hotels Group, IHG and IHG logos are service marks of InterContinental Hotels Group. 'InterContinental Hotels Group' is a trade name describing the subsidiary companies of InterContinental Hotels Group PLC involved in the hotel business around the world. In the United States, Holiday Hospitality Franchising, LLC is the franchisor/licensor of all IHG brand names and marks. Trademarks owned by an IHG company may not be used or displayed publicly without the prior written permission of the owner of the marks.

**3. Ownership of Materials.** The Materials are confidential and proprietary information of SCH. Moreover, third-party web sites accessible from the Site via hypertext link shall be deemed the confidential and proprietary information of such third-parties and their licensors and will be subject to these Terms and Conditions, unless otherwise designated by such third-parties. Such hyperlinks are provided for your reference only. SCH does not control such web sites and is not responsible for their contents. The inclusion of hyperlinks to such web sites does not imply any endorsement of the material on such Web sites or any association with their operators. The Materials are copyrighted and are protected by worldwide copyright laws and treaty provisions. Except as expressly provided herein, the Materials may not be viewed, copied, reproduced, modified, published, uploaded, posted, transmitted, or distributed in any way without SCH's prior written permission. Except as expressly provided herein, SCH does not grant any express or implied right to You or any person under any patents, copyrights, trademarks or trade secrets of SCH or of any third party.

**4. Security.** Each login and password issued by SCH is for specific individual use only. You may not reveal any login or password to anyone else or permit anyone else to use your login and password to access the Site. You are responsible for maintaining the confidentiality and security of each login and password issued to You, including each login and password issued to any of Licensee's employees or agents. You must notify SCH immediately in the event that the security of your or any of your employees' or agents' login or password has been breached. The obligations of this paragraph survive termination of your franchise agreement with IHG.

**5. Disclaimer.** THE MATERIALS ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY, REPRESENTATION, CONDITION, UNDERTAKING OR TERM OF ANY KIND, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF INTELLECTUAL PROPERTY, OR FITNESS FOR A PARTICULAR PURPOSE. BECAUSE SOME JURISDICTIONS PROHIBIT THE EXCLUSION OF IMPLIED

WARRANTIES, THE ABOVE EXCLUSIONS MAY NOT APPLY TO YOU. SCH further does not warrant the accuracy or completeness of the information, text, graphics, links or other items contained within the Materials. SCH may make changes to the Materials, or the programs, policies or other information described in the Materials, at any time without notice. SCH makes no commitment to update the Materials.

IN NO EVENT SHALL SCH BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR ANY DAMAGES WHATSOEVER, INCLUDING LOSS OF PROFITS OR DATA, WHETHER IN AN ACTION IN CONTRACT OR TORT, ARISING OUT OF THE USE OR PERFORMANCE OF THE SITE, EVEN IF SCH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BECAUSE SOME JURISDICTIONS PROHIBIT THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

**6. Changes to these Terms and Conditions.** SCH may at any time in its sole discretion modify the terms of access to this Site. Your continued use of the Site following any such modification shall be deemed acceptance of such modification.

**7. Indemnity and Insurance.** Licensee shall indemnify SCH and its parents, subsidiaries and affiliates ("Indemnities"), hold them harmless from and promptly reimburse them for and against any and all payments of money including fines, damages, legal fees and expenses incurred by Indemnities by reason of any claim, demand, liability, penalty or judicial or administrative investigation or proceeding arising out of Licensee's or its employees' or agents' misuse of the Site or its breach of these Terms and Conditions. At the election of Indemnities, Licensee shall also defend Indemnities against same. In any event, Indemnities shall have the right, through counsel of its choice, to control any matter or defense to the extent it could directly or indirectly affect Indemnities. This indemnity shall survive any termination or expiration of your franchise agreement with IHG.

In order to meet its indemnity obligations set forth above, Licensee shall maintain in full force and effect during the term of its franchise agreement with IHG and any extension thereof, comprehensive general liability insurance in accordance with the franchise agreement Licensee holds with one of the IHG Companies. For so long as Licensee's above described insurance obligations remain in effect, Licensee shall furnish to SCH a certificate of the issuing insurance carrier verifying the required coverage and that the required coverage cannot be canceled, altered or permitted to lapse or expire without thirty (30) days advance written notice to SCH.

**8. Termination of the Terms and Conditions.** All licenses granted herein to use the Site automatically terminate upon expiration or termination of your franchise agreement with any of the IHG Companies, and, in the case of individual employees of Licensee, the licenses granted herein to use the Site terminate upon cessation of employment with You. Additionally, SCH reserves the right to suspend or terminate your access to this Site for any single or repeated violation of the terms of the Terms and Conditions or for breach of your franchise agreement with any of the IHG Companies. No delay, waiver, omission or forbearance on the part of SCH to exercise any right, option, or power arising out of any default by Licensee shall constitute a waiver of SCH to enforce any such right, option or power against Licensee as to any subsequent default by Licensee. Upon termination of your franchise agreement, all copies of the Materials in your possession must be immediately returned to SCH or destroyed and You must provide SCH with a signed letter stating that You have returned or destroyed all such materials. Your obligations under this paragraph shall survive termination for any reason of your franchise agreement with IHG.

**9. Notices.** All notices and other communications permitted or required by these Terms and Conditions may be given by electronic mail, conventional mail or, if by SCH, by posting such notice on this Site. Notice is deemed given upon receipt by You if sent by electronic mail or conventional mail, or immediately upon posting to this Site.

**To SCH:**  
Six Continents Hotels, Inc.  
Franchise Administration  
Three Ravinia Drive, Suite 100  
Atlanta, Georgia 30346-2149

**with a copy to:**  
General Counsel  
Six Continents Hotels, Inc.  
Three Ravinia Drive, Suite 100  
Atlanta, Georgia 30346-2149

**To Licensee:**  
«Entity»  
Attn: «PC»  
«PCAddress1»  
«PCAddress2»

**10. Miscellaneous Provisions.** Any claim relating to use of the Site or the Materials shall be governed by the laws of the State of Georgia, United States of America, exclusive of the choice of law rules thereof. These Terms and Conditions, along with your franchise agreement with IHG, constitute the entire agreement between You and IHG Companies with respect to the subject matter hereof and supersedes all prior oral and written agreements or statements. No failure or delay on the part of IHG Companies or SCH in

exercising any right or remedy hereunder or enforcing the terms and conditions of these Terms and Conditions will operate as a waiver thereof. If any part of these Terms and Conditions is found to be invalid, unenforceable or void, then the remaining portion shall remain in full force and effect. Headings are for convenience only and not for use in interpretation.

**(Signatures on the Following Page)**

**SIX CONTINENTS HOTELS, INC.**

**LICENSEE**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT I1

# IHG® VOICE RESERVATION SERVICE AGREEMENT

THIS IHG® VOICE RESERVATION SERVICE AGREEMENT (this “Agreement”) is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20 (the “Effective Date”), by and between SIX CONTINENTS HOTELS, INC. (“SCH”), and \_\_\_\_\_ (“Hotel Owner”) (each a “Party,” and collectively the “Parties”).

## Background

- A. Hotel Owner is the owner of the hotel known as the \_\_\_\_\_ and located at \_\_\_\_\_ (the “Hotel”).  
Five letter inn code: \_\_\_\_\_. Number of Rooms: \_\_\_\_\_.
- B. Hotel Owner operates the Hotel as \_\_\_\_\_ brand hotel pursuant to the terms and conditions of a license agreement with Holiday Hospitality Franchising, LLC. (f/k/a Holiday Inns Franchising, Inc.), an Affiliate of SCH. [ or for IHG Managed Hotels *operates the Hotel as a \_\_\_\_\_ brand hotel pursuant to the terms and conditions of a management agreement between \_\_\_\_\_ [owning entity] and an affiliate of SCH.*
- C. SCH operates reservations offices located in various locations (the “Office(s)”) and has offered to have its Office(s) provide certain revenue and reservations services collectively known as the IHG Voice Reservation Service with respect to the Hotel and to certain other hotels operated under SCH brands, all subject to the terms and conditions of this Agreement. Hotel Owner wishes to accept and participate in IHG Voice Reservation Service with respect to the Hotel. As applicable throughout this Agreement, “SCH” includes affiliates of SCH.

## Statement of Agreement

For and in consideration of the premises, the mutual benefits and promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SCH and Hotel Owner agree as follows:

1. Term and Termination of Agreement.
  1. The term of this Agreement shall commence on the Effective Date and shall continue until terminated as provided below in Section 1.2 (the “Term”).
  2. This Agreement may be terminated as follows:
    - (a) In the event Hotel leaves the SCH system, this Agreement shall terminate on the date Hotel does so;
    - (b) Either Party may terminate this Agreement at any time, without cause, upon thirty (30) days written notice to the other Party;

(c) This Agreement may be terminated in accordance with the provisions set forth in Section 11 below; or

(d) This Agreement may be terminated by Hotel upon thirty (30) days prior written notice in the event Hotel does not agree with the revised Fees as set forth in Section 4 below.

2.Office Visit Credit. SCH encourages Hotel representative responsible for the Service to visit the Office prior to launch, however, any visits to the Office by the Hotel made within ninety (90) days of the launch of IHG Voice Reservation Service at the Hotel, and on an annual basis thereafter, shall entitle the Hotel to a credit. Upon completion of the initial visit to the Office, and upon completion of any annual visit to the Office, Hotel shall receive a one thousand dollar (\$1,000) booking credit. Visits to the Office shall consist of certain activities. Such activities include, but are not limited to, a team meeting with the IHG Voice Reservation Service Team, listening to live IHG Voice Reservation Service and general reservations calls, a Hotel presentation to the agents and any applicable consultation.

3.Cost of Startup. Hotel Owner is responsible for any startup costs incurred at the Hotel level as described, but not limited to, the below content.

1. An operator assisted link, pursuant to which the Hotel's telephone operator will answer all incoming calls and, if appropriate, transfer calls concerning reservations only to the Office. All Hotel telephone operators shall be properly trained so that no non-reservation calls are transferred to the Office. Hotel Owner must apply to SCH for an unpublished toll free number for the Hotel. Hotel Owner shall program such number into the Hotel's PBX system. If such work is not completed by Hotel Owner within thirty (30) days following issuance of the number by the Office, SCH may revoke such number and Hotel Owner must re-apply. Hotel Owner shall be responsible for any monthly service fee charged by the local phone vendor and/or long distance carrier, as well as for any programming expenses associated with setting up the IHG Voice Reservation Service link and/or for subsequent maintenance/repair expenses incurred at the Hotel level.
2. In addition to the operator assisted link, an automated link may be established with the Hotel's selected long distance carrier, which automatically diverts to the Office all incoming reservations calls. Hotel must secure and maintain, at its cost, a dedicated, toll free reservation line with Hotel's long distance carrier.

4.Cost of Services. Hotel Owner shall pay to SCH, in consideration for the services provided by SCH pursuant to this Agreement, the amount of \$6.63 per net booking on all reservations booked by the Office for the Hotel ("Fee"). This Fee will also be applied to any net bookings made by the Office from Hotel-direct calls transferred to public InterContinental Hotels Group CRO telephone numbers. The Fee may be modified by SCH once per calendar year upon thirty (30) days prior written notice to Hotel Management. Any increases to the Fee will not exceed ten percent (10%) of the previous fee. SCH shall bill Hotel monthly for the Fees.

5.Description of Services. SCH shall, through the Office, provide to Hotel Owner and/or Hotel Owner's authorized representative the following services during the Term of this Agreement:

1. reservation services for all calls transferred to the Office from the Hotel;

2. telephone connections between the Hotel and the Office;
3. management and staffing of the Office by and with SCH employees;
4. furnishing the Office with office equipment, hardware, software and furnishings;
5. performance reports with respect to calls transferred from the Hotel to the Office. Reports will reflect number of calls handled, number of rooms sold with confirmation percentage, number of room nights sold with average daily rate, and revenue produced.

6. Use and Hours of Operation. SCH may use the IHG Voice Reservation Office for the purposes described in this Agreement as well as for other revenue and reservation producing efforts and customary ancillary uses. The initial hours of operation are represented below and are subject to change based on call volume needs. Calls outside listed hours of operation will be supported by SCH global operations to ensure 24 hour coverage in English, French and Spanish.

<b>Language</b>	<b>Hours (Eastern Time)</b>
English	24 hours a day, 7 days a week
French	24 hours a day, 7 days a week
Spanish	24 hours a day, 7 days a week
Portuguese	8:00 AM – 9:00 PM Monday - Friday 8:00 AM – 7:00 PM Saturday - Sunday

7. Information Provided by Hotel Owner. Hotel Owner or its authorized representative shall provide to SCH the following information:

1. Presentations to the staff of the Office which will include updating and providing information about the Hotel; brochures and other information that will enhance the Office's ability to sell Hotel rooms;
2. Monthly updates of Local Negotiated Rates (LNR) accounts, and any special rates that may apply thereto, Direct Bill Accounts information with all pertinent details, additional groups, special promotions and Hotel information loaded into HOLIDEX Plus and IHG Hotel Content Manager website. Any such information is used by SCH and the Office for customer service purposes only;
3. Updates, as appropriate, of Hotel staff changes and hotel contacts;
4. Access to Hotel facilities by the Office employees for the purpose of familiarizing them with the Hotel to enhance the ability to sell Hotel rooms;
5. Weekly updates to the Hotel's custom IHG® Hotel Content Manager internet site to include information on the above.

8. Office Staff. Hotel Owner acknowledges that all employees in the Office are employees of SCH and are subject to its hiring practices and policies of SCH.

9. IHG Voice Reservation Service Access and Authorization to Corporate Monitor

Hotel shall specifically grant SCH access, and authorizes SCH access, through SCH's Corporate Monitor program to Hotel's property management system and HolidexPlus to review and make changes to Hotel's inventory. SCH will use such Corporate Monitor access for activities designated by Hotel through the Hotel Content Manager Internet site and as otherwise needed to provide IHG Voice services to Hotel. Hotel shall sign any required documentation in order to grant SCH such access.

10. Disclaimer/Limitation of Liability

1. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, SCH DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY MATTER, INCLUDING THE MERCHANTABILITY, SUITABILITY, ORIGINALITY, FITNESS FOR A PARTICULAR USE OR PURPOSE OR RESULTS TO BE DERIVED FROM THE USE OF THE IHG VOICE SERVICE(S) PROVIDED UNDER THIS AGREEMENT.

2. SCH WILL NOT BE RESPONSIBLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, DIRECT OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, BUSINESS INTERRUPTION, OR OTHER INCIDENTAL, PUNITIVE, OR ECONOMIC DAMAGES, WHETHER ARISING FROM HOTEL'S USE (OR INABILITY TO USE) OF THE IHG VOICE SERVICES PROVIDED HEREUNDER, OR OTHERWISE, EVEN IF SCH HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

11. Force Majeure. Upon the occurrence of an emergency or other event beyond the reasonable control of a Party which causes a failure to perform or delay in performance (except with regard to payment obligations), the affected Party's time of performance shall be extended, or cancelled, if and to the extent reasonably necessary.

12. Miscellaneous Provisions.

1. All notices, communications, requests or demands required or permitted to be sent pursuant to this Agreement (**except for execution of this agreement which shall be handled as outlined in 12.2 below**) shall be sent (i) by certified or registered mail, return receipt requested or (ii) by personal delivery or delivery by recognized overnight courier service to the Parties as follows:

In the case of SCH:

InterContinental Hotels Group  
Three Ravinia Drive, Suite 100  
Atlanta, GA 30346 USA  
E-mail Address: [ihgvoicecontracts@ihg.com](mailto:ihgvoicecontracts@ihg.com)

In the case of HOTEL:

2. For execution and delivery of the Agreement please sign and e-mail Agreement to [ihgvoicecontracts@ihg.com](mailto:ihgvoicecontracts@ihg.com) and send an original copy, via postal mail to the address directly above.
3. This Agreement shall be governed by and construed under the laws of the State of Georgia, without application of the principles of conflicts of law thereof.
4. The captions and headings of the various sections of this Agreement are intended for convenience of reference only and do not limit the content of the sections themselves.
5. This Agreement represents the entire agreement of the Parties as to the subject matter hereof and supersedes any prior agreements or understandings, oral or written, between the parties.
6. If any provision of this Agreement is declared to be illegal or unenforceable, the remainder of the Agreement shall not be affected by such illegality or unenforceability.
7. Except as specified in Sections 4 above, this Agreement may not be amended or changed except by the written agreement of SCH and Hotel Management.
8. Hotel Owner shall not assign or otherwise transfer this Agreement or any of its interest in this Agreement without the prior written consent of SCH, which consent shall not be unreasonably withheld or delayed. The Parties agree that it shall be reasonable for SCH to withhold consent to any such requested assignment or transfer if, among other reasons, the proposed assignee or transferee is not of good business reputation, is not financially sound or is a competitor of SCH. Notwithstanding the foregoing, Hotel Owner may, without SCH's consent, assign this Agreement to an entity which is controlled by, in control of or under common control with Hotel Owner, provided that Hotel Owner gives SCH written notice of such assignment within thirty (30) days following the effective date hereto.
9. The provisions of Sections 10 and 12 hereof shall survive the expiration or termination of this Agreement.

**IN WITNESS WHEREOF**, SCH and Hotel Owner have executed and delivered this IHG Voice Service Agreement as of the date first written above.

**HOTEL OWNER:**

Company Name: \_\_\_\_\_

Your Name: \_\_\_\_\_

Your Title: \_\_\_\_\_

Your Signature: \_\_\_\_\_

Your Mailing Address (street, city, state, zip):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Email address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

**PRIMARY CONTACT FOR IHG VOICE (at Hotel):**

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

**SCH (for company use only):**

SIX CONTINENTS HOTELS, INC.

By: \_\_\_\_\_

Name: Lia Balanag

Title: Director, Global Voice Programs  
Voice Commercial Optimization

# EXHIBIT I2

## REVENUE MANAGEMENT FOR HIRE AGREEMENT

**THIS AGREEMENT** is made effective as of [redacted] [date] between [redacted] ("Client") and Six Continents Hotels, Inc. ("SCH").

In the event of a conflict between the provisions of any attachments hereto and the provisions set forth in this Agreement, the provisions of such attachments shall govern.

### Background

- A. Client is the [redacted] (Ex: GM or Owner) of the hotel known as the [redacted], located at [redacted] (Address) (the "Hotel"), and has the authority to enter into this Agreement on behalf of the owner of the Hotel.
  
- B. Client operates the Hotel as a [redacted] brand hotel pursuant to the terms and conditions of a license agreement with an affiliate of SCH.
  
- C. SCH operates an Americas Region Revenue Management Department located at Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346 ("Department") and has offered to have the Department provide certain revenue management services with respect to the Hotel subject to the terms and conditions of this Agreement. Such services are hereinafter referred to as "Services." Client wishes to accept and participate in such Services with respect to the Hotel.

#### 1. Services.

SCH agrees to perform for Client the services listed below. Recommendations by your RMH Portfolio Revenue Manager may result in modifications to rates, inventory, and yielding strategies. These recommendations will be discussed with your hotel managers, and on the instructions of the General Manager, Principal Correspondent, or other designated staff member, your RMH Portfolio Revenue Manager will execute all changes in IHG's revenue and reservation systems within an agreed time frame. Therefore, active participation from hotel management is required in order to maximize the benefit of Revenue Management for Hire. Client agrees that SCH shall have ready access to Client's staff and resources as necessary to perform SCH's services provided for by this contract.

If your hotel qualifies to move to another level of the RMH program at any point during the agreement, you may do so one (1) time per agreement cycle.

#### Rate Consent Option:

With the RMH Rate Consent option, your RMH revenue manager will review rate and inventory opportunities on a more frequent basis and may decide that one or more rate changes is needed, or that multiple changes are needed on a given day. With this option you understand and agree that your RMH

Revenue Manager will notify you of all recommended and implemented rate changes but will enter those changes into IHG's systems without waiting for your approval or confirmation.

For these reasons, regardless of any changes your RMH Revenue Manager may make to your hotel's rates, you retain complete control over, and responsibility for, your hotel's rates and inventory, and may at any time override any changes your RMH Revenue Manager makes. You may also withdraw from this option at any time by notifying your RMH Revenue Manager that you no longer wish to participate. Participating in this option does not change the fact that you are responsible for your hotel's success, financially and otherwise.

- Yes, I agree to participate in the RMH Rate Consent option
- No, I do not agree to participate in the RMH Rate Consent option

## **2. Rate of Payment for Services.**

Client agrees to pay SCH for Services in accordance with the schedule contained in either Exhibit A1 or A2, as applicable, attached hereto and incorporated herein by reference. At any time and without cause, SCH may modify the pricing and such modifications shall become effective upon ninety (90) days notice to Client.

## **3. Invoicing.**

Client shall pay the amounts agreed to herein upon receipt of invoices which shall be sent by SCH, and Client shall pay the amount of such invoices to SCH. Any fees or other amounts due under this Agreement not received by SCH on or before such invoice is due shall bear interest at the rate of one and a half percent (1.5%) per month, calculated on a daily basis, until paid in full.

## **4. Confidential Information.**

Neither party hereto shall disclose to any non-party to the Agreement, any confidential information of such other party. Confidential information is information which relates to the other party's research, development, trade secrets, marketing plans, or business affairs, but does not include information which is generally known or easily ascertainable by non-parties.

SCH hereby acknowledges that during the performance of this contract, SCH may learn or receive confidential Client information and therefore SCH hereby confirms that all such information relating to the Client's business will be kept confidential by SCH, except to the extent that such information is required to be divulged to SCH's clerical or support staff or associates in order to enable SCH to perform SCH's services under this Agreement or is required to be disclosed pursuant to a subpoena, court order or other applicable law.

## **5. Staff, Use and Hours of Operation.**

SCH is an independent contractor and neither SCH nor SCH's staff is or shall be deemed to be employed by Client. Client is hereby contracting with SCH for the Services described on above in Section 1 and SCH reserves the right to determine the method, manner and means by which the Services will be performed. The Services shall be performed by SCH or SCH's staff, and Client shall not be required to hire, supervise or pay any assistants to help SCH perform the Services under this agreement.

SCH shall not be required to devote SCH's full time nor the full time of SCH's staff to the performance of the Services required hereunder, and it is acknowledged that SCH has other Clients within the SCH family of brands. The order or sequence in which the Services are to be performed shall be under the sole control of SCH. Except to the extent that SCH's Services must be performed on or with Client's computers or Client's existing software, and except to the extent specified in Exhibit A, all materials used in providing the Services shall be provided by SCH.

Each of the parties hereto agrees that, while performing Services under this Agreement, and for a period of three (3) months following the termination of this Agreement, neither party will, except with the other party's written approval, solicit or offer employment to the other party's employees or staff engaged in any efforts under this Agreement.

SCH shall keep the Department staffed and open for business during normal business hours in the U.S. Eastern time zone, excluding holidays.

## **6. Term of Agreement.**

1. The term of this Agreement shall commence as of , and shall continue for a period of twelve (12) months and expire at the close of business on  
 , provided that this Agreement is not earlier terminated as more particularly described below ("Initial Term").
2. Either party may terminate this Agreement upon providing ninety (90) days prior written notice to the other party.
3. If Client is participating with a third party intermediary (TPI) that is not certified by SCH, even if Client has obtained a waiver to participate with said non-certified TPI, this agreement shall be terminated upon notice to Client.
4. In the event of a termination or expiration of the License Agreement between Client and Holiday Hospitality Franchising, Inc., this Agreement shall automatically and without



specifically agree that SCH is not an employee of Client. In the event foreign, federal, state or local taxes are assessed on the Services and SCH has paid for such taxes, Client shall promptly reimburse SCH for all such taxes except for those taxes based on the income of SCH, SCH employees, or personnel provided by SCH pursuant to this Agreement.

#### **11. Liability.**

SCH warrants to Client that the analysis, data, and services to be delivered or rendered hereunder, will be of the kind and quality described in Exhibit A and will be performed by qualified personnel.

**SCH MAKES NO OTHER WARRANTIES, WHETHER WRITTEN, ORAL OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTY OF FITNESS FOR PURPOSE OR MERCHANTABILITY. IN NO EVENT SHALL SCH BE LIABLE FOR SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, ANY DAMAGES RELATED TO THE AMOUNTS OF THE CLIENT'S REVENUE OR PROFITS, EITHER IN CONTRACT OR TORT, WHETHER OR NOT THE POSSIBILITY OF SUCH DAMAGES HAS BEEN DISCLOSED TO SCH IN ADVANCE OR COULD HAVE BEEN REASONABLY FORESEEN BY SCH, AND IN THE EVENT THIS LIMITATION OF DAMAGES IS HELD UNENFORCEABLE THEN THE PARTIES AGREE THAT BY REASON OF THE DIFFICULTY IN FORESEEING POSSIBLE DAMAGES ALL LIABILITY TO CLIENT SHALL BE LIMITED TO ONE HUNDRED DOLLARS (\$100.00) AS LIQUIDATED DAMAGES AND NOT AS A PENALTY.**

#### **12. Complete Agreement.**

This agreement contains the entire agreement between the parties hereto with respect to the matters covered herein. No other agreements, representations, warranties or other matters, oral or written, purportedly agreed to or represented by or on behalf of SCH by any of its employees or agents, or contained in any sales materials or brochures, shall be deemed to bind the parties hereto with respect to the subject matter hereof. Client acknowledges that it is entering into this Agreement solely on the basis of the representations contained herein.

#### **13. Applicable Law.**

The parties shall each comply with all applicable federal, state and local employment and other laws, government regulations and orders. This Agreement shall be construed in accordance with the laws of the State of Georgia. Venue for any claim, suit, or action for enforcement of any provision of this Agreement shall lie in the state or federal courts located in the State of Georgia, Fulton or DeKalb County, to the exclusion of all others.

#### **14. Scope of Agreement.**

If the scope of any of the provisions of the Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provisions shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of this Agreement shall not thereby fail, but that the scope of such provisions shall be curtailed only to the extent necessary to conform to law.

**15. Additional Work.**

If the parties agree upon additional services to be performed for Client by SCH and upon the additional compensation to be paid to SCH for such additional services, the parties shall both execute a document confirming such terms and such document shall become an amendment to this Agreement.

**16. Notices.**

(i). Notices to Client should be sent to (Address): (if other than hotel)

(ii). Notices to SCH should be sent to: InterContinental Hotels Group, Revenue Management Department, Attention Director of Revenue Management Services, 3 Ravinia Drive, Suite 100, Atlanta, GA 30346-2121, with a copy sent by fax to Legal Department (678-894-4128).

**17. Assignment.**

Client shall not assign or otherwise transfer this Agreement or any of its interest in this Agreement without the prior written consent of SCH. Except for the prohibition on assignment contained in the preceding sentence, this Agreement shall be binding upon and inure to the benefits of the heirs, successors and assigns of the parties hereto.

**18. Illegality of Agreement.**

If any provision of this Agreement is declared to be illegal or unenforceable, the remainder of the Agreement shall not be affected by such illegality or unenforceability.

**19. Exclusivity.**

SCH may provide similar services to other hotel owners. Client does not have an exclusive right to receive the Services from SCH.

**20. Litigation Costs.**

In the event of any action, suit or proceeding related to this Agreement, the prevailing party, in addition to its rights and remedies otherwise available shall be entitled to receive reimbursement of reasonable attorney's fees and costs and court costs.

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed by an authorized person as of the date first above written.

SIX CONTINENTS HOTELS, INC.

By (signature): \_\_\_\_\_

Name: Stephanie Ochs

Title: Head of Revenue Management Services

Date:

Company Name:

By (Signature):

Name:

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Once completed please email to [rmhamer@ihg.com](mailto:rmhamer@ihg.com).**

**Exhibit A1**

**Compensation – Revenue Management for Hire**

**Revenue Aware Service**

The cost of the service is based room count. If the hotel’s room count is 100 rooms or less the-service is offered at **\$399** per month.

Given the above statement...client shall compensate SCH at a rate of **\$399** per month. An invoice will be sent monthly to Client and shall be due fifteen (15) days from the date of such invoice mailing.

SCH shall be reimbursed at actual cost for all necessary and reasonable out-of-pocket travel expenses (if travel is required or requested by Client) incurred by SCH personnel.

**Fedrooms Parity Correction Program:** For hotels that are participating in the FedRooms Program, we now offer the FedRooms Parity Correction Program in RMH. With this, your Revenue Manager will be alerted to any parity violations for the next 50 weeks and resolve the issue immediately, and then follow up with your hotel on the dates and action taken. As with all our programs, regardless of any changes your RMH revenue manager may make to your hotel’s rates, you retain complete control over, and responsibility for, your hotel’s rates and inventory, and may at any time override any changes made by your RMH Revenue Manager.

- Yes, I agree to participate in the RMH FedRooms Parity Correction Program
- No, I do not agree to participate in the RMH FedRooms Parity Correction Program

**Hotel Information:**

Hotel Inn Code

Management Company

Primary Contact Name

Primary Contact Position

Primary Contact Phone Number

Primary Contact Email

General Managers Name

GM Phone Number

GM E-Mail

GM Fax

Secondary Contact Name

Secondary Contact Position

Secondary Contact Phone Number

Secondary E-Mail

**Once completed please email to [rmhamer@ihq.com](mailto:rmhamer@ihq.com)**

## Compensation – Revenue Management for Hire Essential Service

The cost of the service is based room count. If the hotel’s room count is 150 rooms or less, the-service is offered at **\$1029** per month. This level of service includes a strategy call on a bi-weekly basis.

Given the above statement...client shall compensate SCH at a rate of **\$1029** per month. An invoice will be sent monthly to Client and shall be due fifteen (15) days from the date of such invoice mailing.

SCH shall be reimbursed at actual cost for all necessary and reasonable out-of-pocket travel expenses (if travel is required or requested by Client) incurred by SCH personnel.

**Fedrooms Parity Correction Program:** For hotels that are participating in the FedRooms Program, we now offer the FedRooms Parity Correction Program in RMH. With this, your Revenue Manager will be alerted to any parity violations for the next 50 weeks and resolve the issue immediately, and then follow up with your hotel on the dates and action taken. As with all our programs, regardless of any changes your RMH revenue manager may make to your hotel’s rates, you retain complete control over, and responsibility for, your hotel’s rates and inventory, and may at any time override any changes made by your RMH Revenue Manager.

- Yes, I agree to participate in the RMH FedRooms Parity Correction Program
- No, I do not agree to participate in the RMH FedRooms Parity Correction Program

**Hotel Information:**

Hotel Inn Code

Management Company

Primary Contact Name

Primary Contact Position

Primary Contact Phone Number

Primary Contact Email

General Managers Name

GM Phone Number

GM E-Mail

GM Fax

Secondary Contact Name

Secondary Contact Position

Secondary Contact Phone Number

Secondary E-Mail

**Once completed please email to [rmhamer@ihg.com](mailto:rmhamer@ihg.com)**

## Compensation – Revenue Management for Hire Premiere Service

The Premiere Revenue Management service is available to all hotels, and if offered at **\$1549** per month. This level of service includes a strategy call on a weekly basis.

Given the above statement...client shall compensate SCH at a rate of **\$1549** per month. An invoice will be sent monthly to Client and shall be due fifteen (15) days from the date of such invoice mailing.

SCH shall be reimbursed at actual cost for all necessary and reasonable out-of-pocket travel expenses (if travel is required or requested by Client) incurred by SCH personnel.

**Fedrooms Parity Correction Program:** For hotels that are participating in the FedRooms Program, we now offer the FedRooms Parity Correction Program in RMH. With this, your Revenue Manager will be alerted to any parity violations for the next 50 weeks and resolve the issue immediately, and then follow up with your hotel on the dates and action taken. As with all our programs, regardless of any changes your RMH revenue manager may make to your hotel's rates, you retain complete control over, and responsibility for, your hotel's rates and inventory, and may at any time override any changes made by your RMH Revenue Manager.

- Yes, I agree to participate in the RMH FedRooms Parity Correction Program
- No, I do not agree to participate in the RMH FedRooms Parity Correction Program

### **Hotel Information:**

Hotel Inn Code

Management Company

Primary Contact Name

Primary Contact Position

Primary Contact Phone Number

Primary Contact Email

General Managers Name

GM Phone Number

GM E-Mail

GM Fax

Secondary Contact Name

Secondary Contact Position

Secondary Contact Phone Number

Secondary E-Mail

**Once completed please email to [rmhamer@ihg.com](mailto:rmhamer@ihg.com)**

**Exhibit A1**

**Compensation – Revenue Management for Hire**  
**Comprehensive 1 Service**

This service is available to all hotels, at a cost of **\$2099** per month. This level of service includes a strategy call on a weekly basis with daily touchpoints on off call days.

Given the above statement...client shall compensate SCH at a rate of **\$2099** per month. An invoice will be sent monthly to Client and shall be due fifteen (15) days from the date of such invoice mailing.

SCH shall be reimbursed at actual cost for all necessary and reasonable out-of-pocket travel expenses (if travel is required or requested by Client) incurred by SCH personnel.

**Fedrooms Parity Correction Program:** For hotels that are participating in the FedRooms Program, we now offer the FedRooms Parity Correction Program in RMH. With this, your Revenue Manager will be alerted to any parity violations for the next 50 weeks and resolve the issue immediately, and then follow up with your hotel on the dates and action taken. As with all our programs, regardless of any changes your RMH revenue manager may make to your hotel’s rates, you retain complete control over, and responsibility for, your hotel’s rates and inventory, and may at any time override any changes made by your RMH Revenue Manager.

- Yes, I agree to participate in the RMH FedRooms Parity Correction Program
- No, I do not agree to participate in the RMH FedRooms Parity Correction Program

**Hotel Information:**

Hotel Inn Code

Management Company

Primary Contact Name

Primary Contact Position

Primary Contact Phone Number

Primary Contact Email

General Managers Name

GM Phone Number

GM E-Mail

GM Fax

Secondary Contact Name

Secondary Contact Position

Secondary Contact Phone Number

Secondary E-Mail

Once completed please email to [rmhamer@ihg.com](mailto:rmhamer@ihg.com)



Primary Contact Email

General Managers Name

GM Phone Number

GM E-Mail

GM Fax

Secondary Contact Name

Secondary Contact Position

Secondary Contact Phone Number

Secondary E-Mail

**Once completed please email to [rmhamer@ihg.com](mailto:rmhamer@ihg.com)**

# EXHIBIT 13



### New Coca-Cola Agreement and Request for E-Signature

In a continued effort to provide a best-in-class beverage program for guest and owners, IHG® has recently renegotiated the Master Services Agreement with Coca-Cola®:

#### Agreement Highlights:

- Lowers product costs for IHG® hotels by approximately 7% on average
- Secures access to equipment & unlimited service calls free of charge
- Provides incremental marketing capacity for IHG revenue-driving campaigns and F&B initiatives
- ***ALL applicable hotels are required to sign a NEW Coca-Cola Participation Agreement to receive the negotiated pricing & remain compliant with the existing brand standard (ID 55838).***

**NOTE: If your hotel has recently opened, you may have signed a previous agreement. Signing the December 2020 agreement IS REQUIRED.**

**Questions? Go to IHG Merlin and search Coca-Cola Beverage Program.** If your questions are not answered in the Merlin article, please email [CokeContracts@ihg.com](mailto:CokeContracts@ihg.com).

### Hotel Information

Inn Code	
Hotel Brand	
Hotel Name	
Address	
City	
State	
Zip	
Phone	

(for Open hotels)

**COCA-COLA  
SIX CONTINENTS HOTELS, INC.  
HOTEL PARTICIPATION AGREEMENT**

**1. DEFINITIONS**

Capitalized terms not otherwise defined herein are defined in **Exhibit B**.

**2. SCOPE OF AGREEMENT**

This Hotel Participation Agreement (the "Agreement") is entered into in connection with the 2020 United States Beverage Marketing Agreement between The Coca-Cola Company and Six Continents Hotels, Inc. ("IHG"), an InterContinental Hotels Group company, dated January 1, 2020 (the "Beverage Marketing Agreement" or "BMA"), and is between (A) the undersigned owner or manager of the "Hotel" named herein (in the IHG hotel system), and (B) The Coca-Cola Company, acting by and through its Coca-Cola North America Group, ("Company"). Hotel desires to participate in certain programs as a "Hotel" under the BMA, which requires execution of this Agreement by Hotel and in connection therewith the purchase of certain Company products or equipment (Dispensers) pursuant to this Agreement for the Hotel named herein. With respect to those provisions relating to Bottler Bottle/Can Beverages, this Agreement will only apply to each Hotel that is located in the geographic territory in which a given Bottler is authorized to distribute, promote, market, and sell Bottler Bottle/Can Beverages. Subject to the further provisions of this Agreement, if any Hotel is eligible for an alternate marketing or funding program offered directly or indirectly by Company or any of its subsidiaries or Authorized Bottlers, Company in its sole discretion will determine which marketing or funding program will be made available to that Hotel. In no event will any Hotel be eligible for more than one marketing or funding program offered by Company, or any of its subsidiaries or Authorized Bottlers. Customer agrees to provide Company with written notice of the opening, acquisition, change in ownership, termination of license agreement, or closing of any Hotel as promptly as is consistent with Customer's business processes.

**3. EFFECTIVE DATE AND TERM**

This Agreement will become effective when signed by an authorized representative of each of Company and Customer (the "**Agreement Effective Date**"). The "**Term Effective Date**" will be January 1, 2020, provided this Agreement is signed on or before September 30, 2020; or (ii) if this Agreement is signed after September 30, 2020, the Term Effective Date will be the first day of the month in which this Agreement is signed by Customer. The term of the Agreement will continue from the Term Effective Date until the expiration or earlier termination of the beverage marketing agreement between Company and Six Continents Hotels, Inc. dated January 1, 2020 (the "**Term**").

**4. EXHIBITS**

This Agreement also consists of the following:

- i. **Exhibits A-1 through A-4** Program Terms and Conditions
- ii. **Exhibit B** Definitions
- iii. **Exhibit C** Standard Terms and Conditions
- iv. **Exhibit D** Dispensing Equipment Lease
- v. **Exhibit E** Additional Terms

**THE COCA-COLA COMPANY, acting by and through its COCA-COLA NORTH AMERICA GROUP**

Signature: Krista L. Schulte

Date: December 3, 2020

SVP Strategic Partnership  
Title: Marketing

**HOTEL: FRANCHISEE or MANAGEMENT COMPANY (on behalf of Owner)**

Franchisee Legal Business Name  
\_\_\_\_\_

Signed by: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT A-1**  
**FOUNTAIN PROGRAM TERMS AND CONDITIONS**

**1. AVAILABILITY**

**1.1 Company Fountain Beverages**

The Hotels that serve Fountain Beverages will serve a core brand set of Company Fountain Beverages that consists of Coca-Cola®, Diet Coke®, Sprite® and Coke Zero™, and the remaining Company Fountain Beverages will be selected by Customer, subject to Company's approval, which shall not be unreasonably withheld. All Fountain Beverages served in the Hotels must be Company Fountain Beverages, except for the Fountain Beverage Permitted Exception. In addition, no Hotel may dedicate any valve on a Dispenser leased from Company to dispense tap water. For the avoidance of doubt, each Hotel shall be able to serve water on one valve per Dispenser through a Subtab Mechanism. Company will use its commercially reasonable efforts to make a line of Company Fountain Syrups that is as broad as possible (based on local geography) available to each Hotel in order to allow Customer to fulfill its obligations under this Agreement.

**1.2 Permitted Exception**

Hotels in the State of Texas, subject to the Fair Share provisions described in Section 7 of this Exhibit A-1, may serve Dr Pepper®, but only on one valve per Dispenser per Hotel (the "**Fountain Beverage Permitted Exception**").

**2. PRICING**

During the Term, each Hotel will have the right to purchase Company Fountain Syrups from Company at Company's then-current published chain account prices, which prices are subject to change from time to time.

**3. FOUNTAIN BEVERAGE PERFORMANCE CRITERIA**

Customer agrees comply with all of the following performance criteria:

- i. As applicable, include approved renditions of Company brands, trademarks and/or logos on menus and merchandise at point of order at each Hotel.
- ii. Beginning in calendar year 2021, and each Year of the Term thereafter, execute a minimum of two (2) promotional programs featuring Company Fountain Beverages as agreed upon by the parties.
- iii. Provide regular access to Company Beverage sales data.
- iv. Perform those additional Company Fountain Beverage marketing activities as directed by IHG.

**4. EQUIPMENT PROGRAM**

Where permitted by law, Company will lease to Customer without any additional charge during the Term the Dispensers owned by Company as follows: (i) for Hotels existing as of the Agreement Effective Date, the Dispensers that are currently installed, without extending the equipment lease term length of any such currently installed Dispensers, and (ii) for each Hotel that becomes a Hotel during the Term, the Dispensers reasonably necessary to enable such Hotel to dispense a quality Fountain Beverage. With respect to new and/or acquired hotels that become Hotels during the Term, unless otherwise mutually agreed upon by the parties, Dispensers will be placed in such new or acquired Hotel only if such Hotel is forecast to purchase a minimum of 400 gallons of Company's Fountain Syrups per Year. Customer will use commercially reasonable efforts to assist in the conversion of any Hotels purchasing less than 400 gallons of Company's Fountain Syrups per Year to a Bottle/Can Program as described in **Exhibit A-3**. No ice makers or water filters will be provided to any Hotel under this Agreement. Equipment innovations that require a separate agreement (such as Coca-Cola Freestyle) will also not be provided without a separate agreement. No Hotel will alter or add to any Dispenser provided by Company without Company's prior written consent.

In any state where a lease without any additional charge is not permitted (e.g., in Wisconsin) or Customer elects to lease additional Dispensers, such Dispensers will be leased to Customer at an annual lease rate calculated by multiplying the total installed cost of the additional Dispensers by the then-current lease factor. The lease factor currently in effect for Dispensers is 0.24. Should the lease factor change during the Term, any Dispenser installed after the change goes into effect will be subject to the new lease factor. For the avoidance of doubt, if the ownership and/or management of a Hotel changes, the then-current lease factor will remain in effect for that Hotel. Charges will be invoiced. Any unpaid invoices will be handled as follows (the "**Unpaid Invoice Procedure**"): All unpaid invoices by a Hotel will be subject to Company's payment/credit terms and conditions applicable to such Hotel. Furthermore, Company may refuse to deliver further any Company Beverages to the affected Hotel until the unpaid invoice is satisfied.

All Dispensers provided by Company will at all times remain the property of Company and are subject to the terms and conditions of the Lease except as specifically changed by the Program Terms and Conditions or the Standard Terms and Conditions of this Agreement.

At a minimum, equipment provided pursuant to this Exhibit A-1 shall include, at no cost to Customer in a quantity reasonably necessary for each Hotel:

Fountain Equipment (except in portable bars)  
New Lines (as needed)  
Bar Guns

## **5. SERVICE PROGRAM**

Company will provide at no charge routine mechanical repair including line replacements and flavor changes/additions that are reasonable and necessary for Dispensers. Hotels must utilize Company's service network for such service. Any Special Service Calls are not considered routine service and will not be provided free of charge. Charges for Special Service Calls or for routine mechanical repair calls will be charged at Company's then current rates. Such charges will be invoiced. Charges will include labor, travel time, parts, and administrative costs. Any unpaid invoices by a Hotel will be handled in accordance with the Unpaid Invoice Procedure set forth above.

Company will not be obligated to provide service when it is prevented from doing so due to strikes, civil disturbances, unavailability of parts or other causes beyond the reasonable control of Company. Company will not be liable for damages of any kind arising out of delays in rendering service for such reasons. In such cases, the Hotels will continue to comply with the Agreement, but only to the extent reasonably possible under the circumstances.

## **6. FAIR SHARE**

If Customer desires to serve Dr Pepper as set forth above in the Permitted Exception, an additional annual fair share lease charge of \$300 for each one of those valves will be incurred. Charges will be invoiced to each Hotel. Any unpaid invoices by a Hotel will be handled in accordance with the Unpaid Invoice Procedure set forth above.

**EXHIBIT A-2**  
**JUICE AND FAIRLIFE MILK PROGRAM TERMS AND CONDITIONS**

**1. AVAILABILITY**

**1.1 TCCC Juice**

The Hotels will serve a core brand set of Company Fountain Juice and Bottler Bottle/Can Juice (collectively, “**TCCC Juice**”) products, as indicated below (or such substitute products that may become available and reasonably approved by Customer) for dispensing in the Hotels. All Juice served in the Hotels, with the exception of Juice Beverage Permitted Exceptions defined below, will be TCCC Juice. Company will use its commercially reasonable efforts to make TCCC Juice available to each Hotel as set forth below in order to allow Customer to fulfill its obligations under this Agreement. At a minimum, the Juice Beverages listed in Section 3.1 below must be available to Hotels at the pricing made available under this Agreement.

<b>Juice Product</b>	<b>Customer Brand Where Available</b>
Frozen Dispensed Juice (Minute Maid Frozen Concentrate Juice)	Mainstream Brands (Excluding Holiday Inn)
Not From Concentrate (Simply Orange)	Upscale & Luxury Brands and Holiday Inn

Subject to applicable law and agreements to which Customer is subject, Customer will use commercially reasonable efforts to facilitate Company access to the Hotels to present new products for consideration.

**1.2 Fairlife Milk**

The Hotels may serve Company’s Fairlife brand milk, and purchases of Fairlife will earn funding as set forth below.

**1.3 Permitted Exceptions**

Notwithstanding the foregoing, Hotels may serve the following Competitive Beverages that are Juice (the “Juice Beverage Permitted Exceptions”): (i) juice that is freshly-squeezed on the premises; (ii) Juice provided by Royal Cup at only those Hotels operated under the Holiday Inn Express tradename; and (iii) Competitive Juice Beverages that Company and Six Continents Hotels, Inc. mutually agree may be served in the Hotels. If any Juice Permitted Exception becomes a Product of PepsiCo at a later date, that Competitive Beverage will no longer be deemed a Juice Permitted Exception.

**2. PRICING**

Company agrees that during the Term, Customer will have the right to purchase Juice from Company at Company’s then-current published chain account prices, which prices are subject to change from time to time. Further, for Minute Maid Frozen Concentrate Juice (a/k/a “Frozen Dispensed”) (“**MMFD**”), Company agrees to provide certain deviated pricing, as set forth below.

**2.1 MMFD List Price Deviation**

For MMFD, the amount of deviation from list price is shown below and will be applied on each Physical Case of MMFD that each Hotel purchases. List price deviation will be available to Hotels only for purchases of MMFD from an Authorized Distributor of Company’s Juices. Deviation will be deducted from the MMFD invoices. List prices as of the date of this Agreement are as noted below and may fluctuate.

<b>Item</b>	<b>2020 List Price</b>	<b>Deviation from List Price (amount deducted from retail price)</b>
4/90 oz. Minute Maid® Orange Juice 5+1	\$129.77	\$29.68
4/90 oz. Minute Maid® Apple Juice 6+1	\$125.11	\$22.11
4/90 oz. Minute Maid® Orange Guava Passionfruit 5+1	\$94.72	\$13.25
4/90 oz. Minute Maid® Lemonade 6+1	\$67.38	\$14.95

## 2.2 Simply Juice Pricing

For Simply Juice, the current pricing for 6/52 oz. PET (bottled) packaging is \$24.15 per Physical Case. Simply Juice price is quoted "FOB Distributor." Notwithstanding that Simply Juice is quoted "FOB Distributor", Company acknowledges and agrees that it shall bear the incremental costs of redistribution necessary to deliver the product to distribution centers; estimated to be \$2.60 per Physical Case throughout the term.

### 3. JUICE BEVERAGE PERFORMANCE CRITERIA

To qualify for the program set forth in this Exhibit A-2, Customer must comply with all of the following performance criteria:

- i. As applicable, include approved renditions of Company Juice brands, trademarks and/or logos on menus and merchandising materials in each Hotel.
- ii. Perform those additional Company Juice marketing activities the parties mutually agree upon.

### 4. EQUIPMENT PROGRAM

For MMFD, Company will lease to Customer without any additional charge during the Term, the Company approved equipment reasonably necessary to enable such Hotels to dispense a quality Juice Beverage. Customer agrees that the only Beverages served on Company's Juice equipment provided by Company will be TCCC Juice brands. No ice makers or water filters will be provided to any Hotel under this Agreement. Equipment innovations that require a separate agreement (such as Coca-Cola Freestyle) will also not be provided without a separate agreement. No Hotel will alter or add to any equipment provided by Company without Company's prior written consent.

If Customer elects to lease additional equipment, such equipment will be leased to Customer at an annual lease rate calculated by multiplying the total installed cost of the additional equipment by the then-current lease factor. The lease factor currently in effect for equipment is 0.24. Should the lease factor change during the Term, any equipment installed after the change goes into effect will be subject to the new lease factor. For the avoidance of doubt, if the ownership and/or management of a Hotel changes, the then-current lease factor will remain in effect for that Hotel. Lease charges, if any, will be invoiced. Any unpaid invoices by a Hotel will be handled in accordance with the Unpaid Invoice Procedure defined in Exhibit A-1, Section 5. All equipment provided by Company will at all times remain the property of Company and are subject to the terms and conditions of the Lease except as specifically changed by any of the Program Terms and Conditions or Standard Terms and Conditions of this Agreement.

At a minimum, equipment provided pursuant to this Exhibit A-2 shall include at no cost to Customer in a quantity reasonably necessary for each Hotel:

#### Orange Juice Carafes

- Company will provide 2 cases (24 carafes) of Simply juice carafes to each Hotel in the Holiday Inn and Crowne Plaza brands in Year 1
- Company will provide a maximum of 1 additional case (12 carafes) for each Hotel in the Holiday Inn and Crowne Plaza brands in Year 2 through the remainder of the Term

### 5. SERVICE PROGRAM

Customer may use Company's service network without any additional charge for all ordinary course mechanical repairs reasonably needed for Juice equipment provided by Company. Service in respect of Juice equipment will be on the terms and conditions set forth in Section 6.1 of **Exhibit A-1** attached to this Agreement.

**EXHIBIT A-3**  
**BOTTLE/CAN PROGRAM TERMS AND CONDITIONS**

**1. AVAILABILITY**

Each Hotel will make available a core brand set of Bottler Bottle/Can Beverages, subject to availability from Bottler, that consists of Coca-Cola®, Diet Coke®, Sprite® and Coke Zero™, and the remaining Bottler Bottle/Can Beverages will be selected by Customer, subject to Company's approval, which shall not be unreasonably withheld. All Bottle/Can Beverages served in the Hotels will be Bottler Bottle/Can Beverages, except for the Bottle/Can Beverage Permitted Exceptions defined below. Company and Bottler will use their commercially reasonable efforts to make a line of Bottler Bottle/Can Beverages that is as broad as possible (based on local market) available to each Hotel in order to allow Customer to fulfill its obligations under this Agreement. At a minimum, the Beverages listed in Section 3 below must be available to Hotels at the pricing made available under this Agreement.

Notwithstanding the foregoing, Hotels may serve the following Competitive Beverages in Bottle/Can Beverage form (the "**Bottle Can/Beverage Permitted Exceptions**"): (i) Pellegrino bottled water; (ii) Fred brand bottled water at Kimpton hotels only; (iii) bottled water sold in a glass bottle, provided it is not a Product of PepsiCo, (iv) water offered to hotel guests on a complimentary basis, provided such water is not a Product of PepsiCo; and (v) up to 10% of the space allocated to Bottle/Can Beverages in Customer-owned Beverage coolers or displays may feature Competitive Beverages, provided that such brands are (i) not Products of PepsiCo, (ii) are not Sparkling Beverages, and (iii) are not Juice Beverages, except for those Beverages that are local, niche brands for which Company does not provide a product offering and may contain juice as an ingredient. If any Bottle/Can Beverage Permitted Exception becomes a Product of PepsiCo at a later date, that Competitive Beverage will no longer be deemed a Bottle/Can Beverage Permitted Exception, unless that Customer has an agreement with such Competitive Beverage supplier, in which such Competitive Beverage will be considered a Permitted Exception until the expiration of such agreement. Customer acknowledges that all Bottle/Can Beverages displayed in Bottler-owned Cold Drink Equipment must be a Bottler Bottle/Can Beverages.

**2. PRICING**

Effective during the time period commencing thirty (30) days after the date this Agreement is fully signed or the first day of the Term, whichever is later, and ending December 31, 2025, Bottler will charge no more than the price ceilings for the Bottler Bottle/Can Beverages identified in the table below. Price ceilings for all subsequent Years beyond what is set forth in the chart below, if any, will automatically increase 3% over the previous Year's price ceilings.

Product	# of Units/cs "as sold"	# of Units/ Std Phys cs	1/1/2020 - 12/31/2020	1/1/2021 - 12/31/2021	1/1/2022 - 12/31/2022	1/1/2023 - 12/31/2023	1/1/2024 - 12/31/2024	1/1/2025 - 12/31/2025	Total Variable Funding Applied Directly to Invoice
12 OZ CAN - KO CSD & NCB	24	24	\$11.46	\$11.81	\$12.16	\$12.53	\$12.90	\$13.29	\$1.00
12 OZ PET - KO CSD	24	24	\$16.62	\$17.12	\$17.64	\$18.17	\$18.71	\$19.27	\$1.00
1 LITER PET - KO CSD	12	12	\$15.53	\$16.00	\$16.48	\$16.97	\$17.48	\$18.01	\$1.00
2 LITER PET - KO CSD	8	8	\$17.12	\$17.63	\$18.16	\$18.71	\$19.27	\$19.85	\$1.00
20 OZ PET - KO CSD	24	24	\$24.08	\$24.80	\$25.55	\$26.31	\$27.10	\$27.92	\$1.00
8 OZ GLASS - CSD	24	24	\$20.14	\$20.74	\$21.36	\$22.00	\$22.66	\$23.34	\$1.00
8.5 OZ ALUMINUM BOTTLE - CSD	24	24	\$20.14	\$20.74	\$21.36	\$22.00	\$22.66	\$23.34	\$1.00
7.5 OZ CAN - KO CSD	24	24	\$14.33	\$14.76	\$15.20	\$15.66	\$16.13	\$16.61	\$1.00
20 OZ PET - MM REFRESHMENT	24	24	\$25.34	\$26.10	\$26.88	\$27.69	\$28.52	\$29.37	\$1.00
12 OZ CAN - KO CSD & NCB	24	24	\$24.70	\$25.44	\$26.20	\$26.99	\$27.80	\$28.63	\$1.00
16.9 OZ PET - FUZE	12	24	\$39.84	\$41.04	\$42.27	\$43.53	\$44.84	\$46.19	\$1.00
10 OZ PET - MMJTG	24	24	\$20.30	\$20.91	\$21.54	\$22.18	\$22.85	\$23.53	\$1.00
20 OZ PET - POWERADE	24	24	\$24.50	\$25.24	\$26.00	\$26.78	\$27.58	\$28.41	\$1.00
12 OZ PET - POWERADE	24	24	\$22.71	\$23.39	\$24.09	\$24.82	\$25.56	\$26.33	\$1.00
12 OZ PET - DASANI	24	24	\$15.30	\$15.75	\$16.23	\$16.71	\$17.22	\$17.73	\$1.00
20 OZ PET - DASANI	24	24	\$17.47	\$17.99	\$18.53	\$19.09	\$19.66	\$20.25	\$1.00
500 ML - DASANI	24	24	\$7.52	\$7.74	\$7.98	\$8.22	\$8.46	\$8.72	\$0.00
1 LITER PET - DASANI	12	12	\$16.19	\$16.68	\$17.18	\$17.69	\$18.22	\$18.77	\$1.00
16 OZ CAN - FULL THROTTLE BRANDS	24	24	\$50.04	\$51.54	\$53.08	\$54.68	\$56.32	\$58.01	\$1.00
16 OZ CAN - NOS	24	24	\$50.04	\$51.54	\$53.08	\$54.68	\$56.32	\$58.01	\$1.00
22 OZ PET - NOS	24	24	\$71.22	\$73.36	\$75.56	\$77.83	\$80.16	\$82.57	\$1.00
20 OZ PET - VITAMINWATER	24	24	\$37.90	\$39.04	\$40.21	\$41.42	\$42.66	\$43.94	\$1.00
32 OZ PET - VITAMINWATER	15	12	\$27.51	\$28.34	\$29.19	\$30.06	\$30.96	\$31.89	\$1.00
700 ML - SMARTWATER	24	24	\$36.24	\$37.32	\$38.44	\$39.60	\$40.78	\$42.01	\$1.00
16.9 OZ PET - HONEST TEA	12	24	\$36.68	\$37.78	\$38.91	\$40.08	\$41.28	\$42.52	\$1.00
20 OZ PET - SMARTWATER	24	24	\$26.27	\$27.05	\$27.86	\$28.70	\$29.56	\$30.45	\$1.00
1 LITER PET - SMARTWATER	12	12	\$23.10	\$23.80	\$24.51	\$25.25	\$26.00	\$26.78	\$1.00
16.9 OZ PET - VITAMINWATER	24	24	\$33.10	\$34.10	\$35.12	\$36.17	\$37.26	\$38.38	\$1.00
1.5 LITER PET - SMARTWATER	12	12	\$25.65	\$26.42	\$27.21	\$28.03	\$28.87	\$29.73	\$1.00
12 OZ PET - MMJTG	24	24	\$24.45	\$25.19	\$25.94	\$26.72	\$27.52	\$28.35	\$1.00
18.5 OZ PET - GOLD PEAK	12	24	\$28.38	\$29.23	\$30.10	\$31.01	\$31.94	\$32.90	\$1.00
13.7 OZ PET - DUNKIN RTD COFFEE	12	24	\$39.66	\$40.84	\$42.07	\$43.33	\$44.63	\$45.97	\$1.00
20 OZ PET - FUZE REFRESH	24	24	\$24.46	\$25.20	\$25.95	\$26.73	\$27.53	\$28.36	\$1.00

All price ceilings (i) are per standard Physical Case and do not include taxes, deposits, handling fees and recycling fees and any other government imposed fees or costs (ii) only apply to those Bottler Bottle/Can Beverages available to the Hotels as of the first day of the Term and (iii) apply only to the 48 contiguous states of the continental United States (i.e., excludes Hawaii and Alaska) and the District of Columbia.

All price ceilings quoted above are based on standard Physical Cases; however, some of the Bottler Bottle/Can Beverages may be sold in different case configurations. No matter how the Bottler Bottle/Can Beverages are sold to Customer, they are translated to the standard Physical Case equivalent for purposes of determining compliance with the price ceilings and funding amounts as well as for sales and financial reporting. For example, if a Bottler Bottle/Can Beverage that is 12 bottles to a standard Physical Case is sold to the Customer in a 15-count case, then the on-invoice 15 bottle case price would have to be divided by 15 and multiplied by 12 in order to determine if the price is in compliance with the applicable price ceiling quoted above.

Company or Bottler may at any time increase price ceilings by more than the amounts set forth above in the event of any substantial increase in a component of the cost of goods, manufacture or delivery of the Bottler Bottle/Can Beverages. Company will notify Customer thirty (30) days in advance prior to the date any such unscheduled price ceiling increases takes effect.

### **3. OWNER INCENTIVE FUNDING PROGRAM**

#### **3.1 Owner Incentive Funding**

Company will provide an Owner Incentive Fund in the amounts set forth in the table above for all purchases of Bottler Bottle/Can Beverages directly from Company or Bottler. No funding will be paid on purchases of Bottler Bottle/Can Beverages from other sellers, distributors or retailers. Customer agrees to accept the case sales records of Bottler for purposes of determining funding earned hereunder absent manifest error. Bottler may from time to time offer special prices that are Dead-Net. In any such event, funding provided hereunder will not cause the Dead-Net price charged to the Customer to fall below such Dead-Net price or trade letter Dead-Net price. Funding will be deducted from invoices submitted to Customer.

#### **3.2 Performance Criteria**

To qualify for the pricing and funding set forth above, Customer must comply with the following performance criteria and all other material obligations applicable to Customer under this Agreement:

- i. Beginning in calendar year 2021, participate in a minimum of one (1) mutually agreed upon promotional activity each Year to promote the sale of Bottler Bottle/Can Beverages at the Hotels. Customer agrees not to unreasonably withhold its consent to Company's and Bottler's proposed promotional activities. Customer will use commercially reasonable efforts to conduct a promotion in Year One as well, but the parties acknowledge such a promotion may not be commercially reasonable.
- ii. Customer and Bottler will mutually agree upon the number, types, and locations of Cold Drink Equipment that are generally reasonably required for the exclusive display of Bottler Bottle/Can Beverages in each applicable Hotel, depending upon the size and the brand of the hotel. Cold Drink Equipment, if provided, will be placed in mutually agreed to high traffic locations, as defined by agreement of the parties. The specific location of such equipment will be subject to the agreement of Bottler and Customer.
- iii. Customer may also authorize the placement of (or maintain, if already in place) a mutually agreed upon number of Venders in any or all Hotels, depending upon the size and the brand of the hotel. The specific location of such equipment will be subject to the agreement of Bottler and Customer. All Venders placed at the Hotels may be operated on a full-service basis and serviced and stocked exclusively by Bottler in accordance with Bottler's standard full-service vending program for similarly-situated locations under similar competitive conditions in the applicable geographic area, or Venders may be serviced and stocked by a third party approved by Bottler, subject to the provisions of this Agreement.
- iv. Abide by any standard system minimum delivery size requirements established by Bottler.
- v. Perform those additional Bottler Bottle/Can Beverage marketing activities the parties mutually agreed upon.

### **4. EQUIPMENT**

Bottler will provide each Hotel the Cold Drink Equipment described above at no cost to Customer, except as prohibited by law, rule or regulation, in which case the rent charged will be the lowest legal rate available from the Bottler. All Cold Drink Equipment will be identified by Bottler Bottle/Can Beverage trademarks and will remain the property of Bottler. Except where prohibited by law, all Cold Drink Equipment will exclusively dispense Bottler Bottle/Can Beverages and no items of any kind other than Bottler Bottle/Can Beverages may be stored, displayed or sold in, on or through the Cold Drink Equipment. Use of the Cold Drink Equipment will be in accordance with each Bottler's standard Equipment Placement Terms, and Customer agrees to abide by such terms. To the extent that such standard placement terms are inconsistent with the terms of this Agreement, the terms of this Agreement will control. Bottler will have the right to relocate or remove some or all of the Cold Drink Equipment from a Hotel if Bottler determines the volume of Bottler Bottle/Can Beverages sold through such equipment justifies relocation or removal. Electrical installation costs and utilities for the Cold Drink Equipment will be at the expense of Customer. Customer represents and warrants that electrical service at the Hotels is proper and adequate for the installation of the Cold Drink Equipment, and Customer agrees to indemnify and hold harmless Company and Bottler from any damages arising out of defective electrical services at Hotels.

### **5. SERVICE**

Service for all the Cold Drink Equipment will be provided in accordance with the Equipment Placement terms.

**EXHIBIT A-4**  
**OPTIONAL SMOOTHIE AND GOLD PEAK TEA® FRESH BREWED TEA**  
**PROGRAM TERMS AND CONDITIONS**

**1. AVAILABILITY**

Each Hotel may, but is not obligated to, serve in the Hotels Smoothie flavors jointly selected by such Hotel and Company. If a Hotel elects to serve Company's Smoothies, Customer agrees that in no event will Customer serve any Smoothies that are a Product of PepsiCo in such Hotel.

Each Hotel may, but is not obligated to, serve in the Hotels Gold Peak® Fresh-Brewed Tea (and/or any other Tea brand that Company may make available). If Customer elects to serve Company's Tea, Customer agrees that in no event will Customer serve any Teas that are a Product of PepsiCo in its Hotels.

**2. PRICING**

Company agrees that during the Term, each Hotel will have the right to purchase Company Smoothies from Company at Company's then-current published chain account prices, which prices are subject to change from time to time.

Each Hotel will have the right to purchase Tea from Company at Company's then-current published chain account prices, which prices are subject to change from time to time.

**3. EQUIPMENT PROGRAM**

Customer is responsible for purchasing all Tea Dispensers and blending equipment for all applicable Hotels.

**4. SERVICE PROGRAM**

Any service on the Tea Dispensers or blending equipment will be at the cost and responsibility of Customer.

## EXHIBIT B DEFINITIONS

Capitalized words or phrases used throughout this Agreement have the following meanings:

1. **“Agreement”** means this agreement and all exhibits, addenda and attachments hereto.
2. **“Authorized Bottlers”** means those bottlers with special authorization from Company to sell certain Company Sparkling to Customer.
3. **“Authorized Distributors”** means authorized distributors with special authorization from Company to sell certain Company Beverages to Customer.
4. **“Beverage”** means all non-alcoholic beverages (i.e. anything consumed by drinking), whether or not such beverages (i) contain nutritive, food, or dairy ingredients, or (ii) are in a frozen form. This definition applies without regard to the beverage's labeling or marketing. For the avoidance of doubt, “flavor enhancers”, “liquid water enhancers”, brands and products of Beverage making systems (e.g., Soda Stream®) and non-alcoholic beverages sold as “shots” or “supplements” are considered Beverages. However, this definition does not include fresh-brewed coffee, fresh-brewed tea products, hot chocolate or hot cocoa, or water. Nothing in this definition is intended to limit or expand what a Hotel must serve under the Availability section of any of Exhibits A-1 through and including A-3.
5. **“Bottle/Can Beverage”** means any Beverage, including a pre-mix Beverage, in pre-packaged, ready-to-drink form in bottles, cans or other factory-sealed containers.
6. **“Bottlers”** means authorized bottlers of Company that elect to participate under this Agreement.
7. **“Bottler Bottle/Can Beverage”** means a Bottle/Can Beverage that is marketed under trademarks owned or controlled by or licensed for use to Company and purchased by Customer directly from Company or Bottler, for sale at the Hotels or sold through full service vending machines owned, stocked or serviced exclusively by Company or Bottler. For the avoidance of doubt, “Bottler Bottle/Can Beverages include (i) Monster, NOS and Full Throttle brand Bottle/Can Beverages purchased directly from a Bottler; and (ii) Bottle/Can Beverages purchased directly from a Bottler that has the rights to distribute Beverages that are marketed under trademarks owned by, licensed to, controlled by or distributed by Dr Pepper Snapple Group, Inc. (“**DPSG**”) or any of its subsidiaries, affiliates or bottlers, or any entity or joint venture in which DPSG or any of its subsidiaries, affiliates or bottlers, has at least a 50% ownership interest.
8. **“Cold Drink Equipment”** means Venders and Coolers.
9. **“Company”** means The Coca-Cola Company, acting by and through its Coca-Cola North America Group. When the term Company is applied to a product (such as Company Beverage) it means such a product that is marketed under (i) trademarks owned by Company and (ii) trademarks licensed by Company that are designated as a product of Company.
10. **“Competitive Beverage”** means any Beverage that is not a Company Beverage, and any Beverage marketed under Beverage trademarks that are not Company or Bottler trademarks.
11. **“Cooler”** means a device provided by Company or Bottler for keeping Bottle/Can Beverages cool that does not contain a payment mechanism.
12. **“Core Company Juice Beverage”** means Minute Maid Frozen Concentrate Orange Juice and Simply Orange.
13. **“Core Company Sparkling Beverage”** means Coca-Cola®, Diet Coke®, Sprite® and Coke Zero™ in Fountain Beverage and Bottle/Can Beverage form.
14. **“Hotels”** means hotels located in the 50 United States and the District of Columbia where Beverages are served that are owned or operated by Customer under an IHG Covered Brand and which are not subject to a pre-existing agreement with a beverage supplier other than Company, including any such hotels that are opened or acquired and serve Sparkling and Juice Beverages after this Agreement is signed during the Term of the Agreement (unless those acquired hotels are already governed by an agreement with Company and that agreement is validly assigned to Customer as part of the acquisition); provided, however, that if such hotels are at the time of acquisition under a pre-existing agreement with a beverage supplier other than Company, such hotels will come under this Agreement only after the applicable agreement with such beverage supplier is terminated or expires. The term “Hotels” includes all locations owned or managed by Customer within such hotels where Beverages are or can be served other than as set forth in Exhibit E, Section 2.
15. **“Covered Brand”** means any of the following brands and includes any new brands that may be added: Luxury (“**Luxury**”) brands InterContinental Hotels and Resorts (excluding InterContinental Alliance Resorts), Upscale (“**Upscale**”) brands Crowne Plaza Hotels and Resorts, Hotel Indigo, EVEN Hotels, and Mainstream (“**Mainstream**”) brands Holiday Inn,

Holiday Inn Resort, Holiday Inn Express, Holiday Inn Club Vacations, Kimpton Hotels, avid Hotels, Atwell Hotels, Staybridge Suites and Candlewood Suites.

16. "**Customer**" means the Franchisee or management company operating the Hotel for hotel owner identified on the signature page of this Agreement.
17. "**Dispenser**" means a piece of equipment that dispenses Beverages through a valve.
18. "**Fountain Beverages**" are those Beverages that are served through Dispensers.
19. "**Fountain Syrup**" means the Fountain Beverage syrup used to prepare Fountain Beverages, but does not include Frozen Fountain Syrup or other forms of concentrate, such as frozen concentrates used to prepare Juices, or liquid coffee concentrate.
20. "**Holiday Inn Express Hotels**" mean Participating System Hotels that are branded with the Holiday Inn Express brand group.
21. "**Juice**" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, or any concentrate of such liquids or purees, and includes 100% juice and drink products marketed or labeled as juice or juice drink, regardless of the percentage of natural juice contained in such drink products.
22. "**Lease**" means the terms and conditions set forth in the Dispensing Equipment Lease attached as **Exhibit D**.
23. "**Physical Case**" means a physical case of Company Beverage and/or Bottler Bottle/Can Beverage as then-currently packaged and whose case count is deemed as standard by Company and Bottler. Case counts are subject to change during the Term due to packaging reconfigurations.
24. "**Product of PepsiCo**" means any Beverage which has a trademark owned by, licensed to, controlled by or distributed by PepsiCo, Inc. or any of its subsidiaries, affiliates or bottlers, or any entity or joint venture in which PepsiCo, Inc. or any of its subsidiaries, affiliates or bottlers, has at least a 50% ownership interest.
25. "**Smoothie**" means a fruit or non-fruit based beverage mixer that is used to make a smoothie-type alcoholic or non-alcoholic drink, fruit smoothie, milkshake or another comparable drink.
26. "**Special Service Calls**" means any removal, remodel, relocation or reinstallation of Dispensers, installation or removal of ice makers, service caused by ice, flavor changes, summerize/winterize, line changes, or service necessitated by damage or adjustments to the equipment resulting from misuse, abuse, failure to follow operating instructions or service by unauthorized personnel, unnecessary calls (equipment was not plugged in, CO2 or Fountain Syrup container was empty), or calls that are not the result of mechanical failure.
27. "**Sparkling Beverages**" means carbonated soft drinks (e.g., Coke, Diet Coke, Sprite, etc.) in Fountain Beverage and Bottle/Can Beverage form.
28. "**Subtab Mechanism**" means an unbranded manually actuated tab on a Dispenser that allows for the dispensing of water.
45. "**Tea**" means beverages whether hot or cold that are made from tea in any form of preparation, including, but not limited to, post-mix tea, tea leaves or tea powder.
47. "**Vender**" means a Beverage vending machine provided by Bottler.
49. "**Year**" means each consecutive twelve month period during the Term, provided that the first Year shall begin on the Term Effective Date and end on December 31, 2020.

# EXHIBIT C

## STANDARD TERMS AND CONDITIONS APPLICABLE TO THIS AGREEMENT

### 1. TERMINATION AND DAMAGES

1.1 This Agreement may be terminated before the scheduled expiration date only in the following circumstances: (i) either party may terminate the Agreement if the other party fails to comply with a material term or condition of the Agreement and does not remedy the failure within 60 days after receiving written notice specifying the non-compliance; (ii) Company may terminate the Agreement if at any time during the Term the beverage marketing agreement between Company and Six Continents Hotels, Inc. is terminated. Upon receipt of notice of expiration or termination, Customer will promptly make any equipment owned by Company and the Bottler available for pickup by Company and the Bottler and the marketing program will no longer be made available. In addition, if any piece of equipment other than Cold Drink Equipment is removed from a Hotel prior to 100 months from the installation date for that piece of equipment, other than Company removing a piece of Equipment without cause, Customer will pay Company the actual cost of removal (including standard shipping and handling charges) and remanufacturing of the equipment, as well as the unamortized portion of the costs of (i) installation and (ii) non-serialized parts (e.g., pumps, racks and regulators) and other ancillary equipment other than for any such equipment that is defective or otherwise needs replacement in accordance with Exhibit D to this Agreement. Furthermore, in the event of any early termination of this Agreement, Customer will pay Company or the Bottler's unamortized cost of installation and the entire cost of removal of all Cold Drink Equipment other than for any such equipment that is defective or otherwise needs replacement. Collectively, removal and remanufacturing costs and items (i) and (ii) and the unamortized cost of installation and entire cost of removal of all Cold Drink Equipment are referred to as "**unbundling costs**." Upon Customer's receipt of notice of expiration or termination of this Agreement, Customer will also pay, to the extent not paid within (45) days of being invoiced by Company and Bottler for any such unearned funding or unbundling costs, interest at the rate of 1%, compounded monthly, or such lesser percentage as required by law, accrued from the date unbundling costs were incurred through the date of repayment.

1.2 The parties acknowledge that in addition to the liquidated damages outlined above, either party may pursue other remedies or damages if the other party breaches the terms of the Agreement. Nothing herein will be construed as a waiver of any right of Company to prove consequential damages as a result of a breach by Customer.

2. **NON-COMPLYING HOTELS.** If any Hotel fails to comply with any terms of this Agreement applicable to such Hotel (including any applicable terms of the Equipment Lease), Customer will forfeit and not be entitled to any funding in respect of such Hotel for the period of non-compliance and Company may refuse to sell, or may limit the quantity of Beverages sold, to such Hotel. In the event the Hotel has not cured any non-compliance within 30 days from receipt of written notice of non-compliance from Company, all funding in respect of such Hotel for the then-current Year will be forfeited, and Company will have the option to terminate this program with respect to such Hotel on 30 days' additional written notice.

3. **GOVERNING LAW/ DISPUTE RESOLUTION.** This Agreement will at all times be governed by the laws of the State of Georgia. Should there be a dispute between Company and Customer relating in any way to the Agreement, the breach of the Agreement, or the business relationship of the parties, the parties agree that they will make a good faith effort to settle the dispute in an amicable manner. If the parties are unable to settle the dispute through direct discussions, at that time they will attempt to settle the dispute by mediation administered by the American Arbitration Association (the "**AAA**") as a condition precedent to either party's resort to litigation or other formal, binding means of dispute resolution. The prevailing party will be entitled to recover its reasonable attorneys' fees and other costs and expenses of litigation or other formal means of dispute resolution. If litigation is pursued, the exclusive venue for such litigation will be in the federal or state courts located in Atlanta, GA, and the parties agree to submit to the personal jurisdiction of the courts in the State of Georgia.

### 4. REBRANDING AND ASSIGNMENT

4.1 The Agreement will not be assignable except to an affiliate without the express written consent of Company.

4.2 If any Hotel ceases to operate as a Covered Brand, it shall be relieved of its rights, duties and obligations under this Agreement that accrue after such cessation.

5. **TRADEMARKS.** Neither Customer nor Company will make use of the other's trademarks or logos (either alone or in conjunction with their or another party's trademarks or logos) without the prior written consent of that party, and Customer will not make use of any of the Bottler's trademarks or logos (either alone or in conjunction with their or another party's trademarks or logos) without the prior written consent of the Bottler, and all use of the other party's trademarks will inure to the benefit of trademark owner. For purposes of this Agreement, Company's and Customer's trademarks include trademarks owned, licensed to or controlled by an entity in which Company or Customer, respectively, has a 50% or more ownership interest. Each Party agrees that its approval will not be withheld or delayed unless (i) Customer determines that a Customer Mark has been used incorrectly for technical reasons (i.e., lack of trademark conformity) or (ii) Customer reasonably determines that the proposed activity or use would reflect negatively on Customer or the Participating System Hotels.

### 6. ADVERTISING, MARKETING RIGHTS.

6.1 Customer grants Company the exclusive rights to advertise, market and promote Beverages at the Hotels and/or in connection with the Hotels. These rights include a Beverage-exclusive license to use, subject to Section 5 above, Customer's trademarks on a royalty free basis to promote Company's Beverages in promotions, including joint promotions with Company's other customers.

6.2 **NO COMPETITIVE ADVERTISING.** Except as otherwise permitted under the terms of this Agreement, Customer will not depict, advertise, promote or merchandise any Competitive Beverages anywhere in or in association with the Hotels. Customer will not enter into any agreement or relationship whereby any Competitive Beverages are associated in any advertising or promotional activity of any kind with Customer, the Hotels, or any of the trademarks of Customer.

7. **PRICING.** All prices quoted in this Agreement do not include, and each Hotel will be responsible for the payment of all applicable taxes, deposits, other government mandated fees, handling fees and recycling fees, as applicable.

8. **CONFIDENTIALITY.** Neither party will disclose to any third party without the prior written consent of the other party, any information concerning this Agreement or the transactions contemplated hereby, except for disclosure (i) to any attorneys, accountants and consultants involved in assisting with the negotiation and closing of the contemplated transactions, or (ii) to Six Continents Hotels, Inc. or (iii) to affiliates of Company including Company's bottlers, or (iv) as required by law. A party that makes a permitted disclosure must obtain assurances from the party to whom disclosure is made that such party will keep confidential the information disclosed.

9. **OFFSET.** If Customer owes any amounts to Company or Bottler under this or any other agreement, in addition to any other remedies it may have, Company may use funds due Customer to offset amounts due to Company under this or any other agreement.

10. **FORCE MAJEURE.** Either party is excused from performance under this Agreement to the extent and for so long as such nonperformance results from any act of God, strikes, war, terrorism, riots, acts of governmental authorities, other emergencies (including pandemics), or shortage of raw materials which specifically make it illegal or impossible to for either party to perform. The performance of such party shall be excused for such reasonable time as may be required to resume performance following cessation of such cause.

11. **WAIVER.** The failure of either party to seek redress for the breach of, or to insist upon the strict performance of any term, clause or provision of the Agreement, will not constitute a waiver, unless the waiver is in writing and signed by the party waiving performance.

12. **WARRANTIES.** Customer and Company each represent and warrant that they have the unrestricted right to enter into this Agreement and to make the commitments contained in this Agreement. In addition, each party represents that the person whose signature appears on the Agreement has the right to execute this Agreement on behalf of the party indicated. Customer represents and warrants that it complies with all applicable laws and regulations and all appropriate practices with respect to food safety including the storing, preparation and serving of food and potability of water. Customer acknowledges and agrees to comply with all equipment manufacturers' specifications and product dispensing and preparation instructions and specifications of which it is made aware in writing by Company and Bottler. Company agrees to comply with all applicable laws, regulations and industry standards, as well as its own internal policies and / or procedures, related to COVID-19. Company will provide Customer with reasonable notification if Company becomes aware that its employee(s) has/ have contracted COVID-19 and, through contact tracing, reasonably believes the employee(s) may have exposed the employees or guests of a Hotel to COVID-19. Notification of potential exposure will be conducted as permitted by any applicable statutory or contractual restrictions on sharing such information and notification will be done, where possible, to protect the identity of affected employee(s). Company and Customer agree to update the other, and amend this Agreement if necessary, related to continuing policies and efforts related to COVID-19.

13. **RESALE AND PACKAGING.** Customer will (i) properly dispose of all packaging (ii) not resell Company Beverages or Company Beverage components or ingredients (including packaging) or Bottler Bottle/Can Beverages to third parties except for the purpose of environmentally safe disposal and (iii) not directly or indirectly ship, distribute or sell any Bottler Bottle/Can Beverages outside of (a) the geographic scope of the Company's internally defined market unit in which such Beverages were sold to Customer (Company will make the geographic scope of any such market unit available to Customer upon request) with respect to such Beverages sold by Company and (b) with respect to products sold by a Bottler, the geographic territory in which the Bottler is authorized to distribute, promote, market, and sell Company Bottle/Can Beverages and (iv) sell finished Fountain Beverage only in cups or glasses and not in closed containers that retain carbonation, or in bottles or cans. Customer will reimburse Company and Bottler for all damages resulting from its failure to do so. For the avoidance of doubt, this section does not obligate Customer to act on behalf of Hotels.

14. **CLAIMS FOR REBATE, DISCOUNT OR ALLOWANCE DISCREPANCIES.** In no event will Company or Bottler accept any claims of discrepancies or errors in pricing or funding hereunder more than 1 year from the date of invoice with respect to pricing or payment with respect to funding. In support of any such claim, Customer will provide a detailed, written request specifying the particular product, the amount in dispute and

reason for dispute, along with a true copy of the original invoice or payment and all other documents in support of the claim. Company and Bottler will review each such claim in good faith and provide prompt responses to each properly made claim. Customer will not withhold payments owing to Company or Bottler regardless of the pendency of such a claim. If Customer withholds any payments, Company and Bottler reserve the right to withhold funding due Customer. Company and Bottler will work directly with the Customer to resolve any such claims, but will not interact with third-party auditors or contractors.

**15. CONSTRUCTION/ SEVERABILITY.** This Agreement and any accompanying documents constitute negotiated agreements between the parties, and the fact that one party or its counsel, or the other, will have drafted this Agreement, any document or particular provision hereof will not be considered in the construction or interpretation of this Agreement, the documents or any provision hereof. If any term or provision of this Agreement is found to be void or contrary to law, such term or provision will be deemed severable, but only to the extent necessary to bring this Agreement within the requirements of law, from the other terms and provisions hereof, and the remainder of this Agreement will be given effect as if the parties had not included the severed term herein, but only if each party continues to receive relatively the same benefits that it negotiated under this Agreement.

**16. THIRD PARTY BENEFICIARIES.** Customer and Company hereby expressly acknowledge and agree that this Agreement is for the sole exclusive benefit of the parties hereto and the Hotels, and no other third party is intended to or will have any rights hereunder, except that Customer and Company recognize and acknowledge that the Bottlers are third party beneficiaries of this Agreement.

**17. PRIVACY AND SECURITY REQUIREMENTS.** To the extent that either party collects, accesses, or processes the Personal Information (as defined below) of consumers in connection with the performance of this Agreement, each party represents and warrants that it shall comply with (i) all applicable international, federal, state, provincial and local laws, rules, regulations, directives and governmental requirements currently in effect and as they become effective relating in any way to the privacy, confidentiality, and/or security of protected personal information, as defined by applicable law (referred to herein as "**Personal Information**"), including, but not limited to, data protected under applicable state and federal data privacy law(s) and the California Consumer Privacy Act, as

amended or replaced from time to time; (ii) all applicable industry standards concerning privacy, data protection, confidentiality or information security including, if applicable, the Payment Card Industry Data Security Standard ("**PCI DSS**"); and (iii) applicable provisions of each party's respective written requirements, currently in effect and as they become effective relating in any way to the privacy, confidentiality, and/or security of Personal Information or applicable privacy policies, statements or notices (collectively, "**Privacy and Security Requirements**").

Neither party shall retain, use, disclose, or otherwise process Personal Information for any purpose other than for the specific purpose of performance under this Agreement, or as is otherwise permitted by applicable law, upon explicit agreement between the Parties, or with explicit permission from the individual to whom the Personal Information relates. Each party is prohibited from selling or otherwise receiving remuneration (absent explicit individual consent, as defined by applicable law) in exchange for any Personal Information, which either party collects, accesses, or otherwise processes pursuant to this Agreement.

**18. ADDITIONAL TERMS.** The terms and conditions of this Agreement will supersede all prior agreements between the parties relating to the subject matter of this Agreement. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by authorized representatives of both parties. Company will not be bound by any standard or preprinted terms or conditions contained in Customer's purchase orders, acknowledgements, invoices, vendor allowance forms or other Customer forms, or counteroffers, that propose terms or conditions in addition to or differing from the terms and conditions set forth in this Agreement with respect to its subject matter. Customer will not be bound by any standard or preprinted terms or conditions contained in Company's acknowledgements, invoices, marketing program forms or other Company forms, or counteroffers, that propose terms or conditions differing from the terms and conditions set forth in this Agreement with respect to its subject matter. Any terms and conditions on any party's internet site to which agreement by either party is deemed or required in any manner, whether through an online electronic agreement, site use, or otherwise, that propose terms or conditions differing from the terms and conditions set forth in this Agreement will be null and void and of no legal effect on either Company or Customer.

## EXHIBIT D DISPENSING EQUIPMENT LEASE

1. **LEASE AGREEMENT AND TERM.** Company hereby leases to the PSH Owner of each Corporate Hotel (referred to as "Equipment Lessee" in this Exhibit D) all beverage dispensers provided to Equipment Lessee ("Equipment"), subject to the terms and conditions set forth in this Lease. Unless otherwise agreed in writing, the Equipment will also include, where applicable, all permanent merchandising, menu boards, refrigeration units, ice makers and water filtration equipment installed by Company on Equipment Lessee's premises. Each piece of Equipment is leased commencing on its installation date (the "**Commencement Date**"). Equipment Lessee may request the removal of any Equipment upon thirty (30) days prior written notice to Company, and in addition, Company may remove any piece of Equipment for any reason upon thirty (30) days prior written notice to Customer. Removal of Equipment will not affect the term of any agreement between the parties. If this Lease is terminated with respect to any piece of Equipment for any reason, other than Company removing a piece of Equipment without cause under this section, prior to 100 months from the Commencement Date for that piece of Equipment, Equipment Lessee will pay Company the actual cost of removal (including standard shipping and handling charges) and remanufacturing of that Equipment, as well as the unamortized portion of the costs of (i) installation, (ii) non-serialized parts (e.g., pumps, racks and regulators) and other ancillary equipment. Collectively, removal costs and items (i) and (ii) are referred to as "**unbundling costs.**" The terms of this Lease will continue in effect with respect to each piece of Equipment until the Equipment has been removed from Equipment Lessee's premises and will survive the expiration or termination of any agreement into which this Lease is incorporated.

2. **RENT FOR THE EQUIPMENT.** All equipment leased to Customer will be leased at an annual rate calculated by multiplying the total installed cost of equipment by the then-current lease factor, plus all applicable sales and use taxes, if any, as rent for the Equipment. Rent will be due monthly. At Company's discretion, Company may utilize funds due Customer to offset amounts due Company under this Lease. If Customer fails to pay, within 10 days of its due date, rent or any other amount required by this Lease to be paid to Company, Customer will pay to Company a late charge equal to five percent (5%) per month of such overdue payment, or such lesser amount that Company is entitled to receive under any applicable law.

3. **TITLE TO THE EQUIPMENT.** Title to the Equipment is, and will at all times remain, vested in Company. Equipment Lessee will have no right, title, or interest in or to the Equipment, except the right to quiet use of the Equipment in the ordinary course of its business as provided in this Lease. Equipment Lessee will execute such title documents, financing statements, fixture filings, certificates and such other instruments and documents as Company will reasonably request to ensure to Company's satisfaction the protection of Company's title to the Equipment and Company's interests and benefits under this Lease. Equipment Lessee will not transfer, pledge, lease, sell, hypothecate, mortgage, assign or in any other way encumber or dispose of any of the Equipment. **THE PARTIES AGREE, AND EQUIPMENT LESSEE WARRANTS, THAT THE EQUIPMENT IS, AND WILL AT ALL TIMES REMAIN, PERSONAL PROPERTY OF COMPANY NOTWITHSTANDING THAT THE EQUIPMENT OR ANY PART THEREOF MAY NOW BE, OR HEREAFTER BECOME, IN ANY MANNER AFFIXED OR ATTACHED TO, OR EMBEDDED IN, OR PERMANENTLY RESTING UPON, REAL PROPERTY OR IMPROVEMENTS ON REAL PROPERTY.** Equipment Lessee will not make any alterations, additions, or improvements to the Equipment without the prior written consent of Company. All parts added to the Equipment through alterations, repairs, additions or improvements will constitute accessions to, and will be considered an item of the Equipment and title to such will immediately vest in Company. Equipment Lessee agrees that Company may transfer or assign all or any part of Company's right, title and interest in or to any Equipment (in whole or in part) and this Lease, and any amounts due or to become due, to any third party ("**Assignee**") for any reason. Upon receipt of written notice from Company of such assignment, Equipment Lessee will perform all its obligations with respect to any such Equipment for the benefit of the applicable Assignee, and, if so directed, will pay any amounts due or to become due hereunder directly to the applicable Assignee or to any other party designated in writing by such Assignee.

4. **USE OF EQUIPMENT.** Equipment Lessee acknowledges that the rent does not fully compensate Company for its expenses concerning its research and development efforts designed to improve fountain equipment or in providing the Equipment to Equipment Lessee, and that Company provides the Equipment to Equipment Lessee for the purpose of dispensing products of The Coca-Cola Company. Therefore, Equipment Lessee agrees that if the Equipment is a dispenser, then the Equipment will be used for the purpose of dispensing fountain beverage products of The Coca-Cola Company, such as Coca-Cola®, diet Coke® and Sprite®, and in the State of Texas, the Permitted Exception set forth in Section 2.2 of Exhibit A-1. Customer further agrees not to dispense any product whose pungency could affect normal operation of the Equipment. In accordance with Company's Fair Share policy, Company will have the right to additional rent and charges for its costs of servicing such valve if any valve is used for a Competitive Beverage in accordance with Section 2.2 of Exhibit A-1 at a rate of not less than \$300 per Dispenser per year. If the Equipment is a pump for bag-in-box or similar container, such pump may be used only to dispense products of The Coca-Cola Company. If the Equipment is other than a dispenser or a pump, then it will be used only in a location where fountain beverage products of The Coca-Cola Company are served and where no Sparkling

or Juice is served that is a Product of PepsiCo. This Section 4 will not apply within the State of Wisconsin.

5. **INSPECTION AND NOTIFICATION.** Without disrupting Equipment Lessee's regular business operations, Company will have the right during Equipment Lessee's regular business hours to inspect the Equipment at Equipment Lessee's premises or wherever the Equipment may be located and to review all records that relate to the Equipment. Equipment Lessee will promptly notify Company of all details arising out of any change in location of the Equipment, any alleged encumbrances thereon or any accident allegedly resulting from the use or operation thereof.

6. **WARRANTY DISCLAIMER: CUSTOMER ACKNOWLEDGES THAT COMPANY IS NOT A MANUFACTURER OF THE EQUIPMENT AND THAT COMPANY HAS MADE NO REPRESENTATIONS OF ANY NATURE WHATSOEVER PERTAINING TO THE EQUIPMENT OR ITS PERFORMANCE, WHETHER EXPRESS OR IMPLIED, INCLUDING (WITHOUT LIMITATION) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER WARRANTIES RELATING TO THE DESIGN, CONDITION, QUALITY, CAPACITY, MATERIAL OR WORKMANSHIP OF THE EQUIPMENT OR ITS PERFORMANCE, OR ANY WARRANTY AGAINST INTERFERENCE OR INFRINGEMENT, OR ANY WARRANTY WITH RESPECT TO PATENT RIGHTS, IF ANY, PERTAINING TO THE EQUIPMENT. COMPANY WILL NOT BE RESPONSIBLE FOR ANY LOSS OF PROFITS, ANY DIRECT, INCIDENTAL OR CONSEQUENTIAL LOSSES, OR DAMAGES OF ANY NATURE WHATSOEVER, RESULTING FROM THE DELIVERY, INSTALLATION, MAINTENANCE, OPERATIONS, SERVICE OR USE OF ANY EQUIPMENT OR OTHERWISE. TO THE EXTENT THAT WARRANTIES EXIST FROM THE MANUFACTURERS OF THE EQUIPMENT AND TO THE EXTENT ALLOWED BY CONTRACT AND LAW, COMPANY WILL MAKE AVAILABLE TO EQUIPMENT LESSEE ANY APPLICABLE MANUFACTURER'S WARRANTY.**

7. **TAXES.** Company will process payment of all assessments, license fees, taxes (including sales, use, excise, personal property, ad valorem, stamp, documentary and other taxes) and all other governmental charges, fees, fines or penalties whatsoever, imposed on Company as required by law, on or relating to the Equipment or the use, registration, rental, shipment, transportation, delivery, or operation thereof, and on or relating to this Agreement. As between Company and Participating System Hotel, Participating System Hotel bears the financial responsibility for all such charges, and Company retains the right to be reimbursed by Participating System Hotel for such charges.

8. **DAILY MAINTENANCE.** PSH Owner will, at its expense, keep the Equipment in good condition, and working order. PSH Owner will pay all costs incurred in connection with the daily maintenance and operation, and where required by law, ownership or possession of the Equipment during the term of this Lease. PSH Owner's sole recourse against Company with respect to service provided by Company or its agents to the Equipment is that Company will correct any defective workmanship at no additional charge to Customer, provided that Company is given prompt notification of any defective workmanship. Company will not be otherwise liable for negligent acts or omissions committed in regard to maintenance or repair of the Equipment and assumes no responsibility for incidental, consequential or special damages occasioned by such negligent acts or omissions.

9. **RISK OF LOSS.** All risk of loss, including damage, theft or destruction, to each item of Equipment will be borne by Equipment Lessee. No such loss, damage, theft or destruction of Equipment, in whole or in part, will impair the obligations of Equipment Lessee under this Lease, all of which will continue in full force and effect.

10. **INDEMNITY.** Equipment Lessee will indemnify The Coca-Cola Company and its affiliates and each of their officers, agents, employees, directors, shareholders, affiliates, successors, and assigns (hereinafter the "**Indemnified Parties**") against, and hold Indemnified Parties wholly harmless from, any and all claims, actions, suits, proceedings, demands, damages, and liabilities of whatever nature, and all costs and expenses, including without limitation Indemnified Parties' reasonable attorneys' fees and expenses, relating to or in any way arising out of (a) the ordering, delivery, rejection, installation, purchase, leasing, maintenance, possession, use, operation, control or disposition of the Equipment or any portion thereof; (b) any act or omission of Equipment Lessee, including but not limited to any loss or damage to or sustained by the Indemnified Parties arising out of Equipment Lessee's failure to comply with all the terms and conditions of this Lease; (c) any claims for liability in tort with respect to the Equipment, excepting only to the degree such claims are the result of the Indemnified Parties' negligent or willful acts. The provisions of this Section 10 will survive termination and expiration of this Lease.

Company will indemnify Customer and the owner and operator of each Participating System Hotel and their respective affiliates and each of their respective officers, agents, employees, directors, shareholders, affiliates, successors, and assigns (hereinafter the "**PSH Indemnified Parties**") against, and hold PSH Indemnified Parties wholly harmless from, any and all claims, actions, suits, proceedings, demands, damages, and liabilities of whatever nature, and all costs and expenses, including without limitation PSH Indemnified Parties' reasonable attorneys' fees and expenses, relating to or in any way arising out of (a) any act or omission of Company resulting in any loss or damage to or sustained by the PSH

Indemnified Parties arising out of Company's failure to comply with all the terms and conditions of this Lease.

11. **DEFAULT.** The occurrence of any of the following will constitute a "Default" by Equipment Lessee: (a) nonpayment by Equipment Lessee when due of any amount due and payable under this Lease; (b) failure of Equipment Lessee to comply with any provision of this Lease, and failure of Equipment Lessee to remedy, cure, or remove such failure within twenty (20) days after receipt of written notice thereof from Company; (c) any statement, representation, or warranty of Equipment Lessee to Company in this Lease that is untrue as of the date made; (d) Equipment Lessee's becoming insolvent or unable to pay its debts as they mature, or Equipment Lessee making an assignment for the benefit of creditors, or any proceeding, whether voluntary or involuntary, being instituted by or against Equipment Lessee alleging that Equipment Lessee is insolvent or unable to pay its debts as they mature; (e) appointment of a receiver, liquidator, trustee, custodian or other similar official for any of the Equipment or for any property in which Equipment Lessee has an interest; (f) seizure of any of the Equipment; (g) default by Equipment Lessee under the terms of any note, document, agreement or instrument evidencing an obligation of Equipment Lessee to Company or to any affiliate of The Coca-Cola Company, whether now existing or hereafter arising; or (h) Equipment Lessee taking any action with respect to the liquidation, dissolution, winding up or otherwise discontinuing the conduct of its business.

12. **REMEDIES.** Upon the occurrence of any Default or at any time thereafter during the continuance thereof, Company may terminate this Lease as to any or all items of Equipment, may enter Equipment Lessee's premises and retake possession of the Equipment at Equipment Lessee's expense, and will have all other remedies at law or in equity for breach of the Lease. Equipment Lessee acknowledges that in the event of a breach of Sections 4 or 5 or a failure or refusal of Equipment Lessee to relinquish possession of the Equipment in breach of this section 12 following termination or Default, Company's damages may be difficult or impossible to ascertain, and Equipment Lessee therefore agrees that Company will have the right to seek an injunction in any court of competent jurisdiction restraining said breach and granting Company the right to immediate possession of the Equipment.

13. **LIQUIDATED DAMAGES.** If Equipment Lessee acts in violation of the prohibitions described in Section 3 of this Lease, or is unable or unwilling to return the Equipment to Company in good working order, normal usage wear and tear excepted, at the expiration or termination of the Lease, Equipment Lessee will pay as liquidated damages the total of: (i) the amount of past-due lease payments, if any, discounted accelerated future lease payments, and the value of Company's residual interest in the Equipment, plus (ii) all tax indemnities associated with the Equipment to which Company would have been entitled if Equipment Lessee had fully performed this Lease, plus (iii) costs, interest, and attorneys' fees incurred by Company due to Equipment Lessee's violation of Section 3 or its failure to return the Equipment to Company, minus (iv) any proceeds or offset from the release or sale of the Equipment by Company.

15. **OTHER TERMS.** Equipment Lessee represents and warrants that it complies with all applicable laws and regulations and all appropriate practices with respect to food safety including the storing, preparation and serving of food. Furthermore, Equipment Lessee acknowledges and agrees to comply with all equipment manufactures specifications and product dispensing and preparation instructions and specifications. No failure by Company to exercise and no delay in exercising any of Company's rights hereunder will operate as a waiver thereof; nor will any single or partial exercise of any right hereunder preclude any other or further exercise thereof or of any other rights. This Lease constitutes the entire agreement of the parties and supersedes all prior oral and written agreements between the parties governing the subject matter of this Lease; provided, however, that if Company and Equipment Lessee have entered into an agreement into which this Lease is incorporated, to the extent that any of the terms in this Lease conflict with the terms set forth in that agreement, the terms of that agreement will control. No agreement will be effective to amend this Lease unless such agreement is in writing and signed by the party to be charged thereby. Any notices permitted or required by this Lease will be in writing and mailed by certified mail or hand delivered, addressed to the respective addresses of the parties. All claims, actions or suits arising out of the Lease will be litigated in courts in either the State of Georgia or in the state of Equipment Lessee's principal place of business. Each party hereby consents to the jurisdiction of any local, state or federal court located within the State of Georgia and/or the state of Equipment Lessee's principal place of business, and designates the Secretary of State of the State as its agent for service of process. THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF GEORGIA. Time is of the essence to each and all of the provisions of this Lease.

**EXHIBIT E**  
**ADDITIONAL TERMS**

1. Notwithstanding anything in this Agreement to the contrary, Competitive Beverages may be served at individual events or functions at any Hotel if the party booking the event or function requires as a condition of booking the event that Competitive Beverages be served. In such case, Competitive Beverages may be made available only in connection with and during such event or function; provided, however, that: (i) such Competitive Beverages are sold or made available only within the area being used for the event or function, (ii) any advertisements for such Competitive Beverages at the relevant Hotel will be reasonable under the circumstances and generally de minimis in nature (preferably, only within the booked space) and will not suggest that such Competitive Beverages are associated in any manner with Customer or the Hotel. Either Customer or the party booking the event or function will be responsible for all expenses in any way related to the service of Competitive Beverages, including the provision of equipment, if necessary. Each Hotel shall use commercially reasonable efforts to minimize the incidence of Competitive Beverage services.
2. The parties acknowledge that there may be current or future third party tenants that are unaffiliated with Customer renting or leasing space at any Hotel and that elect to serve Competitive Beverages or are required to do so due to a binding agreement with a Competitive Beverage supplier (or another third party that has the authority to determine Beverage selection at such tenant's area). Such tenants' leased areas shall be excluded from the scope of this Agreement. Therefore, it shall not constitute a breach of this Agreement for such tenant(s) to serve or make available Competitive Beverages; provided, however, that: (i) such Competitive Beverages are sold or made available only within such tenant's leased space, (ii) any advertisements for such Competitive Beverages at the relevant Hotel will be reasonable under the circumstances and generally de minimis in nature (preferably, only within such tenant's leased space) and will not suggest that such Competitive Beverages are associated in any manner with Customer or the Hotel.
3. Notwithstanding anything in this Agreement to the contrary, if any practice in effect as of the Term Effective Date at any hotel that becomes a Hotel on or after the Term Effective Date is at variance with any practice proscribed by this Agreement (e.g., dispensing tap water out of a valve on a Dispenser), except if a Hotel is serving a Competitive Beverage, or any Competitive Beverage on a Company-owned Dispenser, such practice shall be grandfathered and permitted under this Agreement until such time as any associated equipment is replaced in accordance with this Agreement.

# EXHIBIT 14

## MERCHANT AGREEMENT ADDENDUM FOR EXISTING PROPERTIES

### ADDENDUM TO MERCHANT AGREEMENT FOR EXISTING PROPERTIES

This Addendum to Merchant Agreement for Existing Properties ("**Addendum**") is entered into between FDS Holdings, Inc. ("**First Data**" or "**Processor**") (successor-in-interest to Banc of America Merchant Services, LLC and First Data Services, LLC), Bank of America, N.A. ("**Bank**") (collectively with First Data, "**Servicers**", "**us**", "**our**" or "**we**"), and the undersigned client ("**Client**", "**you**", or "**your**") as of the date signed by First Data and Client ("**Addendum Effective Date**"). Capitalized terms used but not defined in this Addendum are defined in the Terms and Conditions (defined below) or elsewhere in the Agreement.

#### 1 Background

- 1.1 Six Continents Hotels, Inc. ("**IHG**") and First Data are parties to a Merchant Services Referral Agreement dated October 16, 2014 (as amended from time-to-time, "**IHG Agreement**") pursuant to which IHG refers hotels and other establishments that are either owned, franchised, or operated by IHG or its Affiliates ("**Service Recipients**") to First Data for payment card processing services and other Services.
- 1.2 IHG previously referred Client to First Data. In connection with this referral, First Data, Bank, and Client are parties to a Merchant Processing Application and Agreement ("**Application**") and Merchant Services Program Guide ("**Program Guide**") and, together with the Application any other related agreements, the "**Agreement**") pursuant to which Servicers provide Card processing Services and other Services to Client.
- 1.3 This Addendum modifies the Agreement but does not affect the IHG Agreement.

#### 2 Fees

The Fee Schedule set forth in your Agreement (including in Section 7 of your Application) is deleted in its entirety and replaced with the Fee Schedule attached as Exhibit A (the "**Fee Schedule**"). For avoidance of doubt, in addition to the amounts set forth in the Fee Schedule, you are responsible for all amounts set forth or described in the Terms and Conditions or elsewhere in the Agreement.

#### 3 Terms and Conditions

The Program Guide is deleted in its entirety and replaced with the General Terms and Conditions attached as Exhibit B ("**Terms and Conditions**"). The Terms and Conditions impact your and our legal rights and responsibilities; please read them carefully.

#### 4 Relationship to IHG

- 4.1 The Agreement is an independent agreement between First Data, Bank, and Client, separate and distinct from (and not an amendment to) the IHG Agreement.
- 4.2 Servicers acknowledge and agree that: (a) Client is solely liable for its obligations and liabilities under the Agreement; (b) Client does not have any liability or obligation on behalf of any other Service Recipient or IHG; and (c) IHG does not have any liability whatsoever (and is not deemed to assume any liability) to Servicers or any Third Party, directly or indirectly, for Client's acts, omissions, performance, or nonperformance under the Agreement.
- 4.3 Client acknowledges and agrees that First Data may disclose the Agreement and all personal information of Client collected under the Agreement to IHG. Information disclosed may include Client's name, services

purchased, monthly or annual usage, total billings, payment status, Transaction Data, and any other information Servicers may disclose under the Agreement or that is related to the Services.

## **5 Entire Agreement**

This Addendum, together with the Application, the Fee Schedule, the Terms and Conditions, the Your Payments Acceptance Guide, and any other Schedules or other Contract Documents, as modified from time to time, collectively are the entire Agreement between the parties for the Services; together, they supersede and replace any other agreements between the parties for the Services.

**[Signature Page Follows]**

**AGREED AND EXECUTED:**

**No alterations or changes to the Agreement will be accepted; any alterations or changes made are null and void and have no force or effect. Processor's and Bank's signatures are effective as of the date Client signs this Addendum.**

**[Insert Client Name]  
("Client")**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FDS Holdings, Inc.  
("Processor")**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Bank of America, N.A.  
("Bank")**

**By FDS Holdings, Inc.  
pursuant to a Limited Power of Attorney**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A  
FEE SCHEDULE**

**1 Servicers Fees**

Client will pay First Data the fees described below for the Services ("**Servicers Fees**"). Servicers Fees are based on the Client's business methods and the types of transactions it will submit for processing that the Client disclosed to First Data. First Data may modify the Servicers Fees if the Client materially changes its business methods or the types of transactions that it submits for processing.

<b>Servicers Fees</b>	<b>Amount</b>	<b>Driver</b>
Authorization (Visa, Mastercard, Discover, DNP Card Types, American Express, and Debit Cards)	\$0.013 <sup>1</sup>	per Authorization attempt
Transaction (Visa, Mastercard, Discover, DNP Card Types, American Express, and Debit Cards) <sup>2</sup>	\$0.075 <sup>3</sup>	per settled transaction
Authorization (Voice) <sup>4</sup>	\$0.95	per call
Chargeback	Waived	per chargeback
ACH Deposit	Waived	per deposit
ACH Reject	\$25.00	per rejection
Additional Authorization Fee for Dial Transactions	\$0.005	per Authorization attempt via dial
Custom Development Fee	\$200	per hour of development / coding

<sup>1</sup> This Authorization Fee may be reduced to \$0.01 based upon terms in the IHG Agreement. Any reduction in this Authorization Fee does not give rise to a termination right under the Agreement.

<sup>2</sup> This amount is charged for each settled transaction. Please note that neither Bank nor Processor settles American Express transactions. Depending on your structure for accepting Discover Cards and other DNP Card Types, either Processor or Discover (but not Bank) settles your Discover and DNP Card Type transactions.

<sup>3</sup> Pursuant to the IHG Agreement, of the \$0.075 Transaction Fee paid to Servicers for a transaction, \$0.070 of such Transaction Fee is paid to IHG as the IHG Security Fee.

<sup>4</sup> This fee is in addition to the applicable Authorization Fee and the applicable Transaction Fee.

**2 Third Party Based Fees**

Client will pay Processor all fees, fines, assessments, penalties, obligations, liabilities, adjustments, and other charges and amounts a Card Organization, Issuer, or other Third Party imposes, establishes, or sets that are related to Client's transactions, and all related costs and expenses ("**Third Party Based Fees**"). Card Organizations and other Third Parties may modify their Third Party Based Fees during the Term of the Agreement. Modifications to Third Party Based Fees will be effective on the dates set by the Card Organizations or other third parties.

Third Party Based Fees are in addition to the Servicers Fees and include, without limitation, the following:

Interchange (including any amounts associated with downgraded transactions)

Chargebacks (you are responsible for all transactions, or portions of transactions, that are charged back and all related amounts)

Excessive Chargebacks

Dues and Assessments

Access Fees

Debit Network Fees

Card Organization Pass Through Fees

Other Fees and Amounts (including Data Compromise Losses and other amounts arising from a Compromised Data Event)

## MPA ADDENDUM FOR NEW PROPERTIES

### ADDENDUM TO MERCHANT PROCESSING APPLICATION AND AGREEMENT FOR NEW PROPERTIES

This Addendum to Merchant Processing Application and Agreement for New Properties ("**Addendum**") is entered into between FDS Holdings, Inc. ("**First Data**" or "**Processor**"), Bank of America, N.A. ("**Bank**") (collectively with First Data, "**Servicers**", "**us**", "**our**" or "**we**"), and the undersigned client ("**Client**", "**you**", or "**your**") as of the date signed by First Data and Client ("**Addendum Effective Date**"). Capitalized terms used but not defined in this Addendum are defined in the Terms and Conditions or elsewhere in the Agreement.

#### 1 Background

- 1.1 Client has been referred to First Data in connection with a Merchant Services Referral Agreement between First Data and Six Continents Hotels, Inc. ("**IHG**") dated October 16, 2014 (as amended from time-to-time, "**IHG Agreement**") pursuant to which IHG refers hotels and other establishments that are either owned, franchised, or operated by IHG or its Affiliates ("**Service Recipients**") to First Data for payment card processing services and other Services.
- 1.2 This Addendum, along with the Merchant Processing Application and Agreement ("**Application**"), Fee Schedule attached as Exhibit A ("**Fee Schedule**"), General Terms and Conditions attached as Exhibit B ("**Terms and Conditions**"), the Your Payments Acceptance Guide, and any other Schedules or other Contract Documents, as modified from time to time, collectively are the "**Agreement**" for Client's receipt of the Services.
- 1.3 This Addendum is part of the Agreement and modifies the Agreement, but does not affect the IHG Agreement.

#### 2 Fee Schedule

The Fee Schedule set forth in Section 7 of your Application is deleted in its entirety and replaced with the Fee Schedule attached as Exhibit A. For avoidance of doubt, in addition to the amounts set forth in the Fee Schedule, you are responsible for all amounts set forth or described in the Terms and Conditions or elsewhere in the Agreement.

#### 3 General Terms and Conditions

The Terms and Conditions, attached as Exhibit B, govern our relationship with you. The Terms and Conditions impact your and our legal rights and responsibilities; please read them carefully.

#### 4 Relationship to IHG

- 4.1 The Agreement is an independent agreement between First Data, Bank, and Client, separate and distinct from (and not an amendment to) the IHG Agreement.
- 4.2 Servicers acknowledge and agree that: (a) Client is solely liable for its obligations and liabilities under the Agreement; (b) Client does not have any liability or obligation on behalf of any other Service Recipient or IHG; and (c) IHG does not have any liability whatsoever (and is not deemed to assume any liability) to Servicers or any Third Party, directly or indirectly, for Client's acts, omissions, performance, or nonperformance under the Agreement.
- 4.3 Client acknowledges and agrees that First Data may disclose the Agreement and all personal information of Client collected under the Agreement to IHG. Information disclosed may include Client's name, services

purchased, monthly or annual usage, total billings, payment status, Transaction Data, and any other information Servicers may disclose under the Agreement or that is related to the Services.

**5 Entire Agreement**

This Addendum, together with the Application, the Fee Schedule, the Terms and Conditions, the Your Payments Acceptance Guide, and any other Schedules or other Contract Documents, as modified from time to time, collectively are the entire Agreement between the parties for the Services; together, they supersede and replace any other agreements between the parties for the Services.

**[Signature Page Follows]**

**AGREED AND EXECUTED:**

**No alterations or changes to the Agreement will be accepted; any alterations or changes made are null and void and have no force or effect. Processor's and Bank's signatures are effective as of the date Client signs this Addendum.**

**[Insert Client Name]  
("Client")**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**FDS Holdings, Inc.  
("Processor")**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Bank of America, N.A.  
("Bank")**

**By FDS Holdings, Inc.  
pursuant to a Limited Power of Attorney**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A  
FEE SCHEDULE**

**1 Servicers Fees**

Client will pay First Data the fees described below for the Services ("**Servicers Fees**"). Servicers Fees are based on the Client's business methods and the types of transactions it will submit for processing that the Client disclosed to First Data. First Data may modify the Servicers Fees if the Client materially changes its business methods or the types of transactions that it submits for processing.

<b>Servicers Fees</b>	<b>Amount</b>	<b>Driver</b>
Authorization (Visa, Mastercard, Discover, DNP Card Types, American Express, and Debit Cards)	\$0.013 <sup>1</sup>	per Authorization attempt
Transaction (Visa, Mastercard, Discover, DNP Card Types, American Express, and Debit Cards) <sup>2</sup>	\$0.075 <sup>3</sup>	per settled transaction
Authorization (Voice) <sup>4</sup>	\$0.95	per call
Chargeback	Waived	per chargeback
ACH Deposit	Waived	per deposit
ACH Reject	\$25.00	per rejection
Additional Authorization Fee for Dial Transactions	\$0.005	per Authorization attempt via dial
Custom Development Fee	\$200	per hour of development / coding

<sup>1</sup> This Authorization Fee may be reduced to \$0.01 based upon terms in the IHG Agreement. Any reduction in this Authorization Fee does not give rise to a termination right under the Agreement.

<sup>2</sup> This amount is charged for each settled transaction. Please note that neither Bank nor Processor settles American Express transactions. Depending on your structure for accepting Discover Cards and other DNP Card Types, either Processor or Discover (but not Bank) settles your Discover and DNP Card Type transactions.

<sup>3</sup> Pursuant to the IHG Agreement, of the \$0.075 Transaction Fee paid to Servicers for a transaction, \$0.070 of such Transaction Fee is paid to IHG as the IHG Security Fee.

<sup>4</sup> This fee is in addition to the applicable Authorization Fee and the applicable Transaction Fee.

**2 Third Party Based Fees**

Client will pay Processor all fees, fines, assessments, penalties, obligations, liabilities, adjustments, and other charges and amounts a Card Organization, Issuer, or other Third Party imposes, establishes, or sets that are related to Client's transactions, and all related costs and expenses ("**Third Party Based Fees**"). Card Organizations and other Third Parties may modify their Third Party Based Fees during the Term of the Agreement. Modifications to Third Party Based Fees will be effective on the dates set by the Card Organizations or other third parties.

Third Party Based Fees are in addition to Servicers Fees and include, without limitation, the following:

Interchange (including any amounts associated with downgraded transactions)

Chargebacks (you are responsible for all transactions, or portions of transactions, that are charged back and all related amounts)

Excessive Chargebacks

Dues and Assessments

Access Fees

Debit Network Fees

Card Organization Pass Through Fees

Other Fees and Amounts (including Data Compromise Losses and other amounts arising from a Compromised Data Event)

**EXHIBIT B**  
**GENERAL TERMS AND CONDITIONS**

## GENERAL TERMS AND CONDITIONS

### 1 Overview Of Agreement

- 1.1 These General Terms and Conditions Contain Important Information and Affect Your Legal Rights.** Please read these General Terms and Conditions (“**Terms and Conditions**”) carefully. They contain important information and affect your and our legal rights and responsibilities. Capitalized terms are defined in Section 20 or elsewhere in these Terms and Conditions.
- 1.2 Our Agreement.** Our agreement with you for the Services consists of: (a) your Application; (b) your MPA Addendum; (c) these Terms and Conditions; (d) the Your Payments Acceptance Guide; (e) the Fee Schedule any other Schedules (including Interchange Rate Schedules); and (f) any addenda, amendments, supplements, or Schedules to the foregoing, as each is modified and supplemented from time to time (each a “**Contract Document**” and collectively the “**Agreement**”). The Agreement governs your use of the Services. By signing the Application, you acknowledge and agree that you have read, and that you are bound by, the Agreement. No alterations to the Agreement will be accepted and, if made, any such alterations shall not apply.
- 1.3 Cards and Card Organizations.** Cards present risks of loss and non-payment that are different than those with other payment systems, including risks related to Chargebacks and other Cardholder disputes. In deciding to accept Cards, you should be aware that you are also accepting these risks and that you are agreeing to comply with the rules and requirements of Visa®, Mastercard®, Discover®, American Express®, and other Card Organizations. With respect to Chargebacks – we do not decide which transactions are charged back and we do not control the ultimate resolution of Chargebacks. While we can attempt to reverse a Chargeback to the Issuer, we can only do so only if the Issuer agrees to accept it or the Card Organization requires the Issuer to do so after a formal appeal process. Sometimes, your customer may be able to successfully chargeback a Card transaction even though you have provided your goods or services and otherwise are legally entitled to payment from your customer. While you still may be able to pursue claims directly against that customer, neither we nor the Issuer will be responsible for such transactions. You are responsible for all Chargebacks and adjustments associated with the transactions that you submit for processing.
- 1.4 Card Types.** Your Agreement indicates the types of payments you are enabled to accept. Depending on the equipment you are using to accept Card transactions, you may not be able to accept Debit Cards through use of a PIN.
- 1.5 Bank Responsibilities; Non-Bank Services.** Notwithstanding anything in the Agreement to the contrary, Bank only provides, and its obligations and liability are limited to, sponsorship, settlement, and related Bank services for certain Card transactions, which do not include Non-Bank Card transactions or Non-Bank Services. Bank is not responsible for, and has no liability to you in any way with respect to, Non-Bank Card transactions or Non-Bank Services. See Section 16.1 for additional details.

### 2 Services And Third Party Services

- 2.1 The Services.** The term “**Services**” means the activities we undertake to authorize, process, and settle Card transactions undertaken by Cardholders at your Locations, and all other equipment, products, and services we provide under the Agreement. Subject to Card Organization Rules, Services may be performed by Servicers, only Processor, our Affiliates, our agents, or our service providers. You may use the Services only for your own proper business purposes and only in accordance with the Agreement. You may not use the Services for personal, household, or non-commercial purposes.
- 2.2 Exclusivity.** During the term of the Agreement, you will use us as your exclusive provider of all Services within the United States of America except with respect to POS terminal transactions initiated at parking, spa, gift shop, restaurant, bars, and lounge locations.
- 2.3 Service Records.** We will retain legible copies of all transaction records in accordance with Applicable Law and Card Organization Rules. You must provide all Sales Drafts, Credit Drafts, and other transaction records requested by us within the time limits established by Card Organization Rules. We will provide all transaction records requested by you, to the extent such requests are reasonable, within the time limits established by Card Organization Rules.
- 2.4 Restrictions on Your Use of the Services.** You shall not, and you shall not permit any Third Party to, do or attempt to do any of the following:
- (a) Sell, distribute, lease, license, sublicense, assign, or otherwise transfer or disseminate any part of the Services, Software, or Intellectual Property, or otherwise permit any Third Party to access or use the Services, Software, or Intellectual Property.
  - (b) Copy, modify, enhance, translate, supplement, derive source code or create derivative works from, reverse engineer, decompile, disassemble, or otherwise reduce to human-readable form or attempt to reconstruct the Services, Software, or Intellectual Property (or any portion thereof or underlying ideas thereof).
  - (c) Use altered versions of the Services, Software, Intellectual Property, or any portion thereof; or use, operate, or combine any Services, Software, or Intellectual Property with other products, materials, or services in a manner

inconsistent with the Agreement.

- (d) Use the Services, Software, or Intellectual Property, or any portion thereof, as a standalone or non-integrated program or in any other manner not contemplated by the Agreement.
- (e) Perform or attempt to perform any actions that would interfere with the proper working of the Services, prevent access to or use of the Services by other users, or, in our reasonable judgment, impose an unreasonably large or disproportional load on any platform or infrastructure that is used in connection with providing the Services.
- (f) Remove, modify, or relocate any copyright notice or other legend(s) denoting our or any Third Party's proprietary interests in the Services, Software, Documentation, or any other Intellectual Property.
- (g) Access or attempt to access Services, Software, or other Intellectual Property (or any portion thereof) that we do not make available for your use pursuant to the Agreement.
- (h) In connection with your use of the Services, award any prizes or offer any incentives that would invoke state or federal regulations governing online gambling, online lottery, lottery, sweepstakes, or contests of chance.

**2.5 You Are Responsible for Your Merchant Account and Merchant Systems.** You are exclusively responsible for: (a) all activity and transactions (including fraudulent activity and fraudulent transactions) that occur in connection with your Merchant Account or through your Merchant Systems, regardless of whether such activity and transactions are undertaken by authorized personnel, unauthorized personnel, Merchant Providers, or other Third Parties; (b) ensuring that the Merchant Account and Merchant Systems, including any point-of-sale equipment, terminals, and gateways, are used in accordance with the Agreement and are secure; and (c) implementing appropriate controls to prevent your authorized personnel, your unauthorized personnel, and Third Parties from submitting credits, voids, and other transactions that are not bona fide transactions. For avoidance of doubt, you are exclusively responsible and liable for: (x) all transactions sent to us for processing through your Merchant Account or Merchant Systems (including fraudulent transactions); (y) all use of the Services; and (z) all related Services Fees, Third Party Based Fees, Chargebacks, and other amounts, whether arising from bona fide, unauthorized, or fraudulent activities or transactions.

## **2.6 Group Members.**

- (a) **Group Owner Benefits.** We may provide you the Group Owner Benefits. Without prior notice to you, we may stop providing you the Group Owner Benefits if you cease being a Group Member, if the Group Owner Agreement is not in effect, or at the Group Owner's request.
- (b) **Providing Information about You to the Group Owner and Third Parties.** Subject to Card Organization Rules and Applicable Law, we may: (i) provide the Group Owner information we obtain about you, including information related to your business, owners, management, Card transactions (including Transaction Data), MID(s), and Merchant Account or related to the Services; and (ii) provide any such information to any Third Party at the Group Owner's request. You consent to our providing all such information to the Group Owner and to Third Parties, all of which may use such information for any lawful purpose.
- (c) **New Group Owner Benefits.** From time to time, the Group Owner and we may modify the Group Owner Agreement and the Group Owner Benefits in order to provide Group Members, including you, with new products or services ("**New Group Owner Benefits**") as part of the Group Owner program. You authorize us to modify the Services provided to you under the Agreement, and related fees and Agreement terms, upon notice to you, to the extent necessary to provide you any New Group Owner Benefits, and any such modifications shall not give rise to any termination right under Section 6.2 or under Section 19.7.
- (d) **Following Group Owner's Instructions.** From time to time, the Group Owner may ask or instruct us to provide the Services in a certain manner, in connection with certain communications, as part of a certain program, or as the Group Owner otherwise specifies ("**Group Owner Instructions**"). For example, Group Owner Instructions may ask us to follow certain Debit Card routing instructions or instruct us to set up Services in a certain manner. You consent to our providing you the Services in accordance with the Group Owner Instructions and you waive all claims you may have against us, and related losses, arising from our following the Group Owner Instructions.
- (e) **Remitting Fees to Group Owner.** Depending on our and your relationship with the Group Owner, certain fees that are assessed and collected pursuant to the Agreement may be assessed and collected on behalf of the Group Owner and remitted to the Group Owner. You authorize us to assess, collect, and remit to the Group Owner such fees.
- (f) **Waiver of Liability.** We are not responsible for determining whether you are a Group Member. We shall not have any liability to you in connection with any of our acts and omissions under this Section 2.6, regardless of whether you are or are not a Group Member. You waive all claims, suits, and causes of action against us, and all related losses, related to our acts and omissions under this Section 2.6.

**2.7 Third Party Services.** Third Party Services are not governed by the Agreement. We are not responsible for Third Party Services or for any provider of Third Party Services, even if we recommended them to you. With respect to Third Party Services, you are solely and exclusively responsible for: (a) determining whether Third Party Services can meet your needs

and requirements; (b) reviewing, understanding, and complying with all terms and conditions for Third Party Services; (c) all fees, charges, and other amounts arising from Third Party Services, including any amounts you owe to Third Parties and any amounts that Third Parties owe to us or Card Organizations; (d) the integration and interaction between Third Party Services and our Services; (e) all acts and omissions of providers of Third Party Services; and (f) all other obligations and risks related to Third Party Services. If you download, access, or obtain any content through Third Party Services, you do so at your own risk. Providers of Third Party Services may have their own websites; we have no liability for such websites and any privacy policy we may have is not in effect when you visit such websites.

- 2.8 Integration of Third Party Services.** You are solely responsible for obtaining any programming, technical support, and services needed for your systems to function with our systems, and for all related agreements, fees, and costs. This may include obtaining hardware, software, and internet data access from a Third Party. If a Service relies on online connectivity, you assume all risk, responsibility, and liability associated with transactions that you conduct while the Service is offline.

### **3 Card Organization Rules, Applicable Law, Your Payments Acceptance Guide, And Conflicts**

- 3.1 Card Organization Rules.** You must comply with the Card Organization Rules, including the Payment Card Industry Data Security Standard (“**PCI DSS**”), applicable to the Card types you accept. You are responsible for staying up to date with all changes to Card Organization Rules and maintaining compliance with Card Organization Rules. Card Organization Rules may be available on websites such as <https://usa.visa.com>, <http://www.mastercard.com/us/merchant/support/rules.html>, [www.discovernetwork.com/en-us](http://www.discovernetwork.com/en-us), and [www.americanexpress.com/merchanttopguide](http://www.americanexpress.com/merchanttopguide), as links and their content may change from time to time.
- 3.2 Applicable Law.** Each party is responsible for determining all Applicable Law that is applicable to it and for complying with all such Applicable Law in connection with the Agreement.
- 3.3 Your Payments Acceptance Guide.** You agree to comply with the Your Payments Acceptance Guide, as it may change over time (“**Your Payments Acceptance Guide**”). The current Your Payments Acceptance Guide is available at [www.businesstrack.com](http://www.businesstrack.com). To the extent of any inconsistencies between these Terms and Conditions and the Your Payments Acceptance Guide, these Terms and Conditions will govern.
- 3.4 Conflicts.** For the avoidance of doubt, your use of the Services, the transactions you process, and all of your acts and omissions must comply with the Agreement, Applicable Law, and Card Organization Rules (including PCI DSS). If there is a conflict between Applicable Law, Card Organization Rules, and the Agreement, the conflict shall be governed in the following order of precedence: (1) Applicable Law; (2) Card Organization Rules; and (3) the Agreement.

### **4 Data Security and Third Parties Used by Client**

**The following is important information regarding the protection of Cardholder data. Please review carefully as failure to comply can result in substantial liabilities and termination of the Agreement.**

#### **4.1 Payment Card Industry Data Security Standard.**

- (a) **You Must Comply with PCI DSS.** As part of your obligation to comply with Card Organization Rules, you are required to comply with PCI DSS. PCI DSS compliance is focused on Merchant Systems where Cardholder data can be accessed, processed, stored, or transmitted, including external connections into your network, connections to and from the authorization and settlement environment (e.g., connections for employee access or for devices such as firewalls and routers), and data repositories outside of the authorization and settlement environment. Information about PCI DSS can be found at [www.pcisecuritystandards.org](http://www.pcisecuritystandards.org). You also are solely responsible for ensuring that all Merchant Providers, Merchant Systems, Third Parties, Third Party Services, equipment, and software that you use in connection with Card transactions comply with Card Organization Rules, including PCI DSS.
- (b) **Non-Compliance.** The Card Organizations or we may impose fines or penalties, or restrict you from accepting Cards, if it is determined that you are not compliant with the applicable data security requirements. Subject to Section 4.3, we may in our sole reasonable discretion suspend certain or all Services under the Agreement if we reasonably believe in good faith and based on evidence that an actual or suspected data security compromise has occurred, provided that we will use reasonable efforts to provide you advance written notice of such suspension, unless such notice is prohibited by Applicable Law or Card Organizations Rules. We will use commercially reasonable efforts to implement a workaround that allows you to continue receiving Card processing services from us during the suspension and we will remove the suspension and restore Services promptly after the threat has been resolved. If we reasonably believe in good faith and based on evidence that actual data security compromise has occurred which creates liability exposure for us, we may terminate the Agreement upon written notice to you.
- (c) **We Must Comply with PCI DSS.** We, and the systems and service providers we use, also must comply with PCI DSS and any additional Card Organization Rules applicable to our Services.

- 4.2 Compliance Audits.** Each party may be subject to ongoing validation of its compliance with PCI DSS standards. Furthermore, if we suspect a breach of your compliance obligations under the Agreement, we retain the right to conduct an audit at your expense, performed by us or a Third Party designated by us to verify your compliance, or that of your

agents or Merchant Providers.

- 4.3 Immediate Notice Required.** If Transaction Data is known or suspected of having been accessed or retrieved by any unauthorized Third Party, you must contact us immediately and in no event more than 24 hours after becoming aware of such activity. If we become aware of any unauthorized access to the Transaction Data, we will contact you promptly after becoming aware of such activity, unless otherwise prohibited by Applicable Law or Card Organizations Rules.
- 4.4 Your Compromised Data Event.** If a Compromised Data Event (as defined in Section 4.8) occurs or is suspected to have occurred, you must, at your own expense: (a) perform or cause to be performed an independent investigation, including a forensics analysis performed by a certified forensic vendor acceptable to us and the Card Organizations in accordance with Card Organization standards, of any data security breach of Cardholder data or Transaction Data; (b) provide a copy of the certified forensic vendor's final report regarding the incident to us and the Card Organizations; (c) perform or cause to be performed any remedial actions recommended by any such investigation; and (d) cooperate with us in the investigation and resolution of any security breach. Notwithstanding the foregoing, if required by a Card Organization, we will engage a forensic vendor approved by a Card Organization at your expense. You must cooperate with the forensic vendor so that it may immediately conduct an examination of your equipment and other Merchant Systems, and your and Merchant Providers' procedures and records, and so that it may issue a written report of its findings.
- 4.5 Our Data Security Event.** If we are determined by a Card Organization to have breached our data security obligations under Applicable Law or the Card Organization Rules, resulting solely from our independent acts or omissions which results in the actual, unauthorized disclosure of personally identifiable consumer information, including but not limited to Cardholder data that is submitted to us by you hereunder, (a **"Data Security Event"**), we will be responsible for performing each of the actions set forth in subparts (a) and (c) of Section 4.4.
- 4.6 Merchant Providers.**
- (a) **Data Security Requirements Apply to Merchant Providers.** The data security standards set forth in this Section 4 also apply to Merchant Providers. Before you engage any Merchant Provider, you must provide to us in writing the Merchant Provider's legal name, contact information, and intended function. You acknowledge and agree that you will not use, or provide Cardholder data access to, any Merchant Provider until you receive our approval (which approval shall not be unreasonably withheld) and, if required, confirmation of our registration of that Merchant Provider with applicable Card Organizations.
  - (b) **Merchant Provider Compliance.** You must ensure that you and Merchant Providers: (i) comply with the registration process which can involve site inspections, background investigations, provision of financial statements, and any other information required by us or a Card Organization; (ii) comply with the periodic and other reporting required by a Card Organization; and (iii) comply with all applicable Card Organization Rules, including without limitation, those requiring security of Cardholder data. You may allow Merchant Providers access to Cardholder data only for purposes authorized under and in conformance with the Card Organization Rules. You are responsible for all our costs and expenses associated with our review, approval, certification (and recertification as may be required by us or the Card Organization Rules) and registration of any Merchant Providers.
- 4.7 Data Security Measures; Fraud.** Security features such as CAPTCHA, velocity filters, the Address Verification Service, and requiring a Card Verification Code for Card Not Present Transactions can help combat fraud. Using AVS when submitting Authorization requests for Card Not Present Transactions can help you identify potentially fraudulent transactions and can help lower Card Organization interchange rates, but it does not guarantee a transaction is valid and the AVS response does not impact whether an Authorization request is approved or denied. We may charge you an AVS fee for any AVS request you submit, even if we are not able to provide a response to the request. You are responsible for all Chargebacks, Third Party Based Fees, Servicers Fees, and other amounts arising from fraudulent activity processed through your Merchant Systems and/or your Merchant Account (regardless of any AVS response that you receive).
- 4.8 Costs.** If you or a Merchant Provider (or other Third Party used by you) are determined by any Card Organization, regardless of any forensic analysis or report, to be the likely source of any loss, disclosure, theft or compromise of Cardholder data or Card transaction information or are determined to have caused Cardholder data to be put at risk (together, **"Compromised Data Events"**) and regardless of your belief that you have complied with the Card Organization Rules or any other security precautions and are not responsible for the Compromised Data Event, you must promptly pay us for all related expenses, claims, assessments, fines, losses, costs, penalties, and Issuer reimbursements imposed by the Card Organizations against us (together, **"Data Compromise Losses"**). In addition to the foregoing, you must also pay us promptly for all expenses and claims made by Issuers against us alleging your responsibility for the Compromised Data Event, apart from any claim procedures administered by the Card Organizations. We agree not to pass through to you any amounts imposed upon us by the Card Organizations in connection with our Data Security Event.

## 5 Settlement

- 5.1 Settlement Generally.** We will be required to settle only Card transactions made using Cards of Card Organizations that (a) we support for full acquiring services and (b) you have elected to accept and we have approved. We will not be

obligated to settle with you for any such Card transaction before we have settled for it with the related Card Organization.

- 5.2 Net Settlement.** Unless otherwise agreed to in writing to the contrary, all Servicers Fees are deducted daily. All settlements to you for your transactions will be net of Credits, adjustments, Servicers Fees, Third Party Based Fees, Chargebacks, and any other amounts then due from you.
- 5.3 Payments to You Are Provisional.** All credits to your Settlement Account or other payments to you are provisional and are subject to, among other things, our right to deduct our fees provided no such amounts are disputed by you in good faith, our final audit, Chargebacks (including our related losses), and Third Party Based Fees (including fees, fines, and any other charges imposed on us by the Card Organizations due to your noncompliance with Card Organizations Rules). You agree that we may debit or credit your Settlement Account for any deficiencies, overages, fees, Servicers Fees, Third Party Based Fees, pending Chargebacks, and any other amounts owed to us or any of our respective Affiliates, or we may deduct such amounts from settlement funds or other amounts due to you from us, or our respective Affiliates for Services provided under the Agreement. Alternatively, we may elect to invoice you for any such amounts, net due 30 days after your receipt of the invoice.
- 5.4 Good Faith Disputes.** Notwithstanding anything to the contrary in the Agreement, if any amounts debited, credited, or otherwise deducted by us are disputed by you in good faith, we will use good faith efforts to work with you to resolve the dispute in a timely manner and promptly return any such disputed amounts that are owed to you.
- 5.5 Funding Delays.** We will not be liable for any delays in receipt of funds or errors in debit and credit entries caused by you or any Third Party, including, without limitation, any delay in settlement funding for a Card transaction from a Card Organization to us.
- 5.6 Changes in Funding and Suspension of Funding.** In addition to any other remedies available to us under the Agreement, you agree that should any Event of Default by Client set forth in Section 12.3 (subject to any available cure periods set forth in Section 12.3) occur, we may, with or without notice, change processing timing or accelerate payment terms and/or suspend credits or other payments of any and all funds, money, and amounts now due or hereafter to become due to you pursuant to the terms of the Agreement, until we have had reasonable opportunity to investigate such event. Notwithstanding the foregoing, we will make reasonable efforts to notify you as promptly as practically possible of any such change or suspension.
- 5.7 Settlement Account Information.** You acknowledge and agree that transfers to and from the Settlement Account shall be based on the account number and routing number supplied by you. We are not responsible for detecting errors in any Settlement Account information you provide, including the account numbers and routing numbers, even if any of those numbers do not correspond to the actual account or financial institution identified by name.
- 5.8 Secured Financial Accommodations.** The Agreement is a contract whereby we are extending secured financial accommodations to you within the meaning of Section 395(c) of the U.S. bankruptcy code. Your right to receive any amounts due or to become due from us is expressly subject and subordinate to Chargeback, recoupment, setoff, lien, security interest and our rights to withhold settlement funds under the Agreement, without regard to whether such Chargeback, setoff, lien, security interest and the withholding of settlement funds rights are being applied to claims that are liquidated, unliquidated, fixed, contingent, matured or unmatured.

## **6 Fees; Adjustments; Collection Of Amounts Due**

### **6.1 Your Payment of Fees and Other Amounts.**

- (a) **Servicers Fees, Card Organization Fees, and Other Third Party Based Fees.** You agree to pay us all Servicers Fees, Third Party Based Fees, Chargebacks, and other amounts arising in connection with the Agreement, including all fees and amounts described in the MPA Addendum, Fee Schedule, Interchange Rate Schedule, Card Organization program pricing schedules, or any other Schedule. For avoidance of doubt, this includes all fees and amounts imposed or established by any Card Organization related to your transactions.
- (b) **Errors, Shipping and Handling, Taxes, and Other Amounts.** As part of your obligations, you agree to pay and reimburse us for all funds and deposits erroneously credited to your Settlement Account or Merchant Account, all shipping and handling fees related to Equipment and Supplies, and all Taxes (and you authorize us, or our respective assigns, to increase the amount of any preauthorized payment to reflect any increases in Taxes, and you waive any requirement for notice of such increase). In addition, you are fully liable for any transactions that you accept from a Cardholder that are of a type, including a Card type, that you did not elect for your Merchant Account, and must pay us all related Servicers Fees, Third Party Based Fees, and Chargebacks.
- (c) **Sixty Day Limit for Certain Amounts.** The following amounts shall be deemed waived by us if not charged or deducted by us within 60 days of the respective transaction date: (i) reversal of deposit posted to your account in error; (ii) debit for adjustments not previously posted; (iii) reversal of Credit for deposit previously posted; and (iv) debit for Chargeback never posted to your account.
- (d) **Authorization Fees and Capture Fees.** All Authorization fees will be charged for each transaction that you

attempt to authorize. All capture fees will be charged for each transaction that you transmit to us for settlement. If you are being billed a combined fee for both the Authorization and capture of a transaction, the Authorization and capture must be submitted as a single transaction, otherwise the Authorization and the capture will each be charged separately. You are responsible for utilizing software or services that will correctly submit these transactions to achieve the combined billing

(e) **Wire Fees.** If you receive settlement funds by wire transfer, we may charge a wire transfer fee per wire.

- 6.2 Changes to Third Party Based Fees.** The fees for Services set forth in the Agreement may be adjusted to reflect increases or new Third Party Based Fees. All such adjustments shall be your responsibility to pay and shall become effective upon the date any such change or addition is implemented by the applicable Card Organization or Third Party as specified in our notice to you.
- 6.3 ACH Debit and Credit Authorization.** To the extent the Automated Clearing House (“ACH”) settlement process is used to effect debits or credits to your Settlement Account, you agree to be bound by the terms of the operating rules of the National Automated Clearing House Association, as in effect from time to time. You hereby authorize us to initiate credit and debit entries and adjustments to your Settlement Account through the ACH network and/or through direct instructions to the financial institution where your Settlement Account is maintained for amounts due under the Agreement (including any amounts due under this Section 6) and under any agreements with us or our respective Affiliates for any product or services, as well as for any credit entries in error. You hereby authorize the financial institution where your Settlement Account is maintained to effect all such debits and credits to your account. The ACH authorization under this Section 6.3 will remain in effect until (a) you have provided us at least 30 days’ prior written notice in accordance with Section 19.3 that you are terminating the authorization, and (b) either (i) all amounts due from you under the Agreement and under any other agreements you have with us or our Affiliates have been paid in full, or (ii) you have provided us an authorization to debit via ACH a replacement Settlement Account that is satisfactory to us in our sole discretion.
- 6.4 Our Obligations.** We agree not to pass through to you any fees, fines, or other charges imposed on us by any Card Organization resulting from our acts or omissions in breach of the Agreement, or as a result of acts or omissions of our agents or other Third Parties engaged by us in connection with the Services.
- 6.5 Excessive Chargebacks.** If your Chargeback percentage for any line of business exceeds the estimated industry Chargeback percentage, you shall, in addition to the Chargeback fees and any applicable Chargeback handling fees or fines, pay us an excessive Chargeback fee for all Chargebacks occurring in such month in such line(s) of business. Each estimated industry Chargeback percentage is subject to change from time to time by us in order to reflect changes in the industry Chargeback percentages reported by Visa, Mastercard or Discover. Your Chargeback percentage will be calculated as the larger of (a) the total Visa, Mastercard and Discover Chargeback items in any line of business in any calendar month divided by the number of Visa, Mastercard and Discover transactions in that line of business submitted that month, or (b) the total dollar amount of Visa, Mastercard and Discover Chargebacks in any line of business received in any calendar month divided by the total dollar amount of your Visa, Mastercard and Discover transactions in that line of business submitted in that month.
- 6.6 Review of Statements and Notice of Errors.** You agree to promptly and carefully review statements or reports provided or made available to you (physically, electronically, or otherwise and whether provided by us or Third Parties on our behalf) reflecting Card transaction activity (including activity in the Merchant Account, Settlement Account, or Reserve Account), and our fees and charges for the Services and other amounts due to or from you. If you believe any discrepancies or errors exist, you must notify us in writing within ninety (90) days after the date of the related statement or reports. If you fail to notify us within such ninety (90) day period of any of such discrepancies or errors of which you are or reasonably should be aware, then we shall not have any obligation to investigate or effect any related adjustments, absent our gross negligence or willful misconduct. Any voluntary efforts by us to assist you in investigating such matters shall not create any obligation to continue such investigation or any future investigation. We may adjust your Merchant Account for good cause after such 90 day period.
- 6.7 Electronic Communications.** With respect to any billing statements, reports, agreements, disclosures, notices, and other communications that you receive from us via electronic means, including via email or the internet (“**Electronic Communications**”), you are responsible for: (a) configuring Merchant Systems so that you can receive, access, and view Electronic Communications, including disabling spam filters and whitelisting domain names and email addresses; (b) the accuracy of, and all activity and communications under, your email addresses and accounts; (c) regularly monitoring and checking Electronic Communications; and (d) regularly monitoring and checking Business Track and any other websites, tools, and databases that contain information related to your Merchant Account. You are solely responsible for any disclosure, interception, or viewing of any Electronic Communication that has been transmitted from our server.
- 6.8 Test Messages and Automated Technology.** You understand and agree that by disclosing your cell phone number, our service providers, American Express, and other Card Organizations may contact you at that number, including through the use of automatic technology or text, in connection with your Merchant Account. Your phone plan charges may apply.

- 6.9 Additional Information Regarding Interchange.** The interchange rate schedule provides the most common interchange rates applicable to your transactions (“**Interchange Rate Schedule**”). Transactions may downgrade, resulting in higher interchange rates. You are responsible for all interchange fees as part of your responsibility for Third Party Based Fees. For more information on Visa’s and Mastercard’s interchange rates, please go to: [www.visa.com/merchants](http://www.visa.com/merchants) and [www.mastercard.us/merchants](http://www.mastercard.us/merchants).

## 7 Chargebacks

- 7.1 Chargebacks Generally.** You must reimburse us for all transactions you submit that are charged back and all related amounts, including: (a) all Chargebacks; (b) all fees, fines, penalties, assessments, and other amounts related to disputing or arbitrating a Chargeback or failing to produce records within applicable time limits; and (c) all Chargeback Fees set forth on the Fee Schedule or elsewhere in the Agreement, regardless of whether a Chargeback is settled in your favor or the Cardholder’s favor.
- 7.2 Disputing Chargebacks.** You may dispute a Chargeback as provided in the Card Organization Rules, including any requirements for timely submission. Our obligation to you respecting Chargeback disputes is limited to presenting your dispute to the appropriate Card Organization, to the limited extent required by Card Organization Rules. We will not engage in direct collection efforts against Cardholders on your behalf. The Your Payments Acceptance Guide contains additional details and requirements related to Chargebacks.

## 8 Representations; Warranties; Covenants; Limitations On Liability; Exclusion Of Consequential Damages

- 8.1 Your Representations and Warranties.** Without limiting any other warranties hereunder, you represent, warrant to, and covenant with us, and with the submission of each Sales Draft reaffirm that:
- (a) each Card transaction is genuine and arises from a bona fide transaction permissible under the Card Organization Rules by the Cardholder directly with you, represents a valid obligation for the amount shown on the Sales Draft, preauthorized order, or Credit Draft, and does not involve the use of a Card for any other purpose;
  - (b) each Card transaction represents an obligation of the related Cardholder for the amount of the Card transaction;
  - (c) the amount charged for each Card transaction is not subject to any dispute, set-off or counterclaim;
  - (d) each Card transaction amount is only for respective merchandise or services (including taxes, but without any surcharge, except as required by Card Organization Rules) sold, leased, or rented by you pursuant to your business as indicated on the Application and, except for any delayed delivery or advance deposit Card transactions expressly authorized by the Agreement, that merchandise or service was actually delivered to or performed for the Cardholder entering into that Card transaction simultaneously upon your accepting and submitting that Card transaction for processing;
  - (e) with respect to each Card transaction, you have no knowledge or notice of any fact, circumstance, or defense which would indicate that such Card transaction is fraudulent or not authorized by the related Cardholder or which would otherwise impair the validity or collectability of that Cardholder’s obligation arising from that Card transaction or relieve that Cardholder from liability with respect thereto;
  - (f) each Card transaction is made in accordance with these Terms and Conditions, Card Organization Rules, the Your Payments Acceptance Guide, and Applicable Law;
  - (g) each Sales Draft is free of any alteration not authorized by the related Cardholder;
  - (h) you have completed one Card transaction per sale;
  - (i) you are validly existing, in good standing, and free to enter into the Agreement;
  - (j) each statement made on the Application or other information provided to us in support of the Agreement is true and correct;
  - (k) you are not doing business under a name or style not previously disclosed to us;
  - (l) you have not changed the nature of your business, Card acceptance practices, delivery methods, return policies, or types of products or services sold requiring a different MCC under Card Organization Rules, in a way not previously disclosed to us;
  - (m) you will use the Services only for your own proper business purposes and will not resell, directly or indirectly, any part of the Services to any Third Party (Note: Factoring is prohibited);
  - (n) you have not filed a bankruptcy petition not previously disclosed to us;
  - (o) you own and control the Settlement Account, and no third party security interest or lien of any type exists regarding the Settlement Account or any Card transaction;
  - (p) you will not at any time during the term of the Agreement, or until all amounts due under the Agreement have been paid in full, grant or pledge any security interest or lien in the Reserve Account, Settlement Account, or transaction proceeds to any Third Party without our consent; and

- (q) in performing your obligations hereunder, you will use commercially reasonable efforts to make sure that no viruses, spyware, malware, or similar items are introduced into our environment directly or indirectly by acts or omissions of yours or your agents.

**8.2 Our Representations and Warranties.** Without limiting any other warranties hereunder, we represent, warrant to, and covenant with you, and with the processing of each Sales Draft reaffirm that:

- (a) we will perform our obligations hereunder, including the Services, in compliance with the terms of the Agreement, Applicable Laws, and Card Organization Rules in a timely and professional workmanlike manner;
- (b) we are validly existing, in good standing, and free to enter into the Agreement;
- (c) we have obtained and will continue to maintain the requisite certifications and permits required to perform the Services hereunder; and
- (d) in performing our obligations hereunder and providing Services, we will use commercially reasonable efforts to make sure that no viruses, spyware, malware, or similar items are introduced into your environment directly or indirectly by acts or omissions of ours or our agents.

**8.3 NO OTHER REPRESENTATIONS OR WARRANTIES.** THE AGREEMENT IS A SERVICE AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH IN THE AGREEMENT, EACH PARTY DISCLAIMS ALL REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, MADE TO THE OTHER PARTY OR ANY OTHER THIRD PARTY, INCLUDING WITHOUT LIMITATION, ANY WARRANTIES REGARDING QUALITY, SUITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT OR OTHERWISE OF ANY SERVICES OR ANY GOODS PROVIDED INCIDENTAL TO THE SERVICES PROVIDED UNDER THE AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY SERVICES OR ANY GOODS PROVIDED BY A THIRD PARTY.

**8.4 EXCLUSION OF CONSEQUENTIAL DAMAGES.** SUBJECT TO SECTION 8.8(b), IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES OR ANY OF ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL THEORY FOR LOST PROFITS, LOST REVENUES, LOST BUSINESS OPPORTUNITIES, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER ANY PARTY OR ANY THIRD PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES (THE "**DAMAGES EXCLUSION**").

**8.5 LIABILITY CAP.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY AND SUBJECT TO SECTION 8.8(a), OUR CUMULATIVE LIABILITY FOR ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES AND DAMAGES FOR ANY CAUSE(S) WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING OUT OF OR RELATED TO THE AGREEMENT), REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, SHALL NOT EXCEED, (I) \$50,000; OR (II) THE AMOUNT OF FEES RECEIVED BY US PURSUANT TO THE AGREEMENT FOR SERVICES PERFORMED IN THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS, WHICHEVER IS LESS ("**LIABILITY CAP**").

**8.6 SOLE REMEDY FOR FUNDING DELAY.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY (INCLUDING BUT NOT LIMITED TO SECTION 15), IN THE EVENT OF ANY DELAY IN FUNDING TRANSACTIONS TO YOU FOR ANY REASON, OTHER THAN FOR ANY REASON DESCRIBED IN SECTIONS 5 OR 19.1, OUR SOLE LIABILITY TO YOU WILL BE TO PAY YOU INTEREST COMPUTED FROM THE DATE THAT WE WOULD HAVE FUNDED THE TRANSACTION, AS DESCRIBED IN SECTION 5, TO THE DATE THAT WE ACTUALLY FUND THE TRANSACTION AT THE RATE OF THE LESSER OF THE PER ANNUM RATE EQUAL TO BANK'S THEN CURRENT PRIME RATE PLUS TWO PERCENT (2%), BASED ON A 360 DAY YEAR OR (II) THE MAXIMUM RATE.

**8.7 BANK IS NOT LIABLE FOR NON-BANK CARD SERVICES.** NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, BANK IS NOT RESPONSIBLE, AND SHALL HAVE NO LIABILITY, TO YOU IN ANY WAY WITH RESPECT TO NON-BANK CARD SERVICES.

**8.8 EXCEPTIONS TO LIABILITY CAP AND EXCLUSION OF CONSEQUENTIAL DAMAGES.**

- (a) **Liability Cap Exceptions.** The Liability Cap set forth in Section 8.5 shall not apply to the following: (i) claims and losses caused by our or our personnel's gross negligence, willful misconduct, or fraud; (ii) our obligations under Section 15.3; (iii) our breach of our obligations with respect to compliance with Applicable Laws or Card Organization Rules under the Agreement (excluding breaches involving our Data Security Event, which are subject to the Liability Cap); or (iv) our breach of our confidentiality obligations under the Agreement not involving personally identifiable consumer information (collectively, (i) through (iv) are the "**Excluded Amounts**").
- (b) **Damages Exclusion Exceptions.** The Damages Exclusion set forth in Section 8.4 shall not apply to the following: (i) claims and losses caused by the gross negligence, willful misconduct, or fraud of either party or its personnel; (ii) our obligations under Section 15.3 and your obligations with respect to Excluded Claims; (iii) breaches by either party of its obligations with respect to compliance with Applicable Laws or Card Organization Rules under the Agreement (excluding breaches involving our Data Security Event, which are subject to the Damages Exclusion); or

(iv) breaches by either party of its confidentiality obligations under the Agreement not involving personally identifiable consumer information. For avoidance of doubt, amounts excepted from the Damages Exclusion (y) are not Excluded Amounts, and (z) are subject to the Liability Cap.

## 9 Confidentiality

- 9.1 Definition of Confidential Information.** The term “**Confidential Information**” means all information of a party and its Affiliates that is not publicly available, including any of their strategic business information and capabilities; financial information; business plans and marketing strategies; pricing of the Services; documentation and portals related to Services; information related to information technology systems and processes; technical specifications; designs; processes and procedures; reports; source code; databases; information used in connection with logging onto, accessing, or using the Services; customer information (not including Cardholder data); the terms of the Agreement; and information that must be maintained as confidential by Applicable Law, and whether in oral, written, graphic, electronic, or other form, including all copies and derivatives thereof.
- 9.2 Protecting Confidential Information.** The party receiving Confidential Information (“**Recipient**”) from the other party (“**Discloser**”) shall: (a) safeguard the Discloser’s Confidential Information using at least a reasonable degree of care; (b) limit access to the Discloser’s Confidential Information to the Recipient’s employees and service providers who (i) have an obligation of confidentiality to Recipient that is similar to Recipient’s confidentiality obligations to Discloser under this Section 9, and (ii) have a need to know the Discloser’s Confidential Information in connection with the Agreement; (c) not disclose or use the Discloser’s Confidential Information, except as permitted under Section 9.3 or elsewhere in the Agreement; and (d) at the Discloser’s request, return to Discloser or destroy all of Discloser’s Confidential Information in Recipient’s possession or control.
- 9.3 Permitted Use and Disclosure of Confidential Information.** Recipient may disclose the Discloser’s Confidential Information: (a) to Third Parties on a need to know basis as it reasonably deems appropriate to analyze, provide, support, improve, receive, or use the Services; (b) to its auditors and attorneys (internal and external) and regulators; (c) as required or permitted by law, regulation, or court order; or (d) to its respective Affiliates as it deems appropriate. In addition, we may disclose your Confidential Information: (x) as permitted under Section 2.6, Section 10.6, or elsewhere in the Agreement; (y) in connection with any customer service and support, whether provided by us or Third Parties, related to your Merchant Account; and (z) to any Card Organizations, which may use and share such information in any lawful manner and for any lawful purpose. Notwithstanding any contrary provisions in documents for any other accounts you have with Bank, you consent to Bank sharing and exchanging with us, our Affiliates, and our agents information about you and such other accounts (including relationship, credit, and confidential information) in connection with the Services and for any other lawful reason.
- 9.4 Use and Disclosure Exceptions.** The obligations set forth in Section 9.2 do not apply to information that: (a) enters the public domain through no fault of the Recipient; (b) was received from a Third Party free of any obligation of confidence and which Third Party, to Recipient’s knowledge, was not under an obligation to keep the information confidential; (c) was already in Recipient’s possession prior to receipt from Discloser; (d) is required to be disclosed by law, regulation, or court order after giving Discloser as much advance notice as practical of the possibility of disclosure; or (e) is independently developed by Recipient without use of or reference to Discloser’s Confidential Information.
- 9.5 Injunctive Relief.** Recipient acknowledges that breach of the restrictions on use or disclosure of Confidential Information could result in immediate and irreparable harm to Discloser, and money damages may be inadequate to compensate for that harm. Discloser shall be entitled to seek equitable relief, in addition to all other available remedies, to redress any such breach.
- 9.6 Cardholder Data and Transaction Data.** You must not use, disclose, store, sell, or disseminate any Cardholder data except: (a) to authorize, complete, and settle Card transactions; (b) to resolve Chargebacks; (c) to respond to requests for documentation related to Card transactions (such as a copy of a Sales Draft or other transaction source documents); or (d) as both required by valid court order, government agency order, or subpoena and compliant with Card Organization Rules. You acknowledge that you do not have and will not obtain ownership rights in any Cardholder data or Transaction Data.

## 10 Intellectual Property

- 10.1 Servicers’ Ownership.** As among Servicers and Client, Servicers exclusively own all right, title, and interest (under federal, state, local, and international laws and under the laws of any other country, territory, or jurisdiction) in and to the: (a) Intellectual Property; (b) Technology; (c) Services; (d) Software; and (e) Documentation. You shall not take any action that is inconsistent with, or that challenges, the rights, title, and ownership set forth in this Section 10.1.
- 10.2 Your Limited License.** We grant you a non-transferable, non-assignable, non-exclusive, limited, royalty-free, revocable license to access and use the Services, Software, and Documentation solely within the United States (excluding U.S. territories and possessions), solely for their intended purpose(s), solely for your business purpose(s) (not for any household or other non-commercial use), solely on systems that you own or license, and solely in accordance with the

terms of the Agreement (“**Limited License**”). For the avoidance of doubt: (a) other than the Limited License, nothing in this Section 10.2 or the Agreement assigns, transfers, or creates any right, title, or interest for you (whether express or implied, or by estoppel or otherwise) in or to the Intellectual Property, Technology, Services, Software, or Documentation; and (b) all right, license, title and interests that are not expressly granted pursuant to the Limited License are expressly withheld. You obtain no rights (license or otherwise) to any Marks, brand names, or logos associated with any Services, or associated with us or our service providers. The Limited License shall immediately terminate on the earlier of (y) termination of the Agreement, and (z) termination of the Services related to such Limited License.

- 10.3 Documentation and Software.** If Documentation is provided for a Service: (a) you must access and use such Service in accordance with such Documentation; and (b) you may use such Documentation only in connection with your access to and use of such Service. Software can only be used with certain computer operating systems and it is your responsibility to ensure that you have the appropriate hardware and software to use the Software. You are bound by all Software and other Intellectual Property terms and conditions of use and other license terms, whether provided by a Third Party (such as an Equipment manufacturer or Software owner) or by us.
- 10.4 Marks.** You must comply with all Card Organization Rules, guidelines, and standards regarding Marks owned by any Card Organization, including those regarding use, display, and reproduction of Marks. Your use and display of any Card Organization Marks will terminate upon the earlier of: (a) termination of the Agreement; or (b) notice to you that the Card Organization has requested or required such termination. You may not use our Marks (or those of our Affiliates or Third Party service providers) in any manner, including in any advertisements, displays, or press releases, without our prior written consent. You shall not: (y) indicate that we or any Card Organization endorses your goods or services; or (z) use our Marks or the Marks of any Card Organization in any way that injures or diminishes the goodwill associated with the Marks.
- 10.5 Updates.** At any time we may release updates to Software or Services (“**Updates**”), which you must install and integrate with your systems within 30 days of receipt. Failure to install Updates timely may impair the Software or Services. We have no liability for your failure to properly install the most current version of Software or any Update, and we have no obligation to provide support or services for outdated versions.
- 10.6 Transaction Data.** You authorize us, our service providers, and our Third Party providers of payments products and services that are complementary to our services to use and disclose, within and outside of the United States, Transaction Data in connection with: (a) improving products and services; (b) making products and services (including analytics products and services) available to you, our other clients, and other merchants and Third Parties; and (c) for any other lawful reason. As part of our rights under this Section 10.6, we may in certain instances collect, aggregate, and use de-identified and aggregated Transaction Data. In addition, in the course of providing Services we may collect information related to activities on your network and Merchant Systems, including network configuration, TCP/IP packet headers and contents, log files, malicious codes, and Trojan horse information. You permit us to use such information, or aggregations of it, for any lawful purpose.

## 11 Assignment; Material Changes

- 11.1 Assignment by Client.** If you transfer or assign the Agreement or any portion of it, or if you attempt to sublicense or otherwise transfer any licensed rights, in each case whether by operation of law or otherwise, without our prior written consent: (a) we may void such transfer, assignment, and/or sublicense; and (b) we may suspend the Services, declare an Event of Default, and exercise any of our other rights under the Agreement.
- 11.2 Material Changes.** You will provide us reasonable advance written notice of any material change in the nature of your business (“**Material Change**”). Material Changes include any change in control or merger; any liquidation; any transfer or sale of substantially all of your assets; and any change that could materially affect the products or services you sell, your procedures for payments acceptance, or your fulfillment of obligations to Cardholders. If a Material Change occurs to which we do not consent in writing, we may suspend the Services, declare an Event of Default, or exercise any of our other rights under the Agreement.
- 11.3 Responsibility for Transactions.** You are liable to us for all Chargebacks, Servicers Fees, Third Party Based Fees, and other liabilities arising in connection with: (a) any Card transactions submitted to us for processing by any assignee or transferee of the Agreement (or any part of the Agreement) not previously approved as such by us; and (b) any Card transactions submitted to us following any Material Change not previously approved by us in writing. We may collect amounts owed under this Section 11.3 by setting off or recouping against settlement funds, debiting your Settlement Account, debiting a Reserve Account, or in any other manner we are permitted to collect any other amounts under the Agreement.
- 11.4 Assignment of Right to Receive Settlement Proceeds by Client.** You may not enter into any agreement that would require the transfer of any payments or proceeds from Card transactions covered by the Agreement to the custody or control of any Third Party. You may not assign the right of payment under the Agreement to any Third Party. In the event that you make an assignment (or provide a security interest) of receivables covered by the Agreement, then we may, at

our option, elect to (a) refuse to acknowledge such assignment unless accompanied by an authorization to initiate both debits and credits to the bank account of the assignee, (b) terminate the Agreement immediately, or (c) charge for any transfers that we are called upon to make manually to fulfill such an assignment at the rate of \$100 per transfer.

**11.5 Assignment by Us.** Another Visa and Mastercard member may be substituted for Bank under whose sponsorship the Agreement is performed with respect to Visa and Mastercard transactions. Upon substitution, such other Visa and Mastercard member shall be responsible for all obligations required of Bank for Visa and Mastercard transactions, including without limitation, full responsibility for its Card program and such other obligations as may be expressly required by applicable Card Organization Rules. Subject to Card Organization Rules, we may assign or transfer the Agreement and our rights, duties, and obligations hereunder and/or delegate or subcontract our rights, duties, and obligations hereunder, in whole or in part, to any Third Party, whether in connection with a change in sponsorship, as set forth in the preceding paragraph, or otherwise, without your consent; provided, however that in the event we so assign or subcontract the Agreement, in whole or in part, we agree to provide you written notice of such assignment or subcontract (as applicable) as promptly as practicable following such assignment or subcontracting by us.

**11.6 Permitted Assignments are Binding.** Except as set forth elsewhere in this Section and as provided in the following sentence, the Agreement shall be binding upon successors and assigns and shall inure to the benefit of the parties and their respective permitted successors and assigns. No assignee for the benefit of creditors, custodian, receiver, trustee in bankruptcy, debtor in possession, or other Third Party charged with taking custody of a party's assets or business, shall have any right to continue, assume or assign the Agreement.

## 12 Term; Termination; Events Of Default

**12.1 When the Agreement Takes Effect.** The Agreement becomes effective only when approved by our Credit Department ("**Effective Date**"). We reserve the right to immediately suspend or terminate your account and the Agreement if you fail to meet our credit policies even if your account has been activated to submit transactions prior to your approval by our Credit Department.

**12.2 Term of the Agreement.** The initial term of the Agreement begins on the Effective Date and continues for three (3) years ("**Initial Term**"), unless terminated earlier as provided herein. Thereafter, it shall continue on a month-to-month basis (each, an "**Extended Term**" and, together with the Initial Term, the "**Term**") until we or you terminate the Agreement upon written notice to the other as permitted under the Agreement. If you have an equipment lease, termination of the Agreement does not terminate that equipment lease. If you have rented equipment from us, termination of the Agreement does not relieve you of your obligation to make rental payments until the rented equipment is paid for in full or returned to us.

**12.3 Events of Default.** Each event set forth below is an "**Event of Default**":

- (a) A material adverse change in your business, financial condition, or business prospects.
- (b) Any assignment of the Agreement by you in violation of Section 11.1.
- (c) Any Material Change we did not consent to in violation of Section 11.2.
- (d) Irregular Card sales by you, excessive Chargebacks, or any other circumstances which, in our sole discretion, may increase our exposure for your Chargebacks or otherwise present a financial or security risk to us.
- (e) The occurrence of a Compromised Data Event (with respect to you) or a Data Security Event (with respect to us).
- (f) Any of a party's representations, warranties, or covenants in the Agreement are breached in any respect.
- (g) A party defaults in any material respect in the performance or observance of any term, condition, or agreement contained in the Agreement, including, without limitation, your default in the establishment or maintenance of funds in a Reserve Account, as detailed in Section 13.
- (h) You default in the payment when due, of any material indebtedness for borrowed money.
- (i) A party files a petition or have a petition filed by another party under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency or similar arrangement for adjustment of debts; consent to or fail to contest in a timely and appropriate manner any petition filed against a party in an involuntary case under such laws; apply for or consent to, or fail to contest in a timely and appropriate manner, the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of a party or of a substantial part of a party's property; or make a general assignment for the benefit of creditors; or take any action for the purpose of authorizing any of the foregoing.
- (j) Your independent certified accountants shall refuse to deliver an unqualified opinion with respect to your annual financial statements and your consolidated subsidiaries.
- (k) A violation by a party of any Applicable Law or Card Organization Rules, including the rules and regulations promulgated by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("**OFAC**") or a party's breach of Section 19.2.

- 12.4 Termination Due to an Event of Default.** Upon the occurrence of an Event of Default specified in subsections 12.3(b), 12.3(c), 12.3(d), 12.3(g) for any breach of Section 13, 12.3(i), or 12.3(k) (or for an Event of Default under Section 12.3(g) for failing to establish or maintain funds in a Reserve Account), the Agreement may be terminated immediately, without notice, and all amounts payable hereunder shall be immediately due and payable in full, provided that any disputed amounts shall be handled in accordance with Section 5. Upon the occurrence of any other Event of Default, the Agreement may be terminated by the non-breaching party by giving written notice to the breaching party if the Event of Default remains uncured for thirty (30) days from the time the breaching party was first notified of the Event of Default, and upon such notice all undisputed amounts payable hereunder shall be due and payable on demand. If any Event of Default occurs, regardless of whether such Event of Default has been cured, each party may, in its sole discretion, exercise all of its rights and remedies under Applicable Law, and the Agreement including, without limitation, exercising its rights under Section 13.
- 12.5 Termination Related to the IHG Agreement.** Processor and Six Continents Hotels, Inc. (“**IHG**”) are parties to that certain Merchant Services Referral Agreement dated October 16, 2014 (as supplemented and amended, the “**IHG Agreement**”). Upon expiration or termination of the IHG Agreement: (a) you may terminate the Agreement without penalty; and (b) you are entitled to receive Termination Assistance Services, unless the IHG Agreement is terminated by us for cause (in which case, we may choose whether to provide Termination Assistance Services in our discretion).
- 12.6 Effect of Termination.** Upon expiration or termination of the Agreement:
- (a) All obligations by a party to pay or reimburse the other party for any obligations associated with transactions you have submitted to us or disputed payments will survive termination of the Agreement until finally and irrevocably paid in full and settled.
  - (b) You shall continue to bear total responsibility for all Chargebacks, fees, and other amounts (including all Servicers Fees and Third Party Based Fees) associated with transactions submitted by you or by any assignee or transferee of the Agreement not previously approved by us, and for all activity under your Merchant Account, until all such Servicers Fees, Third Party Based Fees, Chargebacks, and other amounts have been paid in full (and regardless of whether such transactions were submitted and such activity occurred before or after termination).
  - (c) Your Limited License and any other license related to the terminated Service(s) immediately terminate and, within 5 days after termination, you must return to us or destroy all related Software and Documentation and, upon our request, certify the same to us in writing.
  - (d) In the event you file for protection under the U.S. bankruptcy code or any other laws relating to bankruptcy, insolvency, assignment for the benefit of creditors or similar laws, and you continue to use our Services, it is your responsibility to open new accounts to distinguish pre and post filing obligations. You acknowledge that as long as you utilize the accounts you established prior to such filing, we will not be able to systematically segregate your post-filing transactions or prevent set-off of the pre-existing obligations. In that event, you will be responsible for submitting an accounting supporting any adjustments that you may claim.
- 12.7 MATCH Reporting.** The Card Organizations often maintain merchant lists, such as the Member Alert To Control High-risk (Merchants) (“**MATCH**”), who have had their merchant agreements or Card acceptance rights terminated for cause. If the Agreement is terminated for cause by us due to an Event of Default by you, you acknowledge that we may be required to report your business name and the names and other information regarding your principals to the Card Organizations for inclusion on such list(s). You expressly agree and consent to such reporting if you are terminated as a result of the occurrence of an Event of Default or for any reason specified as cause by Visa, Mastercard or Discover. Furthermore, you agree to waive and hold us harmless from and against any and all claims which you may have as a result of such reporting.
- 12.8 Termination Assistance.** For up to ninety (90) days following the date of termination of the Agreement, and at your request, we will provide to you, at no additional charge (other than the Servicers Fees, Third Party Based Fees, and other amounts due under the Agreement), such assistance, including the continued performance of the Services, as may be reasonably required to transition you from us to an alternative service provider (the “**Termination Assistance Services**”). As part of such Termination Assistance Services, we will provide continued access to our reporting system for Chargeback retrieval. Notwithstanding the foregoing, we are not required to provide Termination Assistance Services if the Agreement is terminated due to: (a) a Compromised Data Event; (b) your breach of your obligations with respect to the Reserve Account in Section 13; (c) your failure to maintain sufficient funds in the Settlement Account; (d) fraud or excessive Chargebacks; or (e) the request or requirement of any Card Organization. For avoidance of doubt, all terms and provisions of these Terms and Conditions, the Fee Schedule, and the other components of the Agreement apply to any Termination Assistance Services.

### **13 RESERVE ACCOUNT; SECURITY INTEREST**

- 13.1 Reserve Account Generally.** You expressly authorize us to establish a Reserve Account pursuant to the terms and conditions set forth in this Section 13. The amount of such Reserve Account shall be set by us and may be adjusted by

us from time to time, in our sole discretion, based upon your processing history and the potential risk of loss to us as we may determine from time to time.

### 13.2 Funding the Reserve Account.

- (a) **Timing.** The Reserve Account shall be fully funded: (i) immediately in instances of fraud, suspected fraud, the occurrence of an Event of Default, or any party providing notice of termination of the Agreement; or (ii) upon three days' notice if required for any other reason.
- (b) **Method.** The Reserve Account may be funded by all or any combination of the following: (i) one or more debits to your Settlement Account or any other accounts held by either of us or any of our respective Affiliates, at any financial institution maintained in the name of Client, any of its principals, or any of its guarantors, or if any of same are authorized signers on such account; (ii) our collection of any payments or amounts (including settlement funds) otherwise due to you; or (iii) with our consent, your delivery to us of a letter of credit issued by a financial institution acceptable to us and in a form satisfactory to us.
- (c) **Holding and Return of Funds.** Any Reserve Account will be held by us for the greater of ten (10) months after termination of the Agreement or for such longer period of time as is consistent with our liability for your Card transactions and Chargebacks in accordance with Card Organization Rules, at which time, we will return all remaining amounts in the Reserve Account to you. We will hold funds pursuant to this Section 13.2 in master account(s) with your funds allocated to separate sub accounts. Unless specifically required by law, you shall not be entitled to interest on any funds held by us in a Reserve Account.

**13.3 Payment of Amounts from Reserve Account; Deficiencies.** We may collect any Servicers Fees, Third Party Based Fees, Chargebacks, and other amounts (collectively in this Section 13.3, "**all such amounts**") arising in connection with the Agreement from the Reserve Account. If your funds in the Reserve Account are not sufficient to cover all such amounts, or if the funds in the Reserve Account have been released, you agree to promptly pay us all such amounts upon request. In addition, we may collect all such amounts in any manner we otherwise are permitted to collect amounts under the Agreement, including by net settling against your settlement funds, setting off against amounts owed to you, and debiting your Settlement Account.

**13.4 Security Interest.** To secure your obligations to us and our respective Affiliates under the Agreement, you grant to us a first priority lien and security interest in and to: (a) the Reserve Account; and (b) any of your funds pertaining to the Card transactions contemplated by the Agreement now or hereafter in our possession, whether now or hereafter due or to become due to you from us. Any such funds, money, or amounts now or hereafter in our possession may be commingled with other funds of ours, or, in the case of any funds held pursuant to the foregoing paragraphs, with any other funds of other customers of ours.

**13.5 Set-Off.** In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, we are hereby authorized by you at any time and from time to time, without notice or demand to you or to any Third Party (any such notice and demand being hereby expressly waived), to set off, recoup, and to appropriate and apply any and all such funds against and on account of your obligations to us and our respective Affiliates under the Agreement and any other agreement with us our respective Affiliates for any related equipment or related services (including any check services), whether such obligations are liquidated, unliquidated, fixed, contingent, matured or unmatured. You agree to duly execute and deliver to us such instruments and documents as we may reasonably request to perfect and confirm the lien, security interest, right of set-off, recoupment and subordination set forth in the Agreement.

## 14 FINANCIAL AND OTHER INFORMATION

**14.1 Providing Information.** Upon request, you will provide us and our Affiliates, quarterly financial statements within 45 days after the end of each fiscal quarter and annual audited financial statements within 90 days after the end of each fiscal year. Such financial statements shall be prepared in accordance with generally accepted accounting principles. You will also provide such other financial statements and other information concerning your business and your compliance with the terms and provisions of the Agreement as we may reasonably request. You authorize us and our respective Affiliates to obtain from credit agencies and any trade references provided by you financial and credit information relating to you in connection with our determination of whether to accept the Agreement and our continuing evaluation of your financial and credit status. We may also access and use information which you have provided to us under the Agreement. Upon reasonable request, you shall provide, and/or cause to be provided, to us and our respective Affiliates, or our respective representatives, regulators, or forensic examiners (as well as those of the Card Organizations), reasonable access to your records for the purpose of performing any inspection and/or copying of books and/or records deemed appropriate.

## 15 INDEMNIFICATION

**15.1 Indemnification by Client.** You agree to indemnify us, our Affiliates, and our and their respective officers, directors, employees, successors, and permitted assigns (the "**FDSH Indemnitees**") from, and defend and hold the FDSH

Indemnitees harmless from and against, all third party claims brought against FDSH Indemnitees, and all related losses to the extent such claims result from or arise out of: (a) your breach of your representations, warranties, or obligations set forth in the Agreement; (b) any claims initiated by your Affiliates or agents asserting rights under the Agreement; or (c) gross negligence or willful misconduct of you or your agents. In addition, you agree to defend and hold FDSH Indemnitees harmless from and against third party claims to the extent covering Excluded Claims brought against the FDSH Indemnitees, and all related losses.

**15.2 Indemnification by Us.** Subject to the Liability Cap and the Damages Exclusion, we agree to indemnify you from, and defend and hold you harmless from and against, any third party claims brought against you and all related losses to the extent such claims result from or arise out of: (a) our material breach of our representations, warranties, or obligations set forth in the Agreement; (b) any claims initiated by our Affiliates or agents asserting rights under the Agreement; or (c) gross negligence or willful misconduct by us or our agents. For avoidance of doubt, the obligations under this Section 15.2 shall not apply to Bank with respect to Non-Bank Services.

**15.3 Intellectual Property Infringement Indemnification.** Processor will indemnify, defend, and hold you harmless from and against any third party claim alleging that the Services infringe or misappropriate any patent, copyright, trademark, service mark, trade secret, or other proprietary right (collectively for purposes of this Section 15.3, "**Intellectual Property Rights**") of such third party; provided that the foregoing indemnification under Section 15.3 shall not apply to that portion (and only that portion) of any third party claim that is caused by, results from, or arises out of: (a) your failure to use the Services as required under the Agreement; (b) your configuration, modification, or use of the Services in combination with other products or services (including software, equipment, or systems) that are not provided by Processor and that combination creates a process or method that is the causation for the infringement or misappropriation; (c) Processor's use of any designs, artwork, concepts, trademark specifications, or other copyrighted materials provided by you or on your behalf (including by IHG) in connection with the Agreement; or (d) Processor's custom development of the Services pursuant to a request by you or IHG and that development creates a process or method that is the causation for the infringement or misappropriation (the claims (or portions of claims) referred to in the foregoing clauses (a), (b), (c) and (d) are herein referred to collectively as the "**Excluded Claims**"). If any part of the Services is determined or reasonably suspected to be infringing, Processor, at its option and expense, shall: (w) procure for you the continued use of such Services; (x) replace such Services with non infringing Services that are a functional equivalent; (y) modify such Services so that they become non-infringing and remain functionally equivalent, provided that, if (x) or (y) is the option chosen by Processor, your intended use of such Services is not materially impaired; or (z) terminate such Services in their entirety upon written notice to you, and without further liability to you hereunder other than Processor's indemnification obligations hereunder and, subject to the Liability Cap, any direct damages incurred by you as a result of such termination.

## 16 SPECIAL PROVISIONS REGARDING NON-BANK CARDS

### 16.1 Services Provided by Bank, Conveyed Transactions, and Non-Bank Services.

- (a) **Services Provided by Bank.** Bank only provides, and its obligations and liability are limited to, sponsorship, settlement, and related Bank services for certain Card transactions, which do not include Non-Bank Card transactions or Non-Bank Services. For avoidance of doubt, Bank is not a party to the Agreement with respect to, and does not have any responsibilities or liability with respect to, transactions that Processor sponsors and settles under the Agreement or Conveyed Transactions.
- (b) **Non-Bank Services.** Non-Bank Services are provided to you by Processor, not by Bank. Bank is not responsible for, and has no liability to you in any way with respect to, Non-Bank Services. The provisions of the Agreement regarding Discover Card transactions, American Express Card transactions, and other Non-Bank Services are an agreement solely between you and Processor. Non-Bank Services are subject to all terms and provisions of these Terms and Conditions. To the extent terms specific to a Non-Bank Service directly conflict with another provision of the Agreement, the terms specific to the Non-Bank Service will control with respect to such Non-Bank Service.
- (c) **Conveyed Transactions.** The following terms apply to Conveyed Transactions: (a) Processor (not Bank) will provide an Authorization response to Authorization requests; (b) Processor and Bank do not have any responsibility or liability for funding, sponsoring, or settling Conveyed Transactions; (c) you must enter into, and comply with the terms of, a separate agreement with the Card Organization or Issuer that settles Conveyed Transactions ("**Issuer Agreement**"), and must pursue directly with such Card Organization or Issuer all related claims and disputes; (d) the Card Organization or Issuer that settles Conveyed Transactions may charge additional fees and amounts, for which you are exclusively responsible and liable; and (e) if the Issuer Agreement has been terminated, suspended, or is not in effect, Processor does not have any obligation to provide any Services for Conveyed Transactions.
- (d) **Fees.** You shall pay us the fees for Conveyed Transactions and other Non-Bank Services as set forth on your Application, MPA Addendum, Fee Schedule, and/or other Schedules, or as we otherwise disclose to you. Fees for Non-Bank Services may be charged and collected in any manner that other Servicers Fees, Third Party Based Fees, and other amounts may be charged and collected under the Agreement.

- (e) **Discover.** Services provided for transactions made with Cards branded by Discover, Diners Club International JCB, Union Pay, BCard, or any other Card Organizations subsequently designated by Discover (such Cards are “**DNP Card Types**” and such transactions are “**DNP Transactions**”) are Non-Bank Services. Depending on your Merchant Account, DNP Transactions may be sponsored and settled by either Processor or Discover. DNP Transactions that Discover sponsors and settles are Conveyed Transactions. DNP Transactions will be processed under and subject to Discover Card Organization Rules and the terms of the Agreement applicable to Discover Card acceptance and transactions, including, without limitation, the fees, rates, and interchange programs applicable thereto.
- (f) **American Express.** American Express transactions are funded by American Express. American Express will provide you with its own agreement that governs those transactions. We are not responsible for and assume no liability with regard to the funding and settlement of American Express transactions. American Express will charge additional fees for the services it provides.

## 17 DEBIT CARD TRANSACTIONS

- 17.1 Debit Card Transactions Generally; Debit Networks Used.** Your Debit Card transactions are subject to the terms of the Agreement, Card Organization Rules (including those of Debit Networks), and Applicable Law. Subject to Applicable Law, we may choose any available Debit Network, including a Debit Network affiliated with us, when routing your Debit Network Transactions. The Debit Network used may not be the lowest cost Debit Network available. We may change Debit Networks used based on various factors, including availability, features, functionality, and our own business considerations. The Your Payments Acceptance Guide contains additional details and requirements related to your acceptance of Debit Cards.
- 17.2 Accepting Debit Cards.** When a Debit Card is presented you must: (a) read the account number electronically from the magnetic stripe or chip for Debit Network transactions made via use of a PIN, and if the magnetic stripe or chip is unreadable for such a transaction you must request another form of payment; (b) honor all valid Debit Cards presented; and (c) not manually enter the Card account number for Debit Network transactions made via use of a PIN.

## 18 CHOICE OF LAW; VENUE; WAIVER OF JURY TRIAL

- 18.1 Choice of Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of New York (without regard to its choice of law provisions).
- 18.2 Venue.** The exclusive venue for any actions or claims arising under or related to the Agreement shall be in the courts of the State of North Carolina and the United States for the Western District of North Carolina, Charlotte Division, located in Charlotte, North Carolina. You irrevocably and unconditionally agree and submit to the jurisdiction of such North Carolina courts and waive any objection to the venue of such courts whether based on inconvenience of forum or other grounds.
- 18.3 Waiver of Jury Trial.** ALL PARTIES IRREVOCABLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN ANY JUDICIAL PROCEEDING RELATING TO OR ARISING UNDER THE AGREEMENT.

## 19 OTHER TERMS

- 19.1 Force Majeure.** No party shall be liable for any default or delay in the performance of its obligations under the Agreement (excluding your obligation to pay us Servicers Fees, Third Party Based Fees, Chargebacks, and other amounts related to Services provided and transactions processed under the Agreement, which obligation is not subject to this Section 19.1) if and to the extent such default or delay is caused, directly or indirectly, by: (i) fire, flood, earthquake, elements of nature, or other acts of God; (ii) any terrorist attacks or outbreak or escalation of hostilities, war, riots, or civil disorders in any country; (iii) any act or omission of the other party or any government authority; (iv) any labor disputes (whether or not employees' demands are reasonable or within the party's power to satisfy); or (v) the nonperformance by a Third Party for any similar cause beyond the reasonable control of such party, including without limitation, failures or fluctuations in telecommunication or other equipment. In any such event, the non-performing party shall be excused from any further performance and observance of the obligations so affected only for as long as such circumstances prevail and such party continues to use commercially reasonable efforts to recommence performance or observance as soon as practicable.
- 19.2 Compliance with Laws.** Each party is responsible for determining all Applicable Law that is applicable to it and for complying with all such Applicable Law in connection with the Agreement. You further agree to cooperate and provide information requested by Servicers, as Servicers determine necessary, to facilitate Servicers' compliance with Applicable Law, including without limitation the rules and regulations promulgated by OFAC and the USA PATRIOT Act. As part of your obligation to comply with Applicable Law, you agree not to use the Merchant Account and/or the Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et. seq., as may be amended from time to time or for processing and accepting transactions in certain jurisdictions pursuant to 31 CFR Part 500 et. seq. and other laws enforced by OFAC.
- 19.3 Notices; Contact Information.** Except as otherwise specifically provided, all notices and other communications required or permitted hereunder (other than those involving normal operational matters relating to the processing of Card transactions) shall be in writing, and if to you, at your address appearing in the Application. Notices to Processor must be

sent to FDS Holdings, Inc., 4000 Coral Ridge Drive, MS/CON- MER-B, Coral Springs, FL 33065, Attn: Merchant Services. Notices to Bank must be sent to Bank of America, N.A., 9200 Shelbyville Road, Suite 200, KY6-225-0202, Louisville, KY 40222, Attention: Operations Manager. Notices shall be deemed to have been given (i) if sent by mail, upon the earlier of five (5) days after mailing or when actually received, (ii) if sent by courier, when delivered, and (iii) if sent by facsimile machine, when the courier confirmation copy is actually received. Notice given in any other manner shall be effective when actually received. Notices sent to your last known address, as indicated in our records, shall constitute effective notice to you under the Agreement. Processor's Customer Service phone number is 833-692-5687.

- 19.4 Headings; Rules of Interpretation.** The headings contained in these Terms and Conditions are for convenience of reference only and shall not in any way affect the meaning or construction of any provision of these Terms and Conditions. Each definition used in the Agreement includes the singular and the plural, and reference to the neuter gender includes the masculine and feminine where appropriate. Reference to Applicable Law or regulation means such law or regulation as amended as of the time of determination and includes any successor laws and regulations. Except as otherwise stated, reference to "Section" or "Sections" means the sections of these Terms and Conditions. The words "including" or "includes" or similar terms used herein shall be deemed to be followed by the words "without limitation", whether or not such additional words are actually set forth herein. Text enclosed in parentheses has the same effect as text that is not enclosed in parentheses.
- 19.5 Severability.** The parties intend every provision of the Agreement to be severable. If any part of the Agreement is not enforceable, the remaining provisions shall remain valid and enforceable.
- 19.6 Entire Agreement; Waiver.** The Agreement constitutes the entire Agreement between the parties with respect to the subject matter thereof, and supersedes any previous agreements and understandings. A party's waiver of a breach of any term or condition of the Agreement shall not be deemed a waiver of any subsequent breach of the same or another term or condition.
- 19.7 Amendment.** We may modify any provision of the Agreement by providing written notice to you. You may choose not to accept the requirements of any such change by terminating the Agreement within twenty (20) days of receiving notice. For purposes of this section, an electronic or "click-wrap" notice intended to modify or amend the Agreement and which you check "I Accept" or "I Agree" or otherwise accept through an electronic process, shall constitute in writing as required herein. This Section 19.7 does not apply to changes to Third Party Based Fees, which are governed by Section 6.2, or to changes made pursuant to Section 2.6. For avoidance of doubt, you do not have any termination right with respect to any changes to Third Party Based Fees or with respect to any changes made in connection with our rights under Section 2.6
- 19.8 No Third Party Beneficiaries.** Our respective Affiliates and any Third Parties we use in providing the Services are third party beneficiaries of the Agreement and each of them may enforce its provisions as if it was a party hereto. Except as expressly provided in the Agreement, nothing in the Agreement is intended to confer upon any Third Party any rights or remedies and the parties do not intend for any Third Parties to be third party beneficiaries of the Agreement.
- 19.9 Reporting Information; Backup Withholding.** Pursuant to Section 6050W of the Internal Revenue Code, merchant acquiring entities (like Bank) and Third Party settlement organizations are required to file an information return reflecting all payment card transactions and Third Party network transactions occurring in a calendar year. In addition, the Internal Revenue Code may require us to undertake backup withholding if you do not provide Bank with the correct name and TIN that you use when filing your income tax return that includes the transactions for your business. Accordingly, to avoid backup withholding, it is very important that you provide us with the correct name and TIN that you use when filing your tax return that includes the transactions for your business.
- 19.10 Card Organization Rules.** The parties acknowledge that the Visa, Mastercard, and Discover Card Organization Rules give Visa, Mastercard, and Discover certain rights to require termination or modification of the Agreement with respect to transactions involving Visa, Mastercard, and Discover Cards (including DNP Card Types) and the Visa, Mastercard and Discover Card systems, and to investigate you. The parties also acknowledge that Issuers of other Cards, for which we perform services on your behalf, may have similar rights under their applicable Card Organization Rules with respect to the Agreement's applicability to transactions involving such other Cards.

## 20 DEFINITIONS

- 20.1 Defined Terms.** As used in the Agreement, the following terms mean as follows:

**Acquirer:** Bank in the case of Visa, Mastercard and certain Debit Card transactions; Processor in the case of DNP Transactions and any other transactions that Processor sponsors and settles; and neither Bank nor Processor for Conveyed Transactions.

**Address Verification Service (AVS):** A service for verifying a Cardholder's address, primarily for Card Not Present Transactions.

**Affiliate:** A Third Party who, directly or indirectly, (i) owns or controls a party to the Agreement or (ii) is under common ownership or control with a party to the Agreement.

**Agreement:** See the meaning in Section 1.2.

**American Express:** American Express Company.

**Applicable Law:** All federal, state and local statutes, ordinances, laws, regulations and executive, administrative, and judicial orders applicable to the Agreement, the transactions or other matters contemplated under the Agreement (including, the rules and regulations promulgated by OFAC), and all amendments thereto.

**Application:** The Merchant Processing Application and Agreement that you submitted to us in connection with applying to receive the Services, including all additions and modifications thereto.

**Authorization:** Approval by, or on behalf of, the Issuer to validate a Credit Card or Debit Card transaction. Authorization indicates only the availability of credit or funds at the time the Authorization is requested; it does not indicate that the person presenting the Card is the rightful Cardholder and it does not guarantee that you will not be subject to a Chargeback, an adjustment, or other Servicers Fees and Third Party Based Fees with respect to the authorized transaction.

**Authorization Fee:** A fee we charge for each transaction that you submit for Authorization, regardless of whether the transaction is authorized or approved.

**Bank:** Bank of America, N.A. or its successors or assigns.

**Bankruptcy Code:** Title 11 of the United States Code, as amended from time to time.

**Business Day:** Monday through Friday, excluding Bank holidays.

**Card:** See either Credit Card or Debit Card.

**Cardholder:** The individual or entity whose name is embossed on a Card and any authorized user of such Card, including an individual or entity that has entered into an agreement establishing a Card account with an Issuer.

**Card Not Present Transaction:** A transaction that occurs when the Card is not present at the point-of-sale, including Internet, mail-order and telephone-order Card sales.

**Card Organization:** Any entity formed to administer and promote Cards, including, without limitation, Visa, Mastercard, Discover, and any applicable Debit Networks.

**Card Organization Rules:** The rules, regulations, releases, interpretations, and other requirements (whether contractual or otherwise) imposed or adopted by any Card Organization and related authorities, including, without limitation, those of the PCI Security Standards Council, LLC and the National Automated Clearing House Association.

**Card Validation Codes:** A three-digit value printed in the signature panel of most Cards and a four-digit value printed on the front of an American Express Card. Visa's Card Validation Code is known as CVV2; Mastercard's Card Validation Code is known as CVC2; and Discover's Card Validation Code is known as a CID.

**Chargeback:** A Card transaction (or disputed portion) that is returned to us by the Issuer. Client is responsible for payment to us for all Chargebacks.

**Client:** The party identified as "Client" on the Application. The words "Subscriber," "Customer", "you", "your", and "Merchant" refer to Client.

**Conveyed Transactions:** Transactions that Processor submits for Authorization, but that neither Processor nor Bank sponsors and settles.

**Credit:** A refund or price adjustment given for a previous purchase transaction, including, without limitation, for the return of merchandise by a Cardholder to you.

**Credit Card:** A Card authorizing the Cardholder to buy goods or services on credit.

**Credit Draft:** A document evidencing a Credit by you to a Cardholder, whether electronic, paper, or some other form, all of which must conform to Card Organization Rules and Applicable Law.

**Debit Card:** A Card that is tied to, and that authorizes the Cardholder to purchase goods and services using funds from, the Cardholder's bank account or prepaid account. A transaction made using a Debit Card is considered either a Debit Network Transaction or a Non-Debit Network Transaction.

**Debit Network:** The telecommunications and processing system of a shared electronic funds transfer network (such as Interlink®, NYCE®, or Star®) for processing and settling Debit Network Transactions.

**Debit Network Transaction:** A transaction made with a Debit Card that is routed through a Debit Network. A Debit Network Transaction made with use of a PIN may be referred to as a "**Debit Network PIN Transaction**" or as "**PIN Debit**". A Debit Network Transaction made without use of a PIN, as permitted under the rules and requirements of the applicable Debit Network, may be referred to as a "**Debit Network PINless Transaction**" or as "**PINless Debit**."

**Discover:** DFS Services LLC, its subsidiaries and affiliates, and each of its and their respective successors or assigns.

**Documentation:** The operational documents, technical integration requirements and documentation, user manuals, help files, and other implementation overviews, integration guidelines, sandbox guidelines, and other documentation that we

provide or make available, in written or electronic form, in connection with any Software or Service, as modified by us from time to time.

**Factoring:** The submission of Authorization requests and/or Sales Drafts by a merchant for Card sales or cash advances transacted by another business.

**Fee Schedule:** The portion(s) of your Agreement (including your MPA Addendum) that set forth certain fees and amounts that you will be charged for the Services, including Servicers Fees and certain Third Party Based Fees. The term Fee Schedule includes the Interchange Rate Schedule and the Debit Network Fee Schedule.

**Group Member:** A franchisee, licensee, association member, or other member associated with the Group Owner.

**Group Owner:** A franchisor, licensor, association, or other group level entity that has a relationship with us for the benefit of the Group Owner and the Group Members designated by or associated with the Group Owner.

**Group Owner Agreement:** The agreement that we have with the Group Owner to provide Group Owner Benefits to Group Members and/or the Group Owner.

**Group Owner Benefits:** The products and services, pricing, or other benefits provided to Group Members and/or the Group Owner pursuant to the Group Owner Agreement.

**Intellectual Property:** The Marks, Software, copyrights, patents, trademarks, service marks, trade dress, materials, web screens, layouts, processing techniques, computer programs, Documentation, procedures, processes, algorithms, methods, specifications, know-how, and other intellectual property that Servicers, Servicers' Affiliates, or any of their licensors, vendors, service providers, or contractors own, develop, or license prior to, during the term of, or after termination of the Agreement, or that Servicers use in connection with the Services, and all updates to, alterations to, and derivative works from any such intellectual property.

**Issuer:** The financial institution or Card Organization which has issued a Card to an individual, company, corporation, or other legal entity.

**Location:** A physical location, internet address, division, outlet, processing method, or business activity for which we have assigned a unique Merchant Account Number.

**Marks:** Names, logos, emblems, brands, service marks, trademarks, trade names, tag lines, or other proprietary designations.

**Mastercard:** Mastercard International Incorporated, its subsidiaries and affiliates, and each of its and their respective successors or assigns.

**Merchant Account:** An account we establish for each of your Locations for accounting and billing purposes in connection with the Services.

**Merchant Account Number (MID):** A number that numerically identifies each Merchant Account.

**Merchant Provider:** Any Third Party engaged by you to provide services to you involving or relating to (i) access to Cardholder data, Transaction Data or information related to either Cardholder data or Transaction Data or (ii) PIN encryption, including without limitation, Encryption Service Organizations (ESOs). "Merchant Provider" also includes any franchisor (including IHG) or other Third Party that provides or controls a centralized or hosted network environment, irrespective of whether Cardholder data is being stored, transmitted, or processed through it.

**Merchant Systems:** Any and all equipment, systems, telecommunication lines, wireless connections, software, computers, networks, point-of-sale terminals, card readers, merchandise, card scanners, printers, PIN pad devices, and other hardware, systems, and equipment (whether owned or licensed by you, any of your Affiliates, any Merchant Provider, or another Third Party) used in connection with your accepting, processing, clearing, settling, transmitting, and otherwise handling Card transactions, or otherwise used by you in connection with the Agreement.

**MPA Addendum:** The Addendum to Merchant Processing Application and Agreement for New Properties and/or Addendum to Merchant Agreement for Existing Properties entered into between you, us, and Bank. The MPA Addendum is a Contract Document and part of the Agreement.

**Non-Bank Services:** Products and Services provided pursuant to the Agreement, but not provided by Bank, including services for Cards ("**Non-Bank Cards**") and transactions that Processor sponsors and settles and Conveyed Transactions. Non-Bank Services are considered Services and are subject to the Agreement. For purposes of Non-Bank Services, the words "we", "our", and "us" refer only to Processor, not Bank

**Non-Debit Network:** A Card Organization through which a Non-Debit Network Transaction is processed.

**Non-Debit Network Transaction:** A transaction made with a Debit Card that is not routed through a Debit Network and that is processed and settled as a Credit Card transaction, against the Cardholder's bank account or prepaid account, as permitted by applicable Card Organization Rules.

**PIN:** A personal identification number entered by the Cardholder to submit a PIN Debit Transaction.

**Processor:** FDS Holdings, Inc. or its successors and assigns. Except for Services provided by Servicers, the words "we," "us" and "our" refer to Processor.

**Reserve Account:** An account established and funded at our request or on your behalf, pursuant to Section 13.

**Sales Draft:** Evidence of a purchase, rental, or lease of goods or services by a Cardholder from, and other payments to, Client using a Card, including preauthorized orders and recurring transactions (unless the context requires otherwise); regardless of whether the form of such evidence is in paper or electronic form or otherwise.

**Schedules:** The schedules, fee schedules, rate schedules, exhibits, attachments, enclosures, addenda, and other documents, including revisions thereto, which may be incorporated into or made part of the Agreement concurrently with or after the date of the Agreement.

**Services:** See the meaning in Section 2.1.

**Servicers:** For Visa and Mastercard transactions and Debit Card transactions, Bank and Processor collectively, in which case, subject to Applicable Law and Card Organization Rules, Bank and Processor shall be jointly, but not also severally, liable to Client. The words "we," "us" and "our" refer to Servicers for Services provided by Servicers; otherwise, those words refer to Processor.

**Servicers Fees.** Fees that Servicers impose, establish, or set, including Authorization Fees, Transaction Fees, Equipment-related fees, shipping and handling charges (if applicable), and any other amounts that Servicers impose, establish, or set.

**Settlement Account:** An account or account(s) at a financial institution designated by Client as the account to be debited and credited by Processor or Bank for Card transactions, Servicers Fees, Third Party Based Fees, Chargebacks, and other amounts due under the Agreement or in connection with the Agreement. If you have designated more than one Settlement Account, references to Settlement Account in the Agreement mean each of your Settlement Accounts.

**Software:** Any and all software, computer programs, related documentation, technology, know-how and processes embodied in or provided in connection with Card authorization, clearing, completing, settling, transmitting or other related processing, whether equipment, PC, server or Internet based, or otherwise provided in connection with the Services.

**Taxes:** Any and all sales, use, excise, personal property, stamp, documentary, and ad-valorem taxes; license and registration fees; tariffs, levies, and assessments; fines and penalties; and similar charges, in each case however levied, designated, based, charged, or imposed. Taxes exclude taxes imposed on Servicers based on Servicers' net income.

**Technology:** The technology used in connection with the provision of Services to Client, including software, firmware, portals, processing systems, processing platforms, networks (in each instance, whether in object or source code font), reports, templates, documentation, and all derivative works of and modifications to such technology.

**Third Party (Third Parties):** Any third party individual(s) or entity(ies) other than Client, Processor, or Bank.

**Third Party Based Fees:** Fees, fines, assessments, penalties, obligations, liabilities, adjustments, and other charges and amounts a Card Organization, Issuer, or other Third Party imposes, establishes, or sets, and all related costs and expenses. Whenever used, the term "Third Party Based Fees" includes all Data Compromise Losses and all Chargebacks. Third Party Fees include Card Organization pass through fees and interchange fees, including any fees and amounts associated with any transaction downgrading to a different interchange category.

**Third Party Services:** Services, goods, equipment, products, promotions, software, applications, systems, materials, and other items provided by any Merchant Provider or other Third Party.

**Transaction Data:** Data collected as part of performing the Services, including Cardholder information, dates, amounts, and other transaction details.

**Transaction Fees:** Fees charged on a per transaction basis.

**Us, We and Our (us, we and our):** See Servicers or Processor.

**Visa:** Visa Inc., its subsidiaries and affiliates and each of its and their respective successors or assigns.

**You, Your (you; your):** See Client.

## CONFIRMATION PAGE

Please read these Terms and Conditions and the other Contract Documents that make up the Agreement in their entirety. They describe the terms under which we will provide you the Services. Below we have summarized portions of these Terms and Conditions, to assist you with understanding certain key provisions and to answer some common questions.

- 1 Servicers may debit your bank account(s)** (also referred to as your Settlement Account(s)) from time to time for amounts owed to them under the Agreement.
- 2 There are many reasons a Chargeback** may occur. Servicers will debit the amount of Chargebacks from your settlement funds or Settlement Account, or from any Reserve Account. See Section 7 and the Your Payments Acceptance Guide.
- 3 If you dispute any charge or funding**, you must notify Servicers within 90 days of the date of the statement where the charge or funding appears for Card processing. See Section 6.6.
- 4 The Merchant Agreement limits liability to you.** For detailed descriptions of the limitations of liability see Section 8.
- 5 Servicers have assumed certain risks** by agreeing to provide you the Services. Accordingly, they may take actions to mitigate their risk, including terminating the Agreement and/or holding monies otherwise payable to you. See Section 12 and Section 13.
- 6 By executing the Application**, you authorize FDS Holdings, Inc., Bank of America, N.A., First Data Merchant Services LLC, and American Express Travel Related Services Company, Inc. to obtain financial and credit information regarding your business and the signer and guarantors of the Agreement until all your obligations to those parties are satisfied.

### 7 Card Organization Disclosure

#### 7.1 Important Visa and Mastercard Member Bank Responsibilities:

- (a) The Visa and Mastercard Member Bank is Bank of America, N.A. The Bank's mailing address is 9200 Shelbyville Road, Suite 200, KY6-225-0202, Louisville, KY 40222.
- (b) The Bank is the only entity approved to extend acceptance of Visa and Mastercard products directly to you under the Agreement.
- (c) The Bank must be a principal (signer) to the Agreement.
- (d) The Bank is responsible for educating you on pertinent Visa and Mastercard rules with which you must comply; but this information may be provided to you by Processor.
- (e) The Bank is responsible for and must provide settlement funds to you.
- (f) The Bank is responsible for all funds held in reserve that are derived from settlement.
- (g) The Bank is the ultimate authority should you have any problems with Visa or Mastercard products (however, Processor also will assist you with any such problems).

#### 7.2 Important Client Responsibilities:

- (a) Ensure compliance with Cardholder data security and storage requirements.
- (b) Maintain fraud and Chargebacks below Card Organization thresholds.
- (c) Review and understand the terms of the Agreement.
- (d) Comply with Card Organization Rules.
- (e) Retain a signed copy of this Disclosure Page.
- (f) You may download Visa's Rules from its website: <https://usa.visa.com/>.
- (g) You may download Mastercard's rules from its website: <https://www.mastercard.us/en-us.html>

By its signature below, Client acknowledges that it has received and read, and Client agrees to, (1) the Application, (2) the MPA Addendum, (3) the Fee Schedule (including the Interchange Rate Schedule and Debit Network Fee Schedule), (4) the Your Payments Acceptance Guide, and (5) these Terms and Conditions.

**No alterations or changes to the Agreement will be accepted; any alterations or changes made are null and void and have no force or effect.**

Client's Business Principal: Signature (Please sign below):

X \_\_\_\_\_  
\_\_\_\_\_

Title

Date

Please Print Name of Signer

## GLOBALCHOICE™ SERVICES SCHEDULE

This GlobalChoice Services Schedule (**Schedule**) is among First Data Merchant Services LLC (**First Data**), Wells Fargo Bank, N.A. (**GlobalChoice Sponsor Bank**), and \_\_\_\_\_ (**Client**).

### 1 Background

- 1.1 This Schedule adds the GlobalChoice services to the merchant agreement between First Data or its Affiliate (including FDS Holdings, Inc.), Bank of America, N.A. (**Bank of America**), and Client (**Merchant Agreement** or **Agreement**). The terms of the Merchant Agreement and this Schedule apply to the GlobalChoice services, but if anything in this Schedule conflicts with the Merchant Agreement, this Schedule will control.
- 1.2 The GlobalChoice services are provided by First Data and GlobalChoice Sponsor Bank. The GlobalChoice Sponsor Bank is not Bank of America; Bank of America is not providing the GlobalChoice services, is not a party to this Schedule, and is not liable to Client in connection with the GlobalChoice services or this Schedule.
- 1.3 The GlobalChoice services are **Services** under the Merchant Agreement, and First Data and GlobalChoice Sponsor Bank are **Servicers**. With respect to Servicers' obligations relating to the GlobalChoice Services, any liability of First Data and GlobalChoice Sponsor Bank to Client will be joint but not several.

### 2 Definitions

- 2.1 Capitalized words or phrases that are not defined in this Schedule use the definitions given to them in the Merchant Agreement.
- 2.2 In this Schedule, the words **we**, **our**, and **us** refer only to First Data and GlobalChoice Sponsor Bank, and not to Bank.
- 2.3 **Applicable Percentage** means the percentage used to calculate the Foreign Currency Fees.
- 2.4 **Card Organization** means any payments association or payments network whose cards or other payment forms Client accepts under the Merchant Agreement.
- 2.5 **Card Organization Charges** means all fees, charges, liabilities, or obligations that a Card Organization imposes on us in connection with Client's transactions, including (1) interchange, (2) assessments (including dues, issuer reimbursements, fines, penalties, and fraud recovery losses), (3) access fees, switch fees, file fees, and other fees established by the Card Organizations, (4) adjustments, and (5) Chargebacks.
- 2.6 **Card Organization Rules** means the rules, requirements, and standards of each Card Organization, including the PCI DSS.
- 2.7 **Currency Equivalent** means the Foreign Currency equivalent of the Transaction Price, which we calculate using the Transaction Rate.

- 2.8 **DCC Margin** means the margin (expressed as a percentage and paid by the cardholder) that we use periodically to convert a Foreign Currency base exchange rate into a Transaction Rate for a given DCC Transaction or Dynamic Pricing Transaction. The source of the Foreign Currency base exchange rate will be a wholesale interbank exchange rate.
- 2.9 **DCC Service** means the service performed by a GlobalChoice Service Provider to authorize, process, and settle Card transactions that occur at Client's Local Locations and involve DCC Transactions.
- 2.10 **DCC Transaction** means a Foreign Currency Transaction in which the cardholder authorizes (1) the Transaction Price to be converted to the Currency Equivalent, (2) the Currency Equivalent to be submitted to a Card Organization for settlement, and (3) the cardholder's account to be charged in the amount of the Currency Equivalent.
- 2.11 **Dynamic Price** means the price Client displays in the Foreign Currency selected by the cardholder or selected automatically based on the country of cardholder's IP address. The displayed price will equal the Currency Equivalent.
- 2.12 **Dynamic Pricing Service** means a service only for the internet environment that (1) gives cardholders the ability to select the currency in which all pricing is displayed, or (2) automatically selects the currency in which all pricing is displayed based on the country of cardholder's IP address. The displayed currency will be the currency in which the transaction amount is submitted to the Card Organizations.
- 2.13 **Dynamic Pricing Transaction** means a Foreign Currency Transaction that has been submitted to the Card Organizations in a different currency, based on (1) the currency selected by the cardholder for displayed pricing, or (2) the currency displayed automatically displayed on Client's website based on the country of the cardholder's IP address.
- 2.14 **End-to-End Currency** means a currency in which Card Organizations transact and settle.
- 2.15 **Foreign Card** means a Visa or Mastercard-branded Card issued in a foreign country under a Foreign Currency.
- 2.16 **Foreign Currency** means a currency other than the Local Currency.
- 2.17 **Foreign Currency Fees** means the fees we pay Client (either directly or through a GlobalChoice Service Provider) in connection with a DCC Transaction or Dynamic Pricing Transaction that we process.
- 2.18 **Foreign Currency Transaction** means a transaction between Client and a cardholder with a Foreign Card at one Client's Local Locations.
- 2.19 **GlobalChoice Service Provider** means our affiliates and third party service providers that assist us from time to time in providing the Services to Client.
- 2.20 **IP Rights** means all forms of intellectual property rights and protections (whether or not registered) that have arisen or may arise in the future, anywhere in the world, including all rights, title, and interests arising in (1) patent applications, (2) issued patents and any divisions, re-issues, re-examinations, substitutes, continuations, continuations-in-part, or extensions of patents, (3) trade secrets and trade secret rights, (4) copyrights (including print versions, electronic versions and derivative works) and other literary property or authors' rights, whether or not protected by copyright or as a mask work, and (5)

proprietary trademarks, trade names, symbols, logos, tag-lines, domain names, or brand names, including goodwill.

- 2.21 **Licensed Technology** means any materials, and all IP Rights in and to any materials, that we give or make available to Client in connection with the GlobalChoice Services, including the object code (non-modifiable) version of the Currency Recognition Module (including any updates), the object code (non-modifiable) version of any other software (including any updates), specifications, training materials, online training, online guides, and user guides.
- 2.22 **Local Currency** means the currency of the United States of America (excluding United States territories).
- 2.23 **Local Currency Equivalent** means the equivalent in Local Currency of the amount of a Foreign Currency Transaction that will be processed as a DCC Transaction or Dynamic Pricing Service Transaction. We use the applicable Transaction Rate to calculate the Local Currency Equivalent.
- 2.24 **Local Currency Transaction** means a transaction between Client and a cardholder in the Local Currency that is submitted to us for processing in the Local Currency.
- 2.25 **Local Locations** means Client's locations in the United States (excluding United States territories).
- 2.26 **Net Local Currency Turnover** means the Local Currency Equivalent of all DCC Transactions or Dynamic Pricing Transactions, *minus* the value in Local Currency of (1) the fees in *Section 6*, (2) Rejects, and (3) all Card Organization Charges.
- 2.27 **Non End-to-End Currency** means a currency in which Card Organizations transact but settle in the Local Currency Equivalent.
- 2.28 **Other DCC Merchant** means a merchant other than Client that uses a point-of-sale currency conversion service similar to the DCC Service.
- 2.29 **Reject** means a Foreign Currency Transaction that fails to meet all GlobalChoice Services criteria and that we do not process as a DCC Transaction.
- 2.30 **Services** or **GlobalChoice Services** means the DCC Service and the Dynamic Pricing Service.
- 2.31 **Transaction Price** means the original price in Local Currency of a Foreign Currency Transaction.
- 2.32 **Transaction Rate** means the Foreign Currency exchange rate that we give Client periodically, which Client uses to convert the Transaction Price into the Currency Equivalent.
- 2.33 **User Guide** means the Merchant User Guide (including changes and updates) that we periodically provide or make available to Client.
- 2.34 **Your Payments Acceptance Guide** means (1) the then-current manual we make available to Client that contains operational procedures, instructions, and other directives relating to Card transactions, and (2) the User Guide.

### **3 Sponsorship**

Although Bank does not provide Client with the Services and is not a party to this Schedule, First Data works with various GlobalChoice Sponsor Banks to provide Client with the Services. Client acknowledges and agrees that (1) GlobalChoice Sponsor Banks will have the same rights and obligations under the Merchant Agreement as Bank does, and (2) despite the signature of the GlobalChoice Sponsor Bank at the end of the Schedule, First Data has the right from time to time change which GlobalChoice Sponsor Bank provides Client with sponsorship for Client's DCC Transactions and Dynamic Pricing Transactions. The GlobalChoice Sponsor Bank may or may not be the same as Bank under the Merchant Agreement.

### **4 Services Description**

- 4.1 The Services are available only for Visa and Mastercard transactions.
- 4.2 The Services allow Client to settle Foreign Currency Transactions in a currency other than United States dollars. If Client wishes to use the Services in an internet environment, Client may choose to use the Dynamic Pricing Service, or Client may choose the standard price display, which shows pricing in Local Currency (i.e., US dollars) but gives cardholders the ability to pay in a Foreign Currency.
- 4.3 The Services support only certain Foreign Currencies and certain types of Foreign Currency Transactions. Client can find the list of supported Foreign Currencies and Foreign Currency Transactions in the User Guide. We have the right to change which Foreign Currencies and which Foreign Currency Transactions the Services support. We will give Client reasonable advance written notice if we cease supporting any existing Foreign Currency or Foreign Currency Transaction. If, however, there is a sudden and extreme fluctuation in the value of a Foreign Currency, we have the right to stop supporting the Foreign Currency immediately with written notice to Client. A "sudden and extreme fluctuation" in a Foreign Currency's value means a movement (up or down) of at least 6% over a 2-day period.
- 4.4 Other than the performance of the Services (which we are responsible for), Client is solely responsible for all aspects of a DCC Transaction or a Dynamic Pricing Transaction, including obtaining the cardholder's agreement to the DCC Transaction, clearly and conspicuously disclosing all terms of any DCC Transaction to the cardholder (including on the transaction receipt or credit voucher), and complying with all Card Organization Rules that apply to the DCC Transactions and Dynamic Pricing Transactions Client submits to us.
- 4.5 Settlement of DCC Transactions and Dynamic Pricing Transactions will occur in the Local Currency Equivalent, using the Transaction Rate that was applied on the date of the original DCC Transaction or Dynamic Pricing Transaction. Funding of DCC Transactions and Dynamic Pricing Transactions will be separate from funding of Local Currency transactions and will be completed within the funding timeframe indicated in the User Guide or as we otherwise communicate to Client.
- 4.6 Settlement of Chargebacks of DCC Transactions and Dynamic Pricing Transactions will occur in the Local Currency, using the Transaction Rate that was applied on the date of the original DCC Transaction or Dynamic Pricing Transaction, not the Transaction Rate in effect on the date of the Chargeback.
- 4.7 Refunds, credits, and returns (but not Chargebacks) will be treated as separate DCC Transactions or Dynamic Pricing Transactions, and the Transaction Rate used for refunds, credits, and returns will be

determined based on the date and time of each refund, credit, or return transaction. Foreign Currency risk in connection with refunds, credits, or returns on DCC Transactions or Dynamic Pricing Transactions is allocated to the cardholder and will be the cardholder's responsibility. As between Client and us, Foreign Currency risk for Chargebacks of DCC Transactions or Dynamic Pricing Transactions is allocated to us and is our responsibility.

4.8 We will be Client's sole and exclusive provider of the Services (and any substantially similar services).

## **5 Reserved**

## **6 Fees**

6.1 The fees in the Merchant Agreement that apply to Client's card transactions generally also apply to the DCC Transactions we process. Client will pay us the same fees and charges for processing DCC Transactions that Client pays us for processing other card transactions, including all Card Organizations Charges.

6.2 Client's payment of fees in connection with the DCC Service will occur at the same time and in the same manner as the fees for Client's other card transactions, as described in the Merchant Agreement.

6.3 The DCC Margin will be 3.5%.

6.4 Each month, we will pay Client a Foreign Currency Fee in an amount equal to the Applicable Percentage, **multiplied by** the Net Local Currency Turnover. The Applicable Percentage will be 1.5%.

## **7 License**

7.1 While this Schedule is in effect, we grant Client a personal, limited, non-exclusive, revocable, non-transferable license, without the right to further sublicense or assign in any way, to use (in the United States only) the Licensed Technology solely to (1) receive the DCC Service and Dynamic Pricing Service, and (2) make DCC Transactions or Dynamic Pricing Transactions available to cardholders at Client's Local Locations, all in compliance with this Schedule and the Merchant Agreement. The Services are for Client's internal business use only. "United States" does not include United States territories.

7.2 Client must limit use of the Licensed Technology to only Client's employees who need it in order to perform their job duties.

7.3 All IP Rights in or related to the Licensed Technology or the Services are, and will remain, our sole and exclusive property or the sole and exclusive property of our vendors or our licensors (including the GlobalChoice Service Providers). We reserve and withhold all rights, title, and interests associated with the Licensed Technology or the Services that are not expressly licensed by us in this Schedule.

7.4 We may revoke the above license without notice if (1) Client fails to comply with this Schedule or the Merchant Agreement, or (2) Client misuses the Licensed Technology or the Services. Any license we provide to the Licensed Technology or the Services will automatically terminate when this Schedule terminates.

## **8 License Restrictions**

8.1 Client is not permitted to, and Client must not permit any third party to, do any of the following:

- (1) Attempt to access any part of the Licensed Technology that is not intended to be available to Client;
- (2) Attempt to avoid or defeat any security or authentication measure in the Licensed Technology;
- (3) Attempt to decompile, disassemble, reverse engineer, reconstruct, or discover any source code, underlying ideas, or algorithms of the Licensed Technology;
- (4) Modify, translate, or alter the Licensed Technology in any way;
- (5) Create derivative works of or based on the Licensed Technology;
- (6) Directly or indirectly copy the Licensed Technology except for backup purposes and except as strictly necessary to execute any part of the Licensed Technology or the Services;
- (7) Re-publish, upload, post, transmit, disclose, or distribute the Licensed Technology (in any format);
- (8) Access or use (in any format) the Licensed Technology through any time-sharing service, service bureau, network, consortium, or other means;
- (9) Rent, lease, sell, sublicense, assign, or otherwise transfer the above license to any third party, whether by operation of law or otherwise;
- (10) Without first obtaining our written consent (a) use, ship, or transship the Licensed Technology outside of the United States, or (2) access the Licensed Technology from outside the United States;
- (11) Remove, relocate, or otherwise alter any proprietary rights notices from the Licensed Technology;
- (12) Attempt to perform any action that is reasonably likely to (a) interfere with the proper working of the Licensed Technology or the Services, or (b) prevent access to or use of the Licensed Technology or the Services by other users;
- (13) Incorporate into or combine with the Licensed Technology any other software or documentation that (a) would require the Licensed Technology to be disclosed or distributed in source code form, licensed for the purpose of making derivative works, or redistributable at no charge, or (b) otherwise through by Client's use of the other software or documentation result in the Licensed Technology's being disclosed or distributed in source code form, licensed for the purpose of making derivative works, or redistributable at no charge; or
- (14) Use the Licensed Technology except as permitted in this Schedule.

8.2 Client must not (1) take any action inconsistent with the ownership described in *Section 7.3*, or (2) file any action, in any forum, that challenges the ownership of the Licensed Technology or the Services.

## **9 Confidentiality**

- 9.1 Client must treat all information we give or make available to Client in connection with the Services (including the Licensed Technology) as confidential, unless it is already publicly available. Client may not disclose any of our confidential information (including the Licensed Technology) without our written permission, and Client may only use it to receive the Services. Client must safeguard our confidential information (including the Licensed Technology) using measures that are at least as rigorous as those Client uses to safeguard its own confidential information, and Client must always use at least reasonable care.
- 9.2 If any governmental or regulatory authorities require Client to disclose any of our confidential information, Client will use best efforts to notify us far enough in advance to allow us to seek appropriate protections.
- 9.3 When this Schedule terminates (or earlier, if we request it), Client will return or destroy all confidential information obtained in connection with the Services and provide us with written certification that return or destruction has occurred. If confidential information is to be destroyed, Client must use reasonable and appropriate procedures (based on the sensitivity of the confidential information) to destroy it so that it is permanently unreadable and unusable.
- 9.4 Client acknowledges that (1) our confidential information is a valuable and unique asset, (2) Client's use or disclosure of confidential information in violation of this Schedule will cause immediate, substantial, and irreparable harm to us, the value of which may be extremely difficult to determine, and (3) money damages may not be a sufficient remedy for Client's violation of this Schedule. Client agrees that we will be entitled to obtain equitable relief for violations of this Schedule without being required to post a bond or other undertaking.

## **10 Term and Termination**

- 10.1 This Schedule begins on the latest date that appears in the signature block and continues in effect until (1) the Merchant Agreement expires or terminates, in which case, this Schedule will automatically terminate, or (2) this Schedule terminates as described in *Section 10.2* or *Section 10.3*. First Data may also suspend Client's access to either or both of the Services as described in *Section 10.3*. Regardless of the reason for termination or suspension, Client is responsible for paying all fees due through the date of termination or suspension.
- 10.2 Client or First Data may terminate this Schedule for convenience by giving the other party at least 30 days' advance written notice.
- 10.3 We will have the right to suspend all or part of the DCC Service or the Dynamic Pricing Service, to suspend our processing of any DCC Transaction or Dynamic Pricing Transaction, or to terminate this Schedule if:
- (1) We determine that Client is using the DCC Service, Dynamic Pricing Service, or Licensed Technology for any fraudulent, illegal, or unauthorized purpose;
  - (2) We believe that Client is not complying with any Card Organization Rule that applies to Client's business or Client's transactions;

- (3) We determine that the DCC Service or Dynamic Pricing Service does not comply with applicable laws or Card Organization Rules;
  - (4) Client fails to comply with any provision of this Schedule and fails to cure or satisfactorily remedy its non-compliance within 30 days of receiving written notice of non-compliance;
  - (5) Client fails to comply with any of its obligations under the Merchant Agreement and fails to cure the failure within the time period provided if any);
  - (6) We terminate our agreement with any GlobalChoice Service Provider, GlobalChoice Sponsor Bank, or other third parties that are involved in providing the Services; or
  - (7) We otherwise decide to discontinue providing either or both of the Services.
- 10.4 Except for the circumstances described in *Section 10.3(1)* through *Section 10.3(3)*, we will give Client 30 days' advance written notice of termination. Client acknowledges that if any of the circumstances described in *Section 10.3(1)* through *Section 10.3(3)* occur, Client may be in breach of the Merchant Agreement, giving First Data and Bank all of the rights and remedies described in the Merchant Agreement for a breach, which may include immediate termination of the Merchant Agreement and this Schedule without notice.
- 10.5 Termination of this Schedule or the Services will not relieve Client of any of its obligations under this Schedule or the Merchant Agreement.

## **11 Indemnification**

- 11.1 Client will indemnify First Data and GlobalChoice Sponsor Bank, and hold us harmless, with respect to all transactions processed in connection with the Services to the same extent as Client indemnifies and holds harmless First Data and Bank under the Merchant Agreement.
- 11.2 Client will also indemnify First Data and GlobalChoice Sponsor Bank, and hold us harmless, from and against all losses, liabilities, damages, and expenses (including reasonable attorneys' fees and collection costs) arising out of or relating to:
- (1) Client's failure to comply with all terms and conditions of this Schedule and all operating procedures, requirements, or guidelines in the User Guide;
  - (2) Client's acts or omissions in connection with any DCC Transaction or Dynamic Pricing Transaction, including any alleged misrepresentation, any deceptive or unlawful trade practice, or any alleged failure to obtain the cardholder's agreement to a DCC Transaction or Dynamic Pricing Transaction; or
  - (3) Client's failure to comply with any applicable law or Card Organization Rule.
- 11.3 Any provisions in the Merchant Agreement that limit Client's liability to First Data or Bank will not apply to Client's obligations under *Section 11.2*.

## **12 Limitation on Liability**

***In addition to the limitations on liability in the Merchant Agreement, neither First Data, nor First Data's affiliates, nor any GlobalChoice Sponsor Bank, nor any GlobalChoice Service Provider, will be liable under any circumstances or any theory of recovery for any exemplary, punitive, special, indirect, incidental, or consequential damages or any lost profits, lost revenues, damage to reputation, or loss of value.***

## **13 Third Party Beneficiaries**

First Data's affiliates, GlobalChoice Sponsor Banks, and GlobalChoice Service Providers are intended third party beneficiaries of this Schedule (including any part of the Merchant Agreement that relates to Client's obligations under this Schedule or Client's transactions processed in connection with either or both of the Services), and each of them may enforce its provisions. Except as described in the preceding sentence: (1) nothing in this Schedule is intended to confer on any individual or entity any rights or remedies with respect to this Schedule or the Merchant Agreement, and (2) neither we nor Client intends for any individual or entity to be third party beneficiaries of this Schedule.

## **14 Interpretation and Construction**

Each defined word or phrase can be read as singular or plural. Section headings and topic headings are convenient reading aids only and do not have any legal significance. The word "including" (in its various forms) means "including but not limited to." No rule of strict construction can be applied against any party as the "drafter" of this Schedule.

**Authorized Signers**

**[Client Legal Name]**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**First Data Merchant Services LLC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Wells Fargo Bank, N.A.**

By: \_\_\_\_\_  
(under limited powers of attorney  
granted to First Data)  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**PARTICIPATION AGREEMENT**  
**IHG Secure Payment Solution (FP)**

This Participation Agreement for the IHG Secure Payment Solution (FP), effective as of the date of last signature below, is entered into by and between Six Continents Hotels, Inc. ("IHG") and \_\_\_\_\_ for the hotel \_\_\_\_\_ located at \_\_\_\_\_, Inncode \_\_\_\_\_ ("Hotel").

By execution of this Participation Agreement, the parties hereto agree as follows:

1. Requirement for Participation Agreement. Hotel acknowledges that IHG and FreedomPay have entered into the Secure Payment Solution Agreement (the "SPS Agreement"), effective as of July \_\_, 2021. The SPS Agreement provides that an IHG-branded hotel or service company to such a hotel may, upon execution of a Participation Agreement, receive the benefit of the Secure Payment Solution services agreed by IHG and FreedomPay.
2. FreedomPay Services. FreedomPay will provide services in accordance with the terms of this Participation Agreement, including the FreedomPay Pass-Through Terms set forth on Attachment 1, which Hotel expressly agrees to and accepts. With respect to security, availability, and confidentiality, FreedomPay provides the statement set forth on Attachment 2. Hotel will sign the PIM Acknowledgement set forth on Attachment 3.
3. Relationship of Hotel, IHG, and FreedomPay. Hotel acknowledges that, although IHG will process the on-boarding of Hotel, administer payments related to the services, and facilitate support for Hotel, FreedomPay is the provider of services. Hotel will be accessing a single hosted environment configured for IHG, and Hotel does not have the right or ability to customize the hosted environment for its individual needs. The payment of fees and requests for service, and other interaction with FreedomPay will be routed through IHG, acting as a facilitator. Hotel will direct requests for service to IHG.
4. Fees. Hotel will pay IHG a fee of \$0.06 per transaction, where "transaction" means each of (i) an on-line authorization request, (ii) a captured request that does not have a corresponding on-line authorization (examples include verbal authorizations, below floor limit or offline requests), (iii) a return request, and (vi) a void request. For most transactions, this fee will be collected by the merchant service provider as part of the settlement reconciliation. IHG reserves the right to lower (but not to increase) this transaction fee upon notice to Hotel. In addition, Hotel will pay IHG a support fee of \$140 per month. IHG may modify this support fee by no more than 10% annually upon notice to Hotel.
5. Equipment. Hotel will use IHG-approved equipment purchased for use with Secure Payment Solution. Pricing will be set forth in the equipment order form.
6. Use of Equipment. Hotel shall (a) ensure that the equipment is kept in good and proper working condition, normal wear and tear excepted, (b) not make any alterations or improvements to the equipment without the prior written approval of the manufacturer, and (c) operate and maintain the goods in accordance with the user manuals and documentation, and any instructions issued by the manufacturer from time to time.
7. Equipment Warranty Pass-Through. Equipment is manufactured by a third party and is subject to a warranty provided by that third party, and without limiting any other representations, warranties or covenants of IHG, IHG hereby assigns such warranty to Hotel or, if such warranty cannot be so assigned, IHG shall pass through the benefit of such warranties to Hotel, and otherwise cooperate with Hotel in this respect.
8. Acknowledgement of IHG Data Access. Hotel acknowledges and agrees that IHG will have full access to the transactions and data processed on behalf of Hotel by FreedomPay. Such information may include names, services purchased, usage, billings, payment status, payment card data, and other information related to IHG's management of the service relationship with FreedomPay.

9. Ownership of and Restrictions on Use of Hotel Data. Subject to the rights granted to IHG in the IHG-FreedomPay SPS Agreement, FreedomPay acknowledges and agrees that all data provided by or on behalf of Hotel to FreedomPay under this Participation Agreement (“Hotel Data”), as between FreedomPay and Hotel, is and shall remain the property of Hotel. Hotel Data, constitutes Confidential Information of Hotel, may only be used, stored, or copied by FreedomPay (a) for assisting in completing a card transaction, (b) for fraud control services, (c) as otherwise permitted by Hotel, (d) as otherwise permitted by IHG, or (e) to perform FreedomPay’s obligations under this Participation Agreement. When reporting its total count of transactions processed for all customers FreedomPay may include in such total the transactions processed under this Participation Agreement as long as the data so included is limited to Hotel Aggregated Data.. Hotel hereby further authorizes FreedomPay’s use of Hotel Aggregated Data to improve the Solution and as expressly provided in this Participation Agreement. “Hotel Aggregated Data” means data collected or generated by FreedomPay as a result of FreedomPay providing Services that meets each of the following requirements: (a) Hotel’s transactions cannot be identified or associated with Hotel directly or indirectly; (b) no personally identifiable data is included; and (c) no individual can be identified, contacted, or marketed to, directly or indirectly, from such data.
10. Return of Hotel Data; License to Use Hotel Data. Upon termination, Hotel may request, but subject to PCI DSS rules and all applicable laws (including statutes of limitation), and FreedomPay shall: (a) promptly provide to Hotel, in the format and on the media reasonably requested by Hotel, a copy of all or any part of the Hotel Data; (b) promptly return to Hotel, in the format and on the media reasonably requested by Hotel, all or any part of the Hotel Data that has exceeded established retention policies; and (c) erase or destroy all or any part of the Hotel Data in FreedomPay’s or FreedomPay agents’ possession that has exceeded established retention policies, and certify in writing to the Hotel that it and each of its Affiliates has performed the foregoing, in each case to the extent so requested by Hotel. Any archival tapes containing Hotel Data shall be used by Supplier and Supplier Agents solely for back-up purposes. Hotel hereby grants FreedomPay a perpetual, non-exclusive license to store, copy and use Hotel Data to the extent necessary to perform its obligations under this Participation Agreement and comply with applicable law and to use and disclose Hotel Aggregated Data for FreedomPay’s business purposes. Hotel further acknowledges and agrees that IHG shall have full access to the transactions and data processed on behalf of Hotel by FreedomPay, including the Hotel Data. Such data and information may include names, services purchased, usage, billings, payment status, payment card data, and other information related to IHG’s management of the service relationship with FreedomPay.
11. Right to Suspend Service. IHG reserves the right to suspend the services if Hotel violates any material term of this Participation Agreement.
12. Warranty. Hotel acknowledges that FreedomPay has provided to IHG the following terms on warranties and associated remedies:
- 12.1 Performance Warranty. FreedomPay represents, warrants and covenants that the Services will be performed (a) in a professional and timely manner and in accordance with the generally accepted industry best practices and (b) by adequate numbers of personnel with the education, experience, training and qualifications required to perform the tasks to which they are assigned, and (c) shall satisfy the Specifications set forth in the IHG-FreedomPay SPS Agreement, and perform in accordance with the related documentation. IHG’s sole and exclusive remedy for breach of clause (a) shall be re-performance of such Services or, if FreedomPay cannot substantially correct such breach and re-perform the Services in a commercially reasonable manner, a refund of the Fees paid to FreedomPay for the defective Service. Non-performance by FreedomPay shall be excused if and to the extent resulting from non-performance by IHG or wrongful acts or omissions of IHG.
- 12.2 No Implied Warranties. EXCEPT AS EXPRESSLY SET FORTH HEREIN, FreedomPay MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY GOODS OR SERVICES OR THE SYSTEM. ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT, ARE HEREBY DISCLAIMED. FREEDOMPAY FURTHER DISCLAIMS ANY LIABILITY

FOR LOSS, DAMAGE OR INJURY TO HOTEL OR THIRD PARTIES AS A RESULT OF ANY DEFECT, LATENT OR OTHERWISE, IN THE GOODS WHETHER ARISING FROM THE APPLICATION OF THE LAWS OF STRICT LIABILITY OR OTHERWISE. FREEDOMPAY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE.

13. No Indirect Damages. IHG SHALL HAVE NO LIABILITY WITH RESPECT TO THE PERFORMANCE OF THIRD-PARTY GOODS OR THIRD-PARTY SERVICES. THE LIABILITY OF IHG ARISING OUT OF OR RELATING TO THIS PARTICIPATION AGREEMENT AND THE DIRECT SERVICES SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY HOTEL TO IHG FOR THE SERVICES GIVING RISE TO SUCH DAMAGES DURING THE PRIOR SIX MONTHS. Notwithstanding anything to the contrary contained in this Participation Agreement, IHG shall have no liability under this Participation Agreement or in any way related to the Secure Payment Solution for any incidental, indirect, exemplary, punitive or consequential damages, or any lost data, lost business, lost revenue or opportunity cost or damage to reputation or goodwill, howsoever arising (whether foreseeable or not, or within the contemplation of either Party) whether arising in contract or tort (including negligence and breach of statutory or other duty) or other form of equitable or legal theory. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, THE SOLE AND EXCLUSIVE REMEDY FOR ANY DEFECT IN THE SYSTEM OR DEFECT IN OR FAILURE TO PERFORM OR TIMELY PERFORM SERVICES UNDER THIS PARTICIPATION AGREEMENT SHALL BE A CREDIT FOR SERVICE PAYMENTS DUE UNDER THIS PARTICIPATION AGREEMENT.
  
14. Compliance. Hotel shall at all times be in material compliance with all applicable laws, regulations, and PCI DSS requirements relating to data security and privacy.
  
15. Co-Terminous Agreement. Hotel acknowledges and agrees that, if/when this Participation Agreement, the SPS Agreement, or Hotel's right to operate a hotel under an IHG brand expires or terminates for any reason, this Participation Agreement shall terminate and Hotel shall no longer be eligible to receive services under this Participation Agreement.
  
16. Assignment. Hotel shall not assign its rights or delegate its obligations under this Participation Agreement to any third party without IHG's prior written consent. This Participation Agreement will be binding upon the parties' respective successors in interest and permitted assigns.
  
17. Governing Law. This Participation Agreement shall be governed by and construed in accordance with the laws of the state of New York, without giving effect to the principles thereof relating to the conflicts of laws.
  
18. Entire Agreement. This Participation Agreement represents the entire agreement between the parties with respect to its subject matter and supersedes all prior discussions and agreements between the parties with respect to such subject matter.

By executing this Participation Agreement in the space provided below, the parties agree to be legally bound by the terms and conditions of this Participation Agreement.

<b>AGREED BY Six Continents Hotels, Inc.</b>	<b>AGREED BY Hotel:</b>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date Signed: _____	Date Signed: _____



**ATTACHMENT 1**  
**FreedomPay Pass-Through Terms**

Hotel acknowledges that FreedomPay, Inc. is the provider of the payment gateway services provided to Hotel under this Participation Agreement between IHG and Hotel. Hotel agrees to the following pass-through terms required by FreedomPay:

**1. WARRANTIES**

**1.1.** Hotel shall be responsible for procuring and maintaining, at its sole cost, all hardware, software and data communication and connectivity required to connect to the System. Delivery of PCI-Validated Point-to-Point Encryption Secure Switching is subject to Hotel's compliance with the PIM and Hotel's acknowledgement thereof in the form set forth on Attachment 3. In the event Hotel does not comply with any obligation under the PIM, IHG may, but shall not be obligated, to perform any such obligation or otherwise mitigate such non-compliance, in which event IHG may charge Hotel reasonable fees to compensate IHG therefor, including, without limitation, IHG's then current list price for the applicable services. Further, a failure to comply with the PIM or the requirements of Section 3 below will result in the disallowance of the benefits to Hotel described in the PIM.

**1.2.** FreedomPay makes no representations or warranties, express or implied, as to any third-party services that FreedomPay enables or provides, including but not limited to fraud protection, 3-D Secure, DCC, loyalty or discount programs and/or any other ancillary services enabled or provided by FreedomPay in the future.

**1.3.** Hotel understands that the services are designed and provided for the sole purpose of facilitating the sale of Hotel's products and services and that FreedomPay is not responsible for the quality or quantity or other aspects of Hotel's products and services or those of any third party not under FreedomPay's control.

**1.4.** Hotel shall be responsible for procuring from its acquiring bank any necessary PIN keys and KSNs needed to allow pin-debit payment card transactions.

**1.5.** Hotel agrees that FreedomPay shall have no liability or obligation to Hotel for any transactions not submitted or reported to FreedomPay for settlement within sixty (60) days after the actual date of the transaction. For transactions submitted or reported after such time limit, FreedomPay will attempt to settle such transactions if the data is available, but FreedomPay will have no liability to Hotel if it is unable to settle such transactions.

**1.6.** FreedomPay may implement a hosted update on the FreedomPay system at such time as it determines, and (b) Hotel shall have the flexibility to commence implementing non-hosted updates according to IHG's schedule, which implementation shall be commenced no later than twelve (12) months after notice from FreedomPay and completed no later than twenty-four (24) months after such notice, unless such non-hosted update is required by law, network requirements or PCI requirements, or other applicable authority, in such case Hotel shall implement such non-hosted update in accordance with the date required in such law or requirement. If Hotel fails to implement any non-hosted update when required as set forth herein, FreedomPay reserves the right to terminate operational support for the prior release (even if Hotel continues to rely on the prior release) and will not be deemed in breach for doing so.

**1.7.** Unless otherwise agreed in writing by IHG in its reasonable discretion, a FreedomPay update shall not degrade the performance, functioning or operation of the FreedomPay solution and shall not cause the performance, functioning or operation of the Services to fail to meet the requirements of this Participation Agreement; provided, however, that the foregoing shall not apply to any FreedomPay updates that are required by law, network requirements, PCI requirements, acquirer requirements, or a change introduced by, any governmental authority, any regulatory body, a processor or card brand.

**1.8.** FreedomPay maintains a status alerting system program to notify Hotel about any FreedomPay system status issues. It is strongly recommended that Hotel enroll at [freedompay.statuspage.io](https://freedompay.statuspage.io) in order to access FreedomPay system status alerts.

**1.9.** Hotel acknowledges and agrees that it shall be solely responsible for obtaining any and all consumer consents needed in connection with the provision of any Service offered by FreedomPay, including third-party services, as required by applicable law.

**1.10.** FreedomPay's systems require full SKU level data to be transmitted with each transaction, and accordingly, Client must configure its eCommerce system to pass through full SKU level data with each transaction. Failure to

provide such full SKU level data will adversely affect FreedomPay's systems and may result in suspension of Hotel's access to the FreedomPay system, unless Client remedies such failure within thirty (30) days.

1.11. Prohibition on Use of Production Data (live PANs) in Testing. PCI rules prohibit the use of production data (i.e., live PANs) in testing and/or development. Accordingly, to the extent applicable, Hotel shall not use any production data in testing or development.

## 2. LIMITATION OF LIABILITY

2.1. DISCLAIMERS OF LIABILITY FOR CERTAIN ACTIONS. IF ANY OF THE FOLLOWING ACTIONS ARE TAKEN BY OR ON BEHALF OF HOTEL, OR HOTEL REQUESTS THAT FREEDOMPAY TAKE ANY OF THE FOLLOWING ACTIONS ON BEHALF OF HOTEL, CERTAIN NEGATIVE CONSEQUENCES WILL FOLLOW AND FREEDOMPAY'S LIABILITY WILL BE FURTHER LIMITED, ALL AS DESCRIBED BELOW:

- 2.1.1. OFFLINE MODE DISABLEMENT DISCLAIMER. IF OFFLINE MODE IS DISABLED, INTERNAL NETWORKING ISSUES IN HOTEL'S SYSTEMS WILL MAKE SUCH SYSTEMS UNABLE TO ACCEPT CREDIT CARD TRANSACTIONS. FURTHER, IF FREEDOMPAY'S GATEWAY IS OFF-LINE OR OTHERWISE UNAVAILABLE, HOTEL WILL NOT BE ABLE TO ACCEPT CREDIT CARD TRANSACTIONS AT ALL (I.E., IN OFF-LINE MODE). FREEDOMPAY IS NOT RESPONSIBLE FOR FREEDOMPAY'S SYSTEMS DOWNTIME RESULTING FROM OFFLINE MODE BEING DISABLED, OR FOR ISSUES THAT ARE CAUSED BY HOTEL'S INTERNAL NETWORK OR SYSTEMS, CAUSING SUCH SYSTEMS TO GO OFFLINE, AND FREEDOMPAY'S SERVICE LEVELS WILL BE DEEMED NOT IMPACTED IN ANY WAY BY SUCH DOWNTIME. FOR CLARITY, IF OFFLINE MODE IS DISABLED, HOTEL WILL NOT BE ELIGIBLE FOR ANY REFUNDS OF FEES, AND FREEDOMPAY'S WARRANTIES ARE VOIDED.
- 2.1.2. CVV DISABLEMENT DISCLAIMER IF PROMPTING FOR THE CVV IS DISABLED (FOR MANUAL TRANSACTIONS ONLY), HOTEL ACKNOWLEDGES AND AGREES THAT ANY INTERCHANGE DOWNGRADES RESULTING FROM SUCH CVV DISABLEMENT, AND ANY LIABILITY FOR INCREASED INTERCHANGE CHARGES AND MERCHANT SERVICES CHARGES RESULTING FROM SUCH CVV DISABLEMENT ARE THE SOLE OBLIGATION OF HOTEL, AND FREEDOMPAY SHALL HAVE NO LIABILITY TO HOTEL FOR SUCH CHARGES.
- 2.1.3. PIN KEY DISCLAIMER. IF EITHER (a) HOTEL IS UNABLE TO OBTAIN THE PROPER KSN FROM THEIR ACQUIRING BANKS FOR ITS PIN KEY OR 2) FREEDOMPAY'S KEY INJECTION VENDOR DOES NOT HAVE THAT PIN KEY WITHIN ITS SYSTEM AND IT CANNOT BE OBTAINED PRIOR TO IMPLEMENTATION, ANY CONSUMER WHO PRESENTS A CHIP AND PIN CARD WILL BE REQUIRED TO UTILIZE CHIP AND SIGNATURE INSTEAD. CHIP AND SIGNATURE AND CHIP AND PIN ARE KNOWN AS "CARD VERIFICATION METHODS," OR CVMs. EACH ISSUED CREDIT CARD HAS A PREFERRED CVM. IF THAT PREFERRED CVM IS NOT USED, THAT SPECIFIC TRANSACTION FALLS UNDER THE EMV LIABILITY SHIFT, MEANING IF THAT CONSUMER DISPUTES THE TRANSACTION THEN HOTEL MAY BE LIABLE FOR FRAUD OR CHARGEBACKS, EVEN THOUGH IT WAS AN EMV TRANSACTION. FREEDOMPAY IS NOT LIABLE FOR ANY FRAUD OR CHARGEBACKS TO HOTEL IF A PIN KEY IS BE AVAILABLE FOR HOTEL'S IMPLEMENTATION.
- 2.1.4. CVM DISABLEMENT DISCLAIMER. HOTEL HEREBY ACKNOWLEDGES THAT IT HAS BEEN INFORMED AND FULLY UNDERSTANDS THAT ANY DISABLEMENT OF THE PREFERRED CVM REQUIREMENTS FOR CHIP CARDS; OR OTHER SUPPRESSING OF PREFERRED CVM REQUIREMENTS, IS AT HOTEL'S SOLE RISK AND FREEDOMPAY SHALL HAVE NO LIABILITY TO HOTEL OR ANY THIRD PARTY FOR FRAUD CLAIMS OR CHARGEBACKS; A FRAUD CLAIM WILL RESULT IN A LOST CHARGEBACK TO HOTEL DESPITE THE IMPLEMENTATION OF EMV BY FREEDOMPAY IN HOTEL'S SYSTEM, AND THAT AS SUCH, HOTEL ASSUMES ALL RISK THAT DISABLING PREFERRED CVM REQUIREMENTS ENTAILS, INCLUDING LIABILITY FOR THE CHARGEBACKS.

### 3. INTELLECTUAL PROPERTY RIGHTS

3.1. FreedomPay Technology. Hotel acknowledges that all right, title and interest in and to all patents, copyrights, trade secret, trademark and other intellectual property rights in the goods and services (other than third-party Goods and Third-Party services), together with all modifications, improvements, enhancements, updates, localizations and translations thereof (collectively, "FreedomPay Technology"), are, and at all times will remain, the sole and exclusive property of FreedomPay, the provider of the Secure Switching service. Nothing contained in this Participation Agreement may directly or indirectly be construed to assign or grant to Hotel or any third party any license, right, title or interest in or to the FreedomPay Technology except as necessary to use the goods or services or as otherwise expressly provided in this Participation Agreement. The license granted to Hotel to the software embedded in the Products and Secure Switching and granted to Hotel in its agreement with IHG is limited to facilitating the sale of Hotel's products and services and does not include any other rights of any type. FreedomPay owns all Remaining Rights. "Remaining Rights" means, except for the limited license granted to Hotel, all other rights in the software, including but not limited to, improvements, modifications, alterations, additions and deletions to any trademark, logo, copyright or other notices, legends, symbols, labels, displays, sounds, other media or characteristics on or in the FreedomPay Technology on the Products.

3.2. Restrictions. Hotel will only use the goods and services for its own business purposes and will not license, sell, resell, rent, lease, transfer, distribute or otherwise commercially exploit or make the goods and services available to any third party for any purpose or in any manner not authorized by IHG or FreedomPay. Hotel may not disassemble, decompile or reverse engineer any FreedomPay technology and shall not permit or enable any third party to do so. Hotel will use commercially reasonable efforts to prevent unauthorized access to or use of the goods or services and will notify FreedomPay immediately if it becomes aware of any unauthorized access to or use of the goods or services by any person and hereby permits IHG and FreedomPay to monitor the use of the goods and services by Hotel to confirm Hotel's compliance with this Participation Agreement and to assess the quality of the goods and services. Hotel agrees to comply with all applicable laws and regulations in using the goods and services, will not use the goods or services for any unlawful purpose, and will not engage in any activity that interferes with or disrupts the services.

3.3. Force Majeure. Except as otherwise provided herein, neither Hotel, IHG, nor FreedomPay is liable for failing to fulfill its obligations (except for payment obligations) due to acts of God, acts of war, failure of utility or communications infrastructure, or other causes beyond the non-performing party's reasonable control. FreedomPay will not be liable for failing to fulfill its obligations if it is prohibited from doing so by any security or other measures, imposed by Hotel, restricting access to any equipment.

## **ATTACHMENT 2**

### **Security, Availability, and Confidentiality Statement**

#### **Overview**

FreedomPay's commerce platform is designed to deliver transaction services to each of our customers. The FreedomPay infrastructure is physically located on servers in a dedicated or locked caged at one of the many data centers in the FreedomPay network. These data centers provide power, network and carrier services. FreedomPay owns, operates and is responsible for provisioning, monitoring, and managing the infrastructure, for providing support to FreedomPay customers.

#### **Data Storage**

Our platform was designed and optimized by us specifically to host transaction services and related applications and has multiple levels of redundancy built in. The applications and services themselves run on separate hardware nodes on which the data is stored. Application data that is collected is stored on separate storage devices with encryption employed for sensitive information.

#### **Facilities**

Access to the data centers is limited to authorized personnel only, as verified by identity verification measures. Physical security measures include: on-premises security guards, closed circuit video monitoring, and additional intrusion protection measures. Within the data centers, all equipment is stored securely with multiple security layers.

#### **People and Access**

Our support team maintains an account on all systems and applications for the purposes of maintenance and support. This support team accesses hosted applications and data only for purposes of application health monitoring and performing system or application maintenance, and upon customer request via our support system. Within FreedomPay, only authorized FreedomPay employees have access to application data. Authentication is done by only accepting incoming SSH connections from FreedomPay and internal data center IP addresses. Our transaction systems platform is designed to allow application data to be accessible only with appropriate credentials, such that one customer cannot access another customer's data without explicit knowledge of that other customer's login information. Customers are responsible for maintaining the security of their own login information.

#### **Third Party Assurance**

FreedomPay has successfully completed a SOC 2 Type II audit and has received an "unqualified" opinion from a third party attesting that FreedomPay's controls comply with the Trust Services Principles security, availability, and confidentiality framework issued by the American Institute of Certified Public Accountants (AICPA), and the Canadian Institute of Chartered Accountants (CICA) . FreedomPay's SOC 2 report provides information and independent assurance about our controls that affect the security, availability, and the confidentiality of the information processed by the systems that drive our products. The SOC 2 Type 2 report is the most stringent SOC type and includes a detailed description of our system; the evaluation criteria applicable to the principle(s) being reported on; our controls designed to meet these criteria; a written assertion by our management regarding the description and the design and operation of the controls; and the service auditor's opinion on whether the description is fairly presented and the controls are suitability designed and operating effectively. The report also includes the service auditor's description of tests performed and results of the tests.

#### **Service Provider Obligations**

FreedomPay is responsible for the merchant cardholder data that it possesses, processes, stores, or transmits on behalf of the customer, and will maintain compliance with all applicable PCI DSS requirements. Customers and clients are still responsible for the components of PCI compliance related to their location and related systems. Further, FreedomPay transmits cardholder and other sensitive authentication data to the customer's credit card processing provider to process transactions through the card networks. Customers are requested to notify us in the event that they experience issues that may affect the security, availability or confidentiality of the FreedomPay services they are utilizing.

**ATTACHMENT 3**  
**PIM Acknowledgement**

ACKNOWLEDGMENT

The undersigned merchant hereby acknowledges that it has received, read and understood the FreedomPay P2PE Instruction Manual (PIM) and further acknowledges that continuing compliance with the FreedomPay PIM is a PCI requirement for SAQ P2PE-HW merchant scope reduction qualification. Capitalized terms in this Acknowledgment have the meanings set forth in the PIM.

Merchant acknowledges that: the PIM is provided solely for informational purposes and use as a program implementation guideline for PCI DSS scope reduction; the PIM is based on PCI P2PE and/or DSS guidelines in effect as of the date of this manual; nothing in the PIM is or may be construed as a representation or warranty of any nature whatsoever; that Freedom Pay, Inc. disclaims liability for any errors or omissions in the PIM; FreedomPay does not validate or warrant merchant compliance with PCI DSS or merchant eligibility for any validation or other accreditation standards; review or approval by FreedomPay of merchant systems or processes does not constitute a representation or warranty by FreedomPay of merchant system effectiveness or suitability and shall not be deemed to transfer risk or liability to FreedomPay; the use of any POI device other than a FreedomPay-approved POI device is at merchant's sole risk; FreedomPay has no duty to inspect data transmitted by merchant for unencrypted cardholder data introduced by the use of POI devices not supplied by FreedomPay; data processing by FreedomPay does not constitute a warranty that merchant is within the scope of the FreedomPay P2PE Solution; and that FreedomPay makes no warranties, express or implied, including warranties of merchantability or fitness for a particular purpose or otherwise.

ACKNOWLEDGED

Merchant: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

# EXHIBIT 15

## FORM IHG® DIRECT PARTICIPATION AGREEMENT

This Participation Agreement (this "Participation Agreement") is made between Six Continents Hotels, Inc., an InterContinental Hotels Group company ("IHG"), a Delaware corporation, and you ("Participating Property").

Whereas, IHG has negotiated contracts with certain suppliers of goods and services through relationships with group purchasing organizations, and numerous other suppliers and distributors of goods and services ("Suppliers");

Whereas, IHG and Suppliers have agreed in certain instances that IHG may provide these goods and services to Participating Properties and the vehicle for doing so shall be the entering into between IHG and Participating Property of this Participation Agreement.

Therefore, in consideration of the recitals above and the mutual covenants in this Agreement, IHG and Participating Property acknowledge and agree as follows:

- Services. IHG shall facilitate the provision to Participating Property of the Services identified on Exhibit 1 hereto and further described in this Participation Agreement in accordance with the terms of this Participation Agreement. Participating Property agrees that it shall use the Products and Services only as explicitly set forth herein or in Exhibit 1, including but not limited to limiting the use to the specific property set forth on Exhibit 1 only.
- Payments. Following installation and Acceptance by the Participating Property of the Services provided under this Participation Agreement, IHG shall deliver an invoice to Participating Property for the Charges due for such Services in accordance with Exhibit 1 of this Participation Agreement (which may include charges for installation and other required set up). Unless otherwise set forth on Exhibit 1, all invoiced amounts shall be due immediately upon receipt and payment shall be made to IHG within fifteen (15) days. IHG reserves the right in its sole discretion to assess a fee up to [3% percent] of all purchases made hereunder.
- Termination by IHG. IHG may immediately terminate this Participation Agreement at any time and for any reason, including the following:
  - .1. Participating Property is in default of any provision of an IHG License Agreement;
  - .2. there is any "Transfer" (as defined in the IHG License Agreement) by the Participating Property of the ownership of the Participating Property or change in ownership of the Participating Property that occurs without the prior written consent of IHG or is unauthorized under the IHG License Agreement;
  - .3. Participating Property sells the Participating Property to a third party;
  - .4. Participating Property fails to comply with and/or breaches the Confidentiality obligations set forth in Clause 4 below; or
  - .5. Participating Property fails to make payments as required by the terms of this Participation Agreement or any agreement with a Supplier.

Upon any expiry or termination of this Agreement for whatever reason:

Participating Property shall immediately destroy or return all goods or documents in its possession that are the property of IHG or its affiliates, and any documents containing confidential information, together with all copies thereof as may be deemed reasonable by both parties, except for such copies as shall be required for Participating Property's taxation or accounting records or as otherwise required by law.

- Confidentiality. In consideration of IHG and Participating Property disclosing to each other the confidential information about the prices of goods and services negotiated by IHG with Suppliers and other confidential information pertaining to this Participation Agreement, the Participating Property agrees:
  - .1. Not to use, disclose, share, or otherwise disseminate any information related to this Participation Agreement, including the confidential price information, for any purpose whatsoever other than strictly for the purpose of this Participation Agreement;
  - .2. to disclose the price information only to those of its personnel who need access to the same for the purpose of this Agreement, and otherwise to keep the prices and all

confidential information strictly confidential and not permit any person access thereto;

3. not to make any copies of documentation relating to this Participation Agreement, including price information, except strictly for the purpose of and to the extent necessary for the purpose of this Participation Agreement;
  4. upon termination of this Participation Agreement to return to IHG all documentation relating hereto, including pricing information, in the possession or control of the Participating Property (including recipient personnel) and any copies of the information except for such copies as shall be required for Participating Property's taxation or accounting records or as otherwise required by law;
  5. Participating Property shall ensure that its affiliated companies comply with the provisions of this Clause 4. THE BREACH BY PARTICIPATING OWNER OF THIS CLAUSE 4 SHALL BE DEEMED A MATERIAL BREACH OF THIS AGREEMENT INCAPABLE OF REMEDY ON THE PART OF PARTICIPATING OWNER;
  6. If Participating Property becomes aware of any breach of Clause 4, it shall immediately give formal notice to IHG, giving all available details of the breach and shall at its own cost take such steps as IHG may at IHG's discretion decide in order to minimize the loss which IHG may otherwise suffer as a result of such breach.
- Intellectual Property. Participating Property acknowledges that any intellectual property (both registered and unregistered) that is developed by IHG in the provision of the services shall remain the exclusive property of IHG and its affiliated companies and may not be used by Participating Property without the advance written consent of IHG.
  - Assignment. Participating Property may not assign this Agreement, nor any of its rights and/or obligations under it, nor purport to do so, nor hold any such rights in trust for any other person.
  - Release and Indemnity. PARTICIPATING PROPERTY, ITS PARENTS, SUBSIDIARIES, AND AFFILIATES, AND EACH OF THEIR RESPECTIVE HEIRS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS HEREBY RELEASE, REMISE, AND FOREVER DISCHARGE IHG AND ITS PARENTS, SUBSIDIARIES AND AFFILIATES AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, AND ASSIGNS (EACH HEREINAFTER REFERRED TO AS AN "INDEMNIFIED PARTY") FROM ANY AND ALL CLAIMS, WHETHER KNOWN OR UNKNOWN, OF ANY KIND OR NATURE, ABSOLUTE OR CONTINGENT, AT LAW OR IN EQUITY, IN ANY WAY RELATING TO THE SERVICES OR THIS AGREEMENT. PARTICIPATING PROPERTY SHALL INDEMNIFY THE INDEMNIFIED PARTIES AND HOLD THEM HARMLESS FROM ANY LOSS, LIABILITY, DAMAGE, COST OR EXPENSE, AND PROMPTLY REIMBURSE THEM FOR ALL PAYMENTS OF MONEY (FINES, DAMAGES, LEGAL FEES, COSTS, PENALTIES AND EXPENSES) BY REASON OF ANY CLAIM OR LEGAL PROCEEDINGS ARISING FROM ANY ACT, OMISSION OR OBLIGATION OF PARTICIPATING PROPERTY OR ANYONE ASSOCIATED OR AFFILIATED WITH PARTICIPATING PROPERTY. This Clause 7 shall survive the termination of this Agreement.
  - Defective Products. Participating Property acknowledges and agrees that IHG and its parents, subsidiaries, and affiliates (individually and collectively "IHG") shall not be liable for any defective or deficient products or services provided hereunder. Furthermore, Participating Property agrees to assert any warranty, liability, defect, injury, damages and/or indemnification claims directly against the applicable Supplier, manufacturer, vendor, or insurance company and not against IHG.
  - Warranties Disclaimed. IHG, AND ON BEHALF OF ITS PARENTS, SUBSIDIARIES AND AFFILIATES, HEREBY DISCLAIMS ANY AND ALL REPRESENTATIONS, WARRANTIES, AND LIABILITIES WITH RESPECT TO ANY ASPECT OF ANY PRODUCTS OR SERVICES DELIVERED HEREUNDER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IHG MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING AVAILABILITY, SERVICE QUALITY OR OTHERWISE. IHG IS NOT AN AGENT OF THE PARTICIPATING PROPERTY OR ANY SUPPLIER.
  - No Other Promises. PARTICIPATING PROPERTY ACKNOWLEDGES AND AGREES THAT IHG HAS NOT MADE ANY PROMISES, REPRESENTATIONS, WARRANTIES OR GUARANTIES OF ANY KIND WHATSOEVER TO PARTICIPATING PROPERTY OR ANYONE ACTING ON PARTICIPATING PROPERTY'S BEHALF.

- Compliance with Law. Participating Property is responsible for complying with all federal, state, and local laws and regulations that may apply to this Participation Agreement and any product or service purchased hereunder.
- Choice of Law, Courts, and Dispute Resolution. This Agreement shall be construed under the laws of the State of Georgia, without application of the principles of conflicts of laws thereof, provided the foregoing shall not constitute a waiver of any of Participating Property's rights under any applicable franchise relationship laws. The parties agree to submit any disputes first to at least a Senior Vice President of each party, then to non-binding mediation, and if unsuccessful to the exclusive jurisdiction of the state courts of DeKalb County, Georgia or the United States District Court for the Northern District of Georgia.
- Power to Execute. The person signing this Participation Agreement on behalf of Participating Property has full power, authority, and legal right to execute, perform and timely observe all of the provisions of this Participation Agreement to be performed and observed by Participating Property. Participating Property's execution, delivery and performance of this Participation Agreement have been duly authorized by all necessary action on the part of Participating Property.
- No Waiver. The failure of either party to seek redress for the breach of, or to insist upon the strict performance of any term, clause, or provision of this Participation Agreement, shall not constitute a waiver, unless the waiver is in writing and signed by the party waiving performance.
- Severability. If any provision of this Participation Agreement or the application of any provision hereof is held invalid, the remainder of this Participation Agreement and the application of such provision shall not be affected unless the provision held invalid shall substantially impair the benefits of the remaining portions of this Participation Agreement.
- Survival. Except as otherwise specifically stated herein, any terms of this Participation Agreement that by their nature extend beyond its termination shall remain in effect until fulfilled after any such termination, and shall apply to the parties' respective successors and assigns.
- No Effect on Other Documents. This Participation Agreement does not modify or in any way amend any IHG License Agreement. This Agreement has no bearing on, and in no way supersedes or affects any current or future Default and Termination Notice concerning any IHG License Agreement, if any, issued by IHG or any of its affiliated companies relative to any Participating Property, nor does it affect Participating Property's obligation to comply at all times with the minimum quality and service requirements of IHG.
- Publicity. IHG may use the name of the Participating Properties and may include such names in aggregate information in connection with materials released to the public and to other third parties in connection with this Participation Agreement and for other purposes without the prior approval of Participating Property.
- Entire Agreement. This Participation Agreement comprises the entire understanding of the parties and supersedes and cancels any previous oral or written agreements between the parties with respect to the subject matter hereof. Further, any and all prior representations or agreements by any agent or representative of either party shall be null and void. Any waiver, modification or amendment to this Participation Agreement must be in writing and signed by officers of both parties. Any attempted waiver, modification or amendment not in writing and signed by officers of both parties shall be null and void.

[REMAINDER OF PAGE LEFT INTENTIONALLY BLANK]

**IN WITNESS WHEREOF**, each Party, through its duly authorized representative, hereby agree to the terms and conditions of this Participation Agreement.

Signed for and on behalf  
of **Participating  
Property** by:

\_\_\_\_\_  
InnCode

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Position

\_\_\_\_\_  
Date

Signed for and on behalf  
of **Six Continents  
Hotels, Inc.** by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Position

\_\_\_\_\_  
Date

Order Details

**IHG Brand Standards for Bandwidth:**

- For room counts up to 119, the port speed must be a minimum 30MB with a minimum access connection of 100MB.
- For room counts of 120-159, the port speed must be a minimum of 40MB with a minimum access connection of 100MB.
- For room counts of 160-199, the port speed must be a minimum 50MB with a minimum access connection of 100MB.
- For room counts of 200-249, the port speed must be a minimum 70MB with a minimum access connection of 100MB.
- For room counts 250 and higher, the port speed must be a minimum of 100MB with a minimum access connection of 1GB.
- A managed synchronous circuit is required.
- Circuits must be provided by IHG® Approved Vendors
  - Port Speed: The minimum consistent download and upload speed provided from Internet Service provider (ISP) to the hotel.
  - Minimum Access Connection: The minimum total bandwidth circuit size that the hotel should have in place supplied by an ISP.

**Payment:**

- Invoicing for the services ordered will commence 30 days after the circuit turn-up date
- Services ordered will be billed monthly via the participating property's franchise statement
- All invoiced amounts shall be due immediately upon receipt and payment shall be made to IHG within fifteen (15) days.

**Term:**

Services Installed	Percent of Monthly Service Fee Due Upon Termination Prior to Completion of Minimum Payment Period	Minimum Service Period per Services Installed
All Services Installed	100%	_____

- \_\_\_\_ month term
- In the event the hotel wishes to terminate service, hotel must contact the IHG AMER Technology Deployment team at 770-604-5800 to issue a disconnect order of service. Termination is not confirmed until receipt of confirmation from IHG. Termination is subject to termination charges and applicable minimum payment periods.
- The minimum payment period per the services installed is \_\_\_\_\_ months
- If hotel "de-flags" (leaves the IHG system) and wishes to keep the circuit, the hotel must enter into a direct agreement with \_\_\_\_\_ for the transition of the service to a separate agreement.

**Monthly Rate**

\_\_\_\_\_ \*plus applicable taxes and VOIP Channels fees (if ordered) determine by local your zip code.

**Port Speed**

\_\_\_\_\_

**Port Access**

\_\_\_\_\_

**IHG Direct Provider**

\_\_\_\_\_

# EXHIBIT 16

## **PARTICIPATION AGREEMENT**

This Participation Agreement is entered into as of this \_\_\_ day of \_\_\_\_\_, 201\_ (the “**Participation Effective Date**”), by and between \_\_\_\_\_ (the “**Hotel**”) and Supplier (“**Supplier**”) (each, a “**Party**” and collectively, the “**Parties**”), and is entered into pursuant to and governed by the terms and conditions of the Master Services Agreement entered into by and between Six Continents Hotels, Inc. (“**IHG**”) and Supplier dated \_\_\_\_\_, 201\_ (the “**Agreement**”). The capitalized terms used in this Participation Agreement without definition shall have the meanings ascribed to them in the Agreement.

The Parties acknowledge and agree that the terms and conditions of this Agreement are hereby incorporated into this Participation Agreement and shall be binding on the Hotel and Supplier and shall govern the Services purchased hereunder.

**PARTICIPATION AGREEMENT TERM.** Unless earlier terminated in accordance with this Agreement, this Participation Agreement shall commence on the Participation Effective Date and shall continue thereafter for a period of \_\_\_\_\_ (\_\_\_\_\_) months following installation and Acceptance of the Services provided hereunder.

**PROVISION OF SERVICES.** Supplier shall provide to Hotel the Services identified in a relevant Statement of Work and further described in this Agreement in accordance with the terms of this Participation Agreement and the delivery schedule set forth in the Services Addendum.

**INVOICING AND PAYMENT.** Following installation and Acceptance by the Hotel of the Services provided under this Participation Agreement, Supplier shall deliver an invoice to Hotel for the Charges due for such Services in accordance with **Section 3 (Charges)** of this Agreement.

**RIGHT TO VALIDATE INVOICES.** Hotel authorizes and Supplier agrees to provide IHG with a copy of the invoices for Services provided under this Participation Agreement in order to permit IHG to review and validate that the invoices provided are current, accurate and complete. In the event that IHG’s review of an invoice identifies an error or overcharge, Supplier will promptly correct the error or refund the amount of the overcharge to Hotel.

**AUTHORIZATION TO NOTIFY OF DEFAULT.** Hotel authorizes IHG to notify Supplier in the event that Hotel is in default of its obligations under this Agreement. Supplier shall use this information solely to evaluate the Hotel’s default and shall not disclose such information to any third party or use such information for any other purpose.

**WAIVER AND RELEASE.** Hotel and Supplier acknowledge and agree that IHG has no obligations under this Participation Agreement and hereby waive and release IHG from and against any and all present and future claims arising out of or related to this Participation Agreement.

**IN WITNESS WHEREOF**, each Party, through its duly authorized representative, hereby agree to the terms and conditions of this Participation Agreement.

Signed for and on behalf of <b>Hotel</b> by:		<hr/> Signature <hr/> Name <hr/> Position <hr/> Date	
Signed for and on behalf of <b>Supplier</b> by:		<hr/> Signature <hr/> Name <hr/> Position <hr/> Date	

–Statement of Work

This schedule outlines the Statement of Work (the “SOW”) that will be performed for \_\_\_\_\_ “IHG” and Program Participants by \_\_\_\_\_ (the “Supplier”) as part of the Master Service Agreement dated \_\_\_\_\_ day of \_\_\_\_\_ 2015 \_\_\_\_\_:

**NOW THEREFORE IT IS HEREBY AGREED** as follows:

**1. INCORPORATION AND INTERPRETATION**

- 1.1.1** This SOW sets forth details of Supplier’s provision of certain Services to Program Participant as described herein. This SOW incorporates the Master Services Agreement between Six Continents Hotels, Inc. and Supplier dated [ ] (the “**Agreement**”) and sets forth the specific terms and conditions whereby Supplier shall provide IHG and Program Participants with Services set forth in this SOW.
- 1.1.2** Any terms or phrases defined in the Agreement shall have the same meaning in this SOW.

**2. SERVICES**

The Services to be performed by Supplier are:

- Site Survey
- Implementation of the approved solution including installation, configuration, integration and testing
- Ongoing support including:
  - Remote Call Center Support and Helpdesk Services
  - Remote Network Operation Center (NOC) services, including remote network monitoring, logs, maintenance and reports
  - On-site support if problem cannot be solved remotely
  - Remote and/or on-site MACD (Move, Add, Change, Delete) support
  - On-site pre-convention/meeting/conference support (optional service)

**3. CHARGES**

	Quantity	Cost
Access Point		\$
Switch <ul style="list-style-type: none"><li>• 24 Port</li><li>• 48 Port</li></ul>		\$
Gateway/ Firewall/ Security Device		\$
UPS		\$
Heatmap / Final site survey		\$
Post install documentation		\$
Training		\$
Post survey Tuning		\$
Project Management		\$
NOC set up fee / Meraki dashboard		\$

5. **Project Workflow.** The anticipated project workflow is attached as Exhibit E for reference.
6. **System Installation**

Program Participant shall provide the following at Program Participant's expense:

- a. **System Location.** The room in which the System is to be located shall be secure from unauthorized access and the location intended for the System shall have adequate rack provisioning. Adequate access must be available for moving the System from the delivery truck into the installation room. Access to a table of at least 0.6 meters by 0.6 meters is to be provided for use by staff during the term of this Agreement. (Typically Supplier would be able to share the Hotels Computer/PBX room facility, known as "Communications Center"). In the case of new-build properties, Supplier will review and approve the project Communications Center drawing, as and when requested by Program Participant. In the case of existing properties, Supplier will inspect the facility, then supply a diagram of requirements/layout and seek approval of Program Participant.
- b. **Power Supply.** IHG Program Participant will provide power access plugs, supported by the property generator and protected with surge protection, in the Communications Center and the Risers assigned to the System at-least 14 days prior to installation of network equipment. In the case of New Hotels, IHG Program Participant will install UPS coverage for all computer components installed within the communications room and to all Floor Distributor locations. In the case of Existing Hotels, Supplier shall conduct a survey of both the Communications Center and all Riser locations as part of the Site Survey Report and submit recommendations to IHG Program Participant on the required enhancements for UPS coverage to meet Standards.
- c. **Civil Works.** Program Participant agrees to undertake at its cost any civil work related to the deployment of infrastructure not outlined in drawings, such as core drilling, returning ceiling tiles and making good of surfaces. Supplier shall document scope of civil work in advance to Program Participant as part of the Site Survey Report.
- d. **Billing Configuration(When Required).** Program Participant will define billing options for the configuration of the System to Supplier for initial configuration of billing options for the System. In accordance with IHG brand standards.
- e. **PMS.** Program Participant shall be liable for the installation fees of the PMS interface license and any ongoing maintenance or upgrade fees charged by the IHG Program Participant's PMS vendor. Program Participant will ensure that the record or folio description posted to the bill shall read: "IHG Connect"
- f. **Design.** Program Participant will provide timely input to the design of the property specific configuration of the system as required by Supplier. This includes, but is not limited to, system configuration, portal design and manufactured, printed or electronic instruction materials.
- g. **Access to Installed Locations.** Program Participant will ensure reasonable access to any installed rooms within the property for installation and maintenance purposes.

- h. **Status Updates.** Program Participant will inform Supplier at all times of any issues that may impact construction and/or the ongoing operation of the hotel
- i. **Delivery of hardware components.** In the event that the hardware components of the System are to be procured by a third party pursuant to the Bill of Materials Program Participant shall ensure that such hardware is delivered to the property by the date stated in the project timeline.
- j. **Internet Circuit/Bandwidth Provider.** Program Participant shall be responsible for contracting and paying for internet connectivity for the System on a timely basis (in no event lesser than five (5) days prior to the Scheduled Start Date from an IHG Approved ISP. Program Participant shall appoint Supplier as its authorized agent in managing the local internet Supplier and shall ensure that the local ISP shall have received sufficient directions and instructions (and vice versa) so that they will perform their services in accordance with the instructions provided by the Supplier. Without prejudice to the generality of the foregoing, Program Participant shall provide such assistance as may be reasonably required by the Supplier in working with the local ISP. Circuits will be installed and operational prior to Supplier's arrival for installation activities.
- k. **Cabling Network Responsibility.** Program Participant shall be responsible for premise wiring (horizontal and vertical cabling) unless included as part of this SOW. Based on the findings of the site-survey If Supplier is responsible for cable remediation; all cable remediation will be performed before installation of Guest Internet System. Cable infrastructure will be installed at a minimum CAT6 and terminated in patch panels in accordance with industry labeling standards.

### **Deliverable Materials**

The following items will be delivered to the property under this SOW.

#### **Project Status Report**

- a. Network Design and Site Survey Report
- b. Property Completion Report and System Acceptance Checklist (includes As Built documentation)
- c. Post-installation Site Survey Report
- d. Monthly Operations Report, specifically, Supplier system generated report will include the following information in an agreed-to format:
- e. LAN Interface Transmit Utilization
- f. LAN Interface Receive Utilization
- g. LAN Interface Transmit Traffic (Bytes, Packets)
- h. LAN Interface Receive Traffic (Bytes, Packets)
- i. LAN Interface Transmit Errors
- j. LAN Interface Receive Errors

### **Completion Criteria**

Supplier shall have fulfilled its installation obligations under this SOW when the Program Participant has signed the Acceptance Checklist indicating that the System is fully installed and

any outstanding items, if any, have been remediated or resolved. Until such time as the Acceptance Checklist is signed, the System has **not** been accepted and the Program Participant has the right to withhold any monthly payments due until the System has been accepted. Acceptance shall not be unreasonably withheld, delayed or conditioned. Acceptance shall also deemed to have occurred ten (10) days after the first commercial use of the Services unless Supplier is provided notice that the System is not accepted.

1. Supplier shall provide the Services from the following locations:

[To be agreed between IHG Program Participant and Supplier on a case by case basis]

2. Supplier shall perform the Services and provide the Deliverables by the following dates:

[To be agreed between IHG Program Participant and Supplier on a case by case basis]

If any Services provided by Supplier to IHG Program Participant under this Services Addendum have not been approved in writing by IHG Program Participant (by signature of this Services Addendum in the manner required below) before such Services commence, IHG Program Participant shall not be liable for any Charges, costs or expenses in relation to such Services.

The Parties signify their agreement to the terms of this Services Addendum and intention to be bound by the contents of it by signing below.

Signed for and on behalf  
of \_\_\_\_\_  
by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Position

\_\_\_\_\_  
Date

Signed for and on behalf  
of **Supplier** by:

---

Signature

---

Name

---

Position

---

Date

# EXHIBIT 17

<b>Oracle America, Inc.</b>	<b>Salesperson:</b>	<b>Bill-To Taxpayer ID Number (TIN/EIN)</b>
<b>Customer Account Set-up Form</b>		

**Business Profile**

<b>Legal / Bill-To Information – Required</b>	Dun & Bradstreet (DUNS) #
-----------------------------------------------	---------------------------

**Reason for Customer Account Set-up:**

New Customer Account  
 Change of Ownership (merger, stock sale, asset sale)  
 Change of Form of Doing Business (e.g. incorporation of a sole proprietorship)  
 Change of Flag w/o Change of Ownership (XYZ, Inc. dba ABC Hotel becomes XYZ, Inc. dba DEF Hotel)  
 Change of Business Name w/o Change of Ownership (e.g. ABC, Inc. dba the Corner Café becomes ABC, Inc. dba the Café on the Hill)  
 Change of Legal Name w/o Change of Ownership – Requires certificate of Name Change / Amended Articles of Incorporation  
 Other (explain):

**Full Legal Name of Company**

**Business Type:**  
 Sole Proprietorship    Non-Profit    Partnership    Corporation    Subsidiary    Division    LLC    Management Company

**Legal Entity Address\* (this will be used as the Bill To address unless an alternate address is provided)**

City	County	State	Zip	Business Phone
			-	( ) -

Accounts Payable Contact Name	Accounts Payable Contact Phone #	Accounts Payable Contact email address:
	( ) - ext	

**ALTERNATE Bill To Address: (i.e. PO Box)\* *OPTIONAL – If not needed, leave blank***

City	County	State	Zip	Alternate Bill To Phone
			-	( ) -

**Site Information - Required**

Site Name / Trade Name	Site Identifier (store #, inn code)
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**SITE Address (Ship To Address - where support would be dispatched)**

City	County	State	Zip	Site Phone #
			-	( ) -

Site Contact Name (please select Mr., Ms., Mrs., Dr., ect...) Select One	Site Contact Title (i.e. Owner, General Manager, Controller, etc...)
-----------------------------------------------------------------------------	----------------------------------------------------------------------

Site Contact Phone # ( ) - ext	Site Contact email address:
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**Information Provided By:**

_____	_____	_____
Name	Title	Date

# EXHIBIT J

**EXHIBIT J  
STATE ADDENDA**

**CONNECTICUT ADDENDUM TO THE DISCLOSURE DOCUMENT**

**ITEM 3**

**LITIGATION**

Except as otherwise shown in Item 3 of the Disclosure Document, neither Holiday Hospitality Franchising, LLC. nor any person named in Item 1 or 2 of the Disclosure Document: (A) has, at any time during the previous ten fiscal years, been convicted of a felony or pleaded nolo contendere to a felony charge if such felony involved fraud, including but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade; (B) has, at any time during the previous ten fiscal years, been held liable in a civil action resulting in a final judgment, has settled out of court any civil action, is a party to any civil action, or is or was a principal, director, executive officer or partner of any other person that was so held liable, settled or is a party to such action where the civil action (i) involved allegations of fraud, including but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property, or restraint of trade, or (ii) which was brought by a present or former purchaser-investor and which involves or involved the business opportunity relationship; (C) is subject to any currently effective state or federal agency or court injunctive or restrictive order, is a party to a proceeding currently pending in which such order is sought, or is or was a principal, director, executive officer or partner of any other person that is subject to such order or is a party to any such currently pending proceeding relating to or affecting business opportunity activities or the seller-purchaser-investor relationship, or involving fraud, including but not limited to, a violation of any business opportunity law, franchise law, securities law or unfair or deceptive practices law, embezzlement, fraudulent conversion, misappropriation of property or restraint of trade.

**ITEM 4**

**BANKRUPTCY**

Except as otherwise shown in Item 4 of the Disclosure Document, neither Holiday Hospitality Franchising, LLC nor any person named in Item 1 or 2 of the Disclosure Document have, at any time during the previous ten fiscal years has: (A) Filed for bankruptcy protection; (B) been adjudged bankrupt; (C) been reorganized due to insolvency; or (D) been a principal, director, executive officer or partner of any other person that has so filed or was so adjudged or reorganized, during or within one year after the period that such person held such position with such other person. The statement required by this subdivision shall include the name and location of the person having so filed or having been so adjudged or reorganized, the date and any other material facts.

**ITEM 5**

**INITIAL FEES**

With regard to any non-fundable fees, if the seller fails to deliver the products, equipment or supplies or fails to render the services necessary to begin substantial operation of the business with forty-five days of the delivery date stated in the contract, you may notify the seller in writing and demand that the contract be cancelled.

**ITEM 11**

**FRANCHISOR'S OBLIGATIONS**

With regard to any non-fundable fees, if the seller fails to deliver the products, equipment or supplies or fails to render the services necessary to begin substantial operation of the business within forty-five (45) days of the delivery date stated in your contract, you may notify the Seller/Franchisor in writing and demand that the contract be canceled.

## HAWAII ADDENDUM TO THE DISCLOSURE DOCUMENT

THESE FRANCHISES WILL BE OR HAVE BEEN FILED UNDER THE FRANCHISE INVESTMENT LAW OF THE STATE OF HAWAII. FILING DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS OR A FINDING BY THE DIRECTOR OF COMMERCE AND CONSUMER AFFAIRS THAT THE INFORMATION PROVIDED HEREIN IS TRUE, COMPLETE AND NOT MISLEADING.

THE FRANCHISE INVESTMENT LAW MAKES IT UNLAWFUL TO OFFER OR SELL ANY FRANCHISE IN THIS STATE WITHOUT FIRST PROVIDING TO THE PROSPECTIVE FRANCHISEE, OR SUBFRANCHISOR, AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION BY THE PROSPECTIVE FRANCHISEE OF ANY BINDING FRANCHISE OR OTHER AGREEMENT, OR AT LEAST SEVEN DAYS PRIOR TO THE PAYMENT OF ANY CONSIDERATION BY THE FRANCHISEE, OR SUBFRANCHISOR, WHICHEVER OCCURS FIRST, A COPY OF THE FRANCHISE DISCLOSURE DOCUMENT, TOGETHER WITH A COPY OF ALL PROPOSED AGREEMENTS RELATING TO THE SALE OF THE FRANCHISE.

THIS FRANCHISE DISCLOSURE DOCUMENT CONTAINS A SUMMARY ONLY OF CERTAIN MATERIAL PROVISIONS OF THE LICENSE AGREEMENT. THE CONTRACT OR AGREEMENT SHOULD BE REFERRED TO FOR A STATEMENT OF ALL RIGHTS, CONDITIONS, RESTRICTIONS AND OBLIGATIONS OF BOTH THE FRANCHISOR AND THE FRANCHISEE.

- A. This proposed registration is exempt from the registration requirements of the states of California, Illinois, Indiana, Maryland, New York, North Dakota, Rhode Island, and Washington.
- B. This proposed registration is or will shortly be on file in the states of Hawaii, Minnesota, Virginia and Wisconsin, and the states of Connecticut, Florida, Georgia, Kentucky, Louisiana, Maine, Michigan, Minnesota, Nebraska, North Carolina, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia and Wisconsin.
- C. No states have refused, by order or otherwise, to register these franchises.
- D. No states have revoked or suspended the right to offer these franchises.
- E. The proposed registration of these franchises has not been withdrawn in any state.
- F. No release language set forth in the License Agreement will relieve us or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Hawaii.

## ILLINOIS ADDENDUM TO THE DISCLOSURE DOCUMENT

Notwithstanding anything to the contrary set forth in the Franchise disclosure document, the following provisions shall supersede and apply to all franchises offered and sold in the State of Illinois:

### ITEM 17 RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

1. Notice Required By Law

THE TERMS AND CONDITIONS UNDER WHICH YOUR FRANCHISE CAN BE TERMINATED AND YOUR RIGHTS UPON NON-RENEWAL MAY BE AFFECTED BY ILLINOIS LAW, 815 ILCS 705/19 AND 705/20.

2. The provisions of the License Agreement and all other agreements concerning governing law, jurisdiction, venue and choice of law will not constitute a waiver of any right conferred upon Franchisee by the Illinois Franchise Disclosure Act. The Illinois Franchise Disclosure Act will govern the License Agreement with respect to Illinois franchisees.
3. Section 41 of the Illinois Franchise Disclosure Act states that "any condition, stipulation, or provision purporting to bind any person acquiring any franchise to waive compliance with any provision of this Act is void".

## MARYLAND ADDENDUM TO THE DISCLOSURE DOCUMENT

1. The general release language contained in the License Agreement shall not relieve the Licensor or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Maryland.
2. The License Agreement provides that it may be terminated immediately upon, among other things, the Licensee commencing any case, proceeding or other action seeking reorganization, etc. under any law relating to bankruptcy, etc. This provision may not be enforceable under federal law relating to bankruptcy.
3. The laws of the State of Maryland may supersede the License Agreement, including the areas of termination and renewal of the License.
4. Any claims arising under the Maryland Franchise Registration and Disclosure Laws must be brought within three years after the grant of the License.

## MICHIGAN ADDENDUM TO THE DISCLOSURE DOCUMENT

THE STATE OF MICHIGAN PROHIBITS CERTAIN UNFAIR PROVISIONS THAT ARE SOMETIMES IN FRANCHISE DOCUMENTS. IF ANY OF THE FOLLOWING PROVISIONS ARE IN THESE FRANCHISE DOCUMENTS, THE PROVISIONS ARE VOID AND CANNOT BE ENFORCED AGAINST YOU.

- (a) A prohibition on the right of a franchisee to join an association of franchisees.
- (b) A requirement that a franchisee assent to a release, assignment, novation, waiver or estoppel which deprives franchisee of rights and protections provided in this act. This shall not preclude a franchisee, after entering into a franchise agreement, from settling any and all claims.
- (c) A provision that permits franchisor to terminate a franchise prior to the expiration of its term except for good cause. Good cause shall include the failure of the franchisee to comply with any lawful provision of the License Agreement and to cure such failure after being given written notice thereof and a reasonably opportunity, which in no event need be more than 30 days, to cure such failure.
- (d) A provision that permits a Franchisor to refuse to renew a franchise without fairly compensating the franchisee by repurchase or other means for the fair market value at the time of expiration of the franchisee's inventory, supplies, equipment, fixtures and furnishings. Personalized materials which have no value to the Franchisor and inventory, supplies, equipment, fixtures and furnishings not reasonably required in the conduct of the franchise business are not subject to compensation. This subsection applies only if (i) the term of the franchise is less than 5 years and (ii) the franchisee is prohibited by the franchise or other agreement from continuing to conduct substantially the same business under another trademark, service mark, trade name, logotype, advertising of other commercial symbol in the same area subsequent to the expiration of the franchise or the franchisee does not receive at least 6 months advance notice of Franchisor's intent not to renew the franchise.
- (e) A provision that permits the Franchisor to refuse to renew a franchise on terms generally available to other franchisees of the same class or type under similar circumstances. This section does not require a renewal provision.
- (f) A provision requiring that arbitration or litigation be conducted outside this state. This shall not preclude the franchisee from entering into an agreement, at the time of arbitration, to conduct arbitration at a location outside this state.
- (g) A provision which permits a Franchisor to refuse to permit a transfer or ownership of a franchise, except for good cause. This subdivision does not prevent a Franchisor from exercising a right of first refusal to purchase the franchise. Good cause shall include, but is not limited to
  - (h) The failure of the proposed transferee to meet the Franchisor's then current reasonable qualifications or standards.
  - (ii) The fact that the proposed transferee is a competitor of the Franchisor or subfranchisor.
  - (iii) The unwillingness of the proposed transferee to agree in writing to comply with all lawful obligations.
  - (iv) The failure of the franchisee or proposed transferee to pay an sums owing to the Franchisor or to cure any default in the License Agreement existing at the time of the proposed transfer.
- (h) A provision that requires the franchisee to resell to the Franchisor items that are not uniquely identified with the Franchisor. This subdivision does not prohibit a provision that grants to a Franchisor a right of first refusal to purchase the assets of a franchise on the same terms and conditions as a bona fide

third party willing and able to purchase those assets, nor does this subdivision prohibit a provision that grants the Franchisor the right to acquire the assets of a franchise for the market or appraised value of such assets if the franchisee has breached the lawful provisions of the License Agreement and has failed to cure the breach in the manner provided in subdivision (c).

(i) A provision which permits the Franchisor to directly or indirectly convey, assign, or otherwise transfer its obligations to fulfill contractual obligations to the franchisee unless provision has been made for providing the required contractual service.

THE FACT THAT THERE IS A NOTICE OF THIS OFFERING ON FILE WITH THE ATTORNEY GENERAL DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE ATTORNEY GENERAL.

ANY QUESTIONS REGARDING THIS NOTICE SHOULD BE DIRECTED TO THE OFFICE OF THE ATTORNEY GENERAL, CONSUMER PROTECTION DIVISION, ATTN.: FRANCHISE, 670 LAW BLDG., LANSING, MICHIGAN 48913, (517) 373-7117.

## MINNESOTA ADDENDUM TO THE DISCLOSURE DOCUMENT

Notwithstanding anything to the contrary set forth in the Franchise Disclosure Document or License Agreement, the following provisions will supersede and apply:

### ITEM 13 TRADEMARKS

1. The Minnesota Department of Commerce requires that the Licensor (i.e. Holiday) indemnify Minnesota licensees against liability to third parties resulting from claims by third parties that the Licensee's use of Holiday's trademark infringes trademark rights of the third party. Holiday does not indemnify against the consequences of Licensee's use of the Holiday's trademark except in accordance with the requirements of the License, and, as a condition to indemnification, Licensee must provide notice to Holiday of any such claim within ten (10) days and tender the defense of the claim to Holiday. If Holiday accepts the tender of defense, Holiday has the right to manage the defense of the claim including the right to compromise, settle or otherwise resolve the claim, and to determine whether to appeal a final determination of the claim.

### ITEM 17 RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION

1. Minn. Stat. §80C.21 and Minn. Rule 2860.4400J prohibit the Franchisor from requiring litigation to be conducted outside Minnesota, requiring waiver of a jury trial, or requiring you to consent to liquidated damages, termination penalties or judgment notes. In addition, nothing in the disclosure document or agreement(s) can abrogate or reduce any of your rights as provided for in Minnesota Statutes, Chapter 80C, or your rights to any procedure, forum or remedies provided for by the laws of the jurisdiction.
2. No release language set forth in the franchise disclosure document, in Section 13.H. of the License Agreement or anywhere else in the License Agreement will relieve Holiday or any other person, directly or indirectly, from liability imposed by the laws concerning franchising of the State of Minnesota.
3. With respect to franchises governed by Minnesota law, Holiday will comply with Minnesota Statutes, Section 80C.14, subdivisions 3, 4, and 5 which require, except in certain specified cases, that a licensee be given 90 days notice of termination (with 60 days to cure) and 180 days notice for non-renewal of the License.
5. Liquidated damages and termination penalty provisions are deleted from Licenses issued in the State of Minnesota.

## **RHODE ISLAND ADDENDUM TO THE DISCLOSURE DOCUMENT**

Notwithstanding anything to the contrary set forth in the Franchise Disclosure Document, the following provisions shall supersede and apply to all franchises offered and sold in the State of Rhode Island.

### **ITEM 17 RENEWAL, TERMINATION, TRANSFER AND DISPUTE RESOLUTION**

§19-28.1.-14 of the Rhode Island Franchise Investment Act provides that "A provision in a License Agreement restricting jurisdiction or venue to a forum outside this state or requiring the application of the laws of another state is void with respect to a claim otherwise enforceable under this Act."

Any provision in the License which designates the governing law as that of any state other than the State of Rhode Island is deleted from Licenses issued in the State of Rhode Island.

## **VIRGINIA ADDENDUM TO THE DISCLOSURE DOCUMENT**

In recognition of the restrictions contained in Article 13.1-564 of the Virginia Retail Franchising Act, the Franchise Disclosure Document for use in the Commonwealth of Virginia shall be amended as follows:

Additional Disclosure: The following statements are added to Item 17. h

Pursuant to Article 13.1-564 of the Virginia Retail Franchising Act, it is unlawful for a franchisor to cancel a franchise without reasonable cause. If any grounds for default or termination stated in the License Agreement do not constitute "reasonable cause" as that term may be defined in the Virginia Retail Franchising Act or the laws of Virginia, that provision may not be enforceable.

## WASHINGTON ADDENDUM TO THE DISCLOSURE DOCUMENT

Notwithstanding anything to the contrary set forth in the Franchise Disclosure Document, the following provisions shall supersede and apply to all franchises offered and sold in the State of Washington:

1. If any of the provisions in the franchise disclosure document or License Agreement are inconsistent with the relationship provisions of RCW 19.100.180 or other requirements of the Washington Franchise Investment Protection Act, the provisions of the Act will prevail over the inconsistent provisions of the franchise disclosure document and License Agreement with regard to any franchise sold in Washington.
2. In any arbitration or mediation involving a franchise purchased in Washington, the arbitration or mediation site will be either in the state of Washington, or in a place mutually agreed upon at the time of the arbitration or mediation, or as determined by the arbitrator or mediator at the time of arbitration or mediation. In addition, if litigation is not precluded by the License Agreement, a franchisee may bring an action or proceeding arising out of or in connection with the sale of franchises, or a violation of the Washington Franchise Investment Protection Act, in Washington.
3. A release or waiver of rights executed by a Franchisee will not include rights under the Washington Franchise Investment Protection Act or any rule or order thereunder except when executed pursuant to a negotiated settlement after the License Agreement is in effect and where the parties are represented by independent counsel. Provisions such as those which unreasonably restrict or limit the statute of limitations period for claims under the Act, and rights or remedies under the Act such as a right to a jury trial, may not be enforceable.
4. The state of Washington has a statute, RCW 19.100.180 which may supersede the License Agreement in your relationship with the Franchisor including the areas of termination and renewal of your franchise. There may also be court decisions which may supersede the License Agreement in your relationship with the Franchisor including the areas of termination and renewal of your franchise.
5. In the event of a conflict of laws, the provisions of the Washington Franchise Investment Protection Act, Chapter 19.100 RCW shall prevail.
6. Transfer fees are collectable to the extent that they reflect the Franchisor's reasonable estimated or actual costs in effecting a transfer.
7. The Franchisor will have no obligation upon the termination of the License Agreement to offer the Franchisee a continued right to operate its Vignette Collection™ Business, and the Franchisee may be required at that time to stop operating its hotel as a Vignette Collection™ Hotel and to comply with all post-termination obligations.
8. Pursuant to RCW 49.62.020, a noncompetition covenant is void and unenforceable against an employee, including an employee of a franchisee, unless the employee's earnings from the party seeking enforcement, when annualized, exceed \$100,000 per year (an amount that will be adjusted annually for inflation). In addition, a noncompetition covenant is void and unenforceable against an independent contractor of a franchisee under RCW 49.62.030 unless the independent contractor's earnings from the party seeking enforcement, when annualized, exceed \$250,000 per year (an amount that will be adjusted annually for inflation). As a result, any provisions contained in the License Agreement or elsewhere that conflict with these limitations are void and unenforceable in Washington.
9. RCW 49.62.060 prohibits a franchisor from restricting, restraining, or prohibiting a franchisee from (i) soliciting or hiring any employee of a franchisee of the same franchisor or (ii) soliciting or hiring any employee of the franchisor. As a result, any such provisions contained in the License Agreement or elsewhere are void and unenforceable in Washington.

## WISCONSIN ADDENDUM TO DISCLOSURE DOCUMENT

Notwithstanding anything to the contrary set forth in the Franchise Disclosure Document, the following provisions shall supersede and apply to all franchises offered and sold in the State of Wisconsin:

1. **REGISTRATION DOES NOT CONSTITUTE APPROVAL, RECOMMENDATION OR ENDORSEMENT BY THE COMMISSIONER OF SECURITIES OF THE STATE OF WISCONSIN.**
2. The following shall apply to Franchise Agreements in the State of Wisconsin:
  - a. The Wisconsin Fair Dealership Act, Wisconsin Statutes, Chapter 135 shall apply to and govern the provisions of Franchise Agreements issued in the State of Wisconsin.
  - b. That Act's requirement, including the requirements that, in certain circumstances, a franchisee receives ninety (90) days' notice of termination, cancellation, non-renewal or substantial change in competitive circumstances, and sixty (60) days to remedy claimed deficiencies, shall supersede the requirements of Article 11 of the License Agreement ("Termination") to the extent they may be inconsistent with the Act's requirements.

# EXHIBIT K

## STATE EFFECTIVE DATES

The following states have franchise laws that require that the Franchise Disclosure Document be registered or filed with the states, or be exempt from registration: California, Hawaii, Illinois, Indiana, Maryland, Michigan, Minnesota, New York, North Dakota, Rhode Island, South Dakota, Virginia, Washington, and Wisconsin.

This document is effective and may be used in the following states, where the document is filed, registered, or exempt from registration, as of the Effective Date stated below:

California	
Connecticut	
Florida	
Georgia	
Hawaii	
Illinois	
Indiana	
Kentucky	
Louisiana	
Maine	
Maryland	
Michigan	
Minnesota	
Nebraska	
New York	
North Carolina	
North Dakota	
Oklahoma	
Rhode Island	
South Carolina	
South Dakota	
Texas	
Utah	
Virginia	
Washington	
Wisconsin	

Other states may require registration, filing, or exemption of a franchise under other laws, such as those that regulate the offer and sale of business opportunities or seller-assisted marketing plans.

# EXHIBIT L

**EXHIBIT L  
RECEIPT  
Vignette Collection™ HOTELS**

This disclosure document summarizes certain provisions of the license agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Holiday Hospitality Franchising, LLC offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

Rhode Island requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Holiday Hospitality Franchising, LLC does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the state agency listed on Exhibit E.

The franchisor is Holiday Hospitality Franchising, LLC, located at Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346. Its telephone number is (770) 604-2000.

Issuance date: September 13, 2021

The franchise seller for this offering is [name]\_\_\_\_\_, [title]\_\_\_\_\_, Holiday Hospitality Franchising, LLC, Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346, (770) 604-2000.

Holiday Hospitality Franchising, LLC authorizes the respective state agencies identified on Exhibit D to receive service of process for it in the particular state.

I received a disclosure document dated September 13, 2021 that included the following Exhibits:

- A Application Letter Form
- B License Agreement and State Addenda
- C Master Technology Services Agreement & Joinder Agreements
- D Agents for Service of Process
- E State Franchise Administrators
- F List of Franchisees
- G1 Financial Statements of Holiday Hospitality Franchising, LLC
- G2 Financial Statements of Six Continents Hotels, Inc.
- H IHG Merlin Terms and Conditions
- I Ancillary Agreements
  - I1 IHG Voice Reservation Service Agreement
  - I2 Revenue Management for Hire Agreement
  - I3 Coca-Cola Participation Agreement
  - I4 SPS Participation Agreements
  - I5 Form IHG Direct Hotel Participation Agreement
  - I6 Form IHG Wi-Fi Connect Agreement
  - I7 Oracle New Account Setup Form
- J State Addenda to Disclosure Document
- K State Effective Dates Page
- L Receipts

Dated: \_\_\_\_\_

**PROSPECTIVE FRANCHISEE:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
City and State of Hotel To Be Licensed

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title with Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

Please return the signed receipt by completing all of the blanks above and mailing it to Attn. Franchise Sales, Holiday Hospitality Franchising, LLC, Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346, (770) 604-2000.

September 13, 2021 (\_\_\_\_\_) )  
*Location # - Internal Use Only*

**EXHIBIT L  
RECEIPT  
Vignette Collection™ HOTELS**

This disclosure document summarizes certain provisions of the license agreement and other information in plain language. Read this disclosure document and all agreements carefully.

If Holiday Hospitality Franchising, LLC offers you a franchise, it must provide this disclosure document to you 14 calendar-days before you sign a binding agreement with, or make a payment to, the franchisor or an affiliate in connection with the proposed franchise sale.

Rhode Island requires that we give you this disclosure document at the earlier of the first personal meeting or 10 business days before the execution of the franchise or other agreement or the payment of any consideration that relates to the franchise relationship.

Michigan requires that we give you this disclosure document at least 10 business days before the execution of any binding franchise or other agreement or the payment of any consideration, whichever occurs first.

If Holiday Hospitality Franchising, LLC does not deliver this disclosure document on time or if it contains a false or misleading statement, or a material omission, a violation of federal law and state law may have occurred and should be reported to the Federal Trade Commission, Washington, DC 20580 and the state agency listed on Exhibit E.

The franchisor is Holiday Hospitality Franchising, LLC, located at Three Ravinia Drive, Suite 100, Atlanta, Georgia 30346. Its telephone number is (770) 604-2000.

Issuance date: September 13, 2021

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Dated: \_\_\_\_\_

**PROSPECTIVE FRANCHISEE:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
City and State of Hotel To Be Licensed

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title with Company

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

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September 13, 2021 (\_\_\_\_\_) *Location # - Internal Use Only*